



**WEST VIRGINIA SECRETARY OF STATE**

**MAC WARNER**

**ADMINISTRATIVE LAW DIVISION**

**eFILED**

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Office of West Virginia  
Secretary Of State

**NOTICE OF AGENCY APPROVAL OF A PROPOSED RULE AND FILING WITH THE LEGISLATIVE RULE-  
MAKING REVIEW COMMITTEE**

AGENCY: Natural Resources TITLE-SERIES: 58-62  
RULE TYPE: Legislative Amendment to Existing Rule: Yes Repeal of existing rule: No  
RULE NAME: 58-62 Catching and Selling Baitfish

**PRIMARY CONTACT**

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CITE STATUTORY AUTHORITY: §20-1-7(31)

EXPLANATION OF THE STATUTORY AUTHORITY FOR THE LEGISLATIVE RULE, INCLUDING A DETAILED SUMMARY OF THE EFFECT OF EACH PROVISION OF THE LEGISLATIVE RULE WITH CITATION TO THE SPECIFIC STATUTORY PROVISION WHICH EMPOWERS THE AGENCY TO ENACT SUCH RULE PROVISION:

§20-1-7(31) provides agency rule making authority for Chapter 20 powers and duties.

DATE eFiled FOR NOTICE OF HEARING OR PUBLIC COMMENT PERIOD: 6/10/2019

DATE OF PUBLIC HEARING(S) OR PUBLIC COMMENT PERIOD ENDED: 7/10/2019

COMMENTS RECEIVED: No

(IF YES, PLEASE UPLOAD IN THE COMMENTS RECEIVED FIELD COMMENTS RECEIVED AND RESPONSES TO COMMENTS)

PUBLIC HEARING: No

(IF YES, PLEASE UPLOAD IN THE PUBLIC HEARING FIELD PERSONS WHO APPEARED AT THE HEARING(S) AND TRANSCRIPTS)

RELEVANT FEDERAL STATUTES OR REGULATIONS: No

WHAT OTHER NOTICE, INCLUDING ADVERTISING, DID YOU GIVE OF THE HEARING?

Agency press release.

**SUMMARY OF THE CONTENT OF THE LEGISLATIVE RULE, AND A DETAILED DESCRIPTION OF THE RULE'S PURPOSE AND ALL PROPOSED CHANGES TO THE RULE:**

This rule establishes regulations to govern the catching and selling of bait fish under a license issued pursuant to W.Va. Code §20-2-55. Changes to this rule include changes to permissible cast net size and updates to outdated language. A penalty provision was added to clarify W. Va. Code of State Rules location of already existing penalties.

**STATEMENT OF CIRCUMSTANCES WHICH REQUIRE THE RULE:**

This rule establishes regulations to govern the catching and selling of bait fish under a license issued pursuant to §20-2-55.

**SUMMARIZE IN A CLEAR AND CONCISE MANNER THE OVERALL ECONOMIC IMPACT OF THE PROPOSED LEGISLATIVE RULE:**

**A. ECONOMIC IMPACT ON REVENUES OF STATE GOVERNMENT:**

There is no anticipated change to revenue.

**B. ECONOMIC IMPACT OF THE LEGISLATIVE RULE ON THE STATE OR ITS RESIDENTS:**

There is no anticipated change to administrative costs.

C. FISCAL NOTE DETAIL:

Effect of Proposal	Fiscal Year		
	2019 Increase/Decrease (use "-")	2020 Increase/Decrease (use "-")	Fiscal Year (Upon Full Implementation)
<b>1. Estimated Total Cost</b>	0	0	0
Personal Services	0	0	0
Current Expenses	0	0	0
Repairs and Alterations	0	0	0
Assets	0	0	0
Other	0	0	0
<b>2. Estimated Total Revenues</b>	0	0	0

D. EXPLANATION OF ABOVE ESTIMATES (INCLUDING LONG-RANGE EFFECT):

There are no anticipated changes to administrative costs or revenue.

**BY CHOOSING 'YES', I ATTEST THAT THE PREVIOUS STATEMENT IS TRUE AND CORRECT.**

Yes

**Wesley H White -- By my signature, I certify that I am the person authorized to file legislative rules, in accordance with West Virginia Code §29A-3-11 and §39A-3-2.**



TITLE 58  
LEGISLATIVE RULE  
BUREAU OF COMMERCE  
DEPARTMENT OF NATURAL RESOURCES

SERIES 62  
CATCHING AND SELLING BAIT FISH

**§58-62-1. General.**

1.1. Scope. -- This legislative rule establishes regulations to govern the catching and selling of bait fish under a license issued pursuant to W. Va. Code §20-2-55.

1.2. Authority. -- W. Va. Code §20-1-7(~~3031~~)

1.3. Filing Date. -- ~~May 1, 1989.~~

1.4. Effective Date. -- ~~June 1, 1989.~~

1.5. Sunset Provision. -- This rule shall terminate and have no further force or effect upon the expiration of five years from its effective date.

~~1.5. Repeal of former rule. -- This legislative rule repeals and replaces 47 C.S.R. 22A "Regulations For Catching And Selling Minnows And Aquatic Life" filed December 30, 1982 and effective January 1, 1983.~~

**§58-62-2. Definition.**

2.1. "Aggregate" means the total possession or sales limit on similar kinds of bait fish considered as a whole.

2.2. "Bait fish" means the species listed in section 3 of these regulations.

2.3. "Licensee" means a person holding a valid license to catch and sell minnows and other bait fish issued by the ~~Department~~ Division pursuant to WV Code §20-2-55.

~~2.4. "Lizard" means the colloquial term used in this State for salamanders and refers in these regulations to amphibians rather than reptiles.~~

**§58-62-3. Species Which May Be Legally Caught And Sold.**

3.1. The following species may be caught and sold by a licensee:

3.1.1. Crayfish.

3.1.2. Gizzard Shad (*Dorosoma cepedianum*). -- Gizzard shad have a row of sharp, spiny scutes (saw-toothed scales) along their belly and the last ray of their dorsal fin is greatly elongated.

3.1.3. Hellgrammites.

3.1.4. Madtoms. -- All species in the family Ictaluridae, genus Noturus. Madtoms have an adipose fin continuous with the caudal fin (i.e., the tail fin continues forward along the back of the fish).

3.1.5. Minnows. -- All species in the family Cyprinidae except carp and goldfish. Minnows have a single, spineless dorsal (back) fin which has nine or fewer rays.

3.1.6. Salamanders (~~Lizards~~) -- All species which may be taken as specified in W. Va. Code of State Rules, Title 58 Series 73.

3.1.7. Suckers. -- All species in the family Castostomidae.

**§58-62-4. Possession Limit.**

4.1. Crayfish, hellgrammites, and ~~lizards~~ amphibians. -- 250 in total aggregate number.

4.2. Gizzard Shad. -- No limit.

4.3. Madtoms, minnows, and suckers. -- 10 pounds in total aggregate weight.

**§58-62-5. Sales Limits.**

5.1. Crayfish, hellgrammites, and ~~lizards~~ amphibians. -- 50 in total aggregate number per purchaser.

5.2. Gizzard Shad. -- No limit.

5.3. Madtoms, minnows, and suckers. -- 50 in total aggregate number per purchaser.

**§58-62-6. Size Limits.**

6.1. There are no size limits on bait fish taken for commercial sale.

**§58-62-7. Legal Collection Methods.**

7.1. Cast nets may be used to catch bait fish for commercial sale if such nets do not exceed ~~three (3)~~ 12 feet in radius and have a square mesh not smaller than one-quarter inch nor larger than one inch.

7.2. Dip nets may be used to catch bait fish for commercial sale if such nets do not exceed 36 square feet in overall area and have a mesh not smaller than one-quarter inch.

7.3. Minnow traps may be used to catch bait fish for commercial sale provided the opening of such traps is not larger than one inch in diameter.

7.4. Seines may be used to catch bait fish for commercial sale if such seines do not exceed four feet in depth, ~~six (6)~~ eight feet in length, and have a mesh not smaller than one-quarter inch.

7.5. Any minnow trap that is left unattended must have a waterproof and legible tag bearing the licensee's name and address and must be tended at least once every 24 hours.

**§58-62-8. Restricted Areas.**

8.1. No bait fish may be taken for the purpose of commercial sale from waters closed to fishing under the provisions of ~~58 C.S.R. 60~~ W. Va. Code of State Rules, Title 58 Series 60, Fishing Regulations.

**§58-62.9. Penalties.**

9.1. A licensee who violates any provision of this rule is subject to the penalties of W. Va. Code of State Rules, Title 58 Series 64, Miscellaneous Permits and Licenses.