



WEST VIRGINIA SECRETARY OF STATE

MAC WARNER

ADMINISTRATIVE LAW DIVISION

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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: 58-46
RULE TYPE: Legislative Amendment to Existing Rule: Yes Repeal of existing rule: No
RULE NAME: 58-46 Defining the Terms Used in all Hunting and Trapping

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?

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 defines terms to be applied to all rules concerning the regulation of hunting and trapping within the boundaries of the state. Due to the passage of HB2715 during the 2019 Regular Legislative Session relating to Class Q permits, the definition of "individual permanently disabled in the lower extremities" is no longer necessary. An additional change is the addition of the definition of crossbow.

STATEMENT OF CIRCUMSTANCES WHICH REQUIRE THE RULE:

This rule defines terms to be applied to all rules concerning the regulation of hunting and trapping within the boundaries of the state.

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 are no anticipated changes in revenue.

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

There are no anticipated changes in administrative costs.

C. FISCAL NOTE DETAIL:

Effect of Proposal	Fiscal Year		
	2019 Increase/Decrease (use "-")	2020 Increase/Decrease (use "-")	Fiscal Year (Upon Full Implementation)
1. Estimated Total Cost	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
2. Estimated Total Revenues	0	0	0

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

There are no anticipated changes in 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
DEPARTMENT OF COMMERCE
DIVISION OF NATURAL RESOURCES

SERIES 46
DEFINING THE TERMS USED IN
ALL HUNTING AND TRAPPING

§58-46-1. General.

1.1. Scope. -- This rule defines terms to be applied to all rules concerning the regulation of hunting and trapping within the boundaries of this State.

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

1.3. Filing Date. -- ~~May 11, 2015~~.

1.4. Effective Date. -- ~~May 11, 2015~~.

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.

§58-46-2. Definitions.

2.1. "Aggregate" means the total bag or possession limit of similar kinds of game animals or game birds. For example, the possession limit for squirrels is 24 after the third day of the open season. This could be 10 gray squirrels and 14 fox squirrels, or 14 gray squirrels and 10 fox squirrels, or any combination of 24 squirrels, but not more than a total of six per day nor more than a total of 24 in possession.

2.2. "Antlered Deer" means deer having at least one antler that is over three inches in length, as measured from the hairline.

2.3. "Antlerless Deer" means deer having no antler that is over three inches in length, as measured from the hairline.

2.4. "Bait" means shelled, shucked, or unshucked corn, wheat or other grain, or any other feed or edible enticement.

2.5. "Baiting" means the direct or indirect placing, exposing, depositing, distributing, or scattering of bait so as to constitute for wildlife a lure, attraction, or enticement to or on any areas where hunters are attempting to take them. An area is considered baited for 10 days after the removal of the bait.

2.6. "Concurrent Hunting" means hunting of the same and/or other species during a legally prescribed season.

~~2.7. "Individual Permanently Disabled in the Lower Extremities" means an individual who is permanently and totally disabled due to paralysis or disease in the lower half of the body, which makes it impossible to ambulate successfully more than two hundred feet without assistance.~~

2.7. "Crossbow" means a device consisting of a bow fixed transversely on a stock, the string of which is released by a trigger mechanism and propels a bolt.

~~2.8.~~ 2.8. "Licensed Adult" is an individual who has attained the age of 18 years, and possesses a valid West Virginia hunting and trapping license or is exempt from having to purchase a West Virginia hunting and trapping license.

~~2.9.~~ 2.9. "Muzzle-loader", for the purpose of deer hunting, means a single shot muzzle-loading firearm having a bore diameter of not less than thirty-eight one-hundredths of an inch.

~~2.10.~~ 2.10. "Possession" means game taken in this State which is in any way under the control of the hunter (i.e., the total of all game in a vehicle, home freezer, commercial food locker, or other storage place).

~~2.11.~~ 2.11. "Prevailing Time" means either Eastern Standard Time or Eastern Daylight Time as established by the United States Congress.

~~2.12.~~ 2.12. "Protected" means no open season (i.e., hunting protected wildlife is illegal at all times).

~~2.12.a.~~ 2.12.1. Protected mammals include those mammals covered by federal regulations under the Endangered Species Act of 1973, as amended.

~~2.13.~~ 2.13. "Public Lands" means lands owned, leased, licensed, managed under cooperative agreement with or under the control of the Division for wildlife management purposes.

~~2.14.~~ 2.14. "Trap" is a device that is used to catch and hold animals. A trap may be legally used during the trapping season to catch fur-bearing animals and coyotes. The term includes leg foot hold traps, killer type or body gripping traps, box traps, encapsulating traps and snares. Legal and illegal traps are further defined in the Division's Rule W. Va. Code of State Rules, Series 58 Title 53, General Trapping Rule 58 C.S.R. 53.

~~2.15.~~ 2.15. All other terms have the meaning prescribed in W. Va. Code § 20-1-2.