



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: 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 statutory authority to the Director of the Division of Natural Resources to promulgate rules to implement and make effective the powers and duties vested in him or her by the provisions of Chapter 20 and take such other steps as may be necessary in his or her discretion for the proper and effective enforcement of Chapter 20.

IS THIS FILING SOLELY FOR THE SUNSET PROVISION REQUIREMENTS IN W. VA. CODE §29A-3-19(e)? No

IF YES, DO YOU CERTIFY THAT THE ONLY CHANGES TO THE RULE ARE THE FILING DATE, EFFECTIVE DATE AND AN EXTENSION OF THE SUNSET DATE? No

DATE eFiled FOR NOTICE OF HEARING OR PUBLIC COMMENT PERIOD: 7/29/2020

DATE OF PUBLIC HEARING(S) OR PUBLIC COMMENT PERIOD ENDED: 8/28/2020

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:

The purpose of this rule is to define the terms to be applied to all rules concerning hunting and trapping within the boundaries of this state. The revision modifies the definition of bait to include any edible enticement or any non-edible fascimile of an edible enticement, and other minor technical changes.

STATEMENT OF CIRCUMSTANCES WHICH REQUIRE THE RULE:

Definitions for the terms used in all agency hunting and trapping rules are necessary for interpretation and enforcemebt of those agency rules.

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 change anticipated to the revenue of the state as a result of this rule.

B. ECONOMIC IMPACT ON SPECIAL REVENUE ACCOUNTS:

There is no change anticipated to special revenue accounts as a result of this rule.

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

There is no change anticipated to the economic impact on the state or its residents as a result of this rule.

D. FISCAL NOTE DETAIL:

Effect of Proposal	Fiscal Year		
	2020 Increase/Decrease (use "-")	2021 Increase/Decrease (use "-")	Fiscal Year (Upon Full Implementation)
1. Estimated Total Cost	0	0	0
Personal Services			
Current Expenses			
Repairs and Alterations			
Assets			
Other			
2. Estimated Total Revenues			

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

There is no anticipated change in costs or revenues as a result of this rule.

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(31).

1.3. Filing Date. -- ~~March 27, 2020.~~

1.4. Effective Date. -- ~~March 28, 2020.~~

1.5. Sunset Provision. -- This rule shall terminate and have no further force or effect ~~on March 28, 2025~~ 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, or any non-edible facsimile of an 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. "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. "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. "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. "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. "Prevailing Time" means either Eastern Standard Time or Eastern Daylight Time as established by the United States Congress.

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

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

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. "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 W. Va. Code of State Rules, Series 58 Title 53, General Trapping Rule.

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