



WEST VIRGINIA SECRETARY OF STATE

MAC WARNER

ADMINISTRATIVE LAW DIVISION

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7/30/2021 3:41:37 PM

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: 58-53
RULE TYPE: Legislative Amendment to Existing Rule: Yes Repeal of existing rule: No
RULE NAME: 58-53 General 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:

Legislative rulemaking authority for the Director to implement and make effective the powers and duties vested in him.

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: 6/30/2021

DATE OF PUBLIC HEARING(S) OR PUBLIC COMMENT PERIOD ENDED: 7/29/2021

COMMENTS RECEIVED: Yes

(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?

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 establish standards that must be complied with when trapping wildlife or fur-bearing animals within the boundaries of the state.

Revisions to the rule include language relating to the electronic registration of harvested bobcat and fisher, modifying name of the New River National Park and Preserve as area in which trapping is prohibited, as well as a change relating to the use of terrestrial snares.

STATEMENT OF CIRCUMSTANCES WHICH REQUIRE THE RULE:

This rule is necessary to establish standards that must be complied with when trapping wildlife or fur-bearing animals 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 is no anticipated economic impact on the revenue of the state.

B. ECONOMIC IMPACT ON SPECIAL REVENUE ACCOUNTS:

There is no anticipated impact on special revenue accounts.

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

No economic impact on the state or its residents is anticipated.

D. FISCAL NOTE DETAIL:

Effect of Proposal	Fiscal Year		
	2021 Increase/Decrease (use "-")	2022 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

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

There are no anticipated changes to administrative costs or revenues.

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

Yes

Jack M Rife -- 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 53
GENERAL TRAPPING

§58-53-1. General.

1.1. Scope. -- The purpose of this rule is to establish standards that must be complied with when trapping wildlife or fur-bearing animals within the boundaries of this State.

1.2. Authority. -- W. Va. Code §20-1-7(31) (30).

1.3. Filing Date. -- ~~June 6, 2013.~~

1.4. Effective Date. -- ~~June 6, 2013.~~

1.5 Sunset Provision. -- This rule shall terminate and have no further force or effect on August 1, 2027.

§58-53-2. Definitions.

2.1. ~~“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 or 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, General Trapping, 58CSR53. W. Va. Code of State Rules, Title 58 Series 53 General Trapping.~~ “Foot encapsulating trap” is a trap that has the following: triggering and restraining mechanisms enclosed within a housing; triggering and restraining mechanisms are only accessible through a single opening when set; an opening that does not exceed two inches in diameter; and a swivel mounted anchoring system.

2.2. ~~“Foot encapsulating trap” is a trap that has the following: triggering and restraining mechanisms enclosed within a housing; triggering and restraining mechanisms are only accessible through a single opening when set; an opening that does not exceed 2 inches in diameter; and a swivel mounted anchoring system.~~ “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. The term includes leg or foot-hold traps, killer type or body gripping traps, box traps, encapsulating traps and snares. Legal and illegal traps are further defined in the W. Va. Code of State Rules, Title 58 Series 53 General Trapping.

2.3. All terms have the meaning prescribed to them in ~~the Division of Natural Resources rule, Defining The Terms Used In All Hunting and Trapping, 58CSR46.~~ W. Va. Code of State Rules, Title 58 Series 46 Defining The Terms Used In All Hunting and Trapping.

§58-53-3. General Trapping Rules.

3.1. Trapping is prohibited in State ~~p~~-Parks and ~~State-designated w~~Wildlife ~~r~~Refuges, in safety zones in State ~~f~~Forests, and in safety zones in State Wildlife Management Areas.

~~3.1.a-3.1.1.~~ Federal regulations prohibit trapping in Harpers Ferry National Historical Park and on federally owned land within the boundaries of the New River Gorge National ~~River~~ Park and Preserve.

3.2. A trapping permit is required for State Forests and Wildlife Management Areas. This permit may be obtained from the district game biologist in the Division of Natural Resources administrative district in which the State Forest or Wildlife Management Area is ~~situated~~ located.

3.3. A trapper shall check and tend all traps each calendar day.

3.4. Foot snares are legal when the snare loop is at and horizontal to ground level and does not exceed six and one-half (6 1/2) inches in diameter.

3.5. It is illegal to use or set deadfalls for taking wildlife.

3.6. It is illegal to set or maintain any trap or trapping device on human foot trails or livestock paths.

3.7. It is illegal to set or use foothold traps with an open inside jaw spread of more than six and one half (6 1/2) inches unless the trap is used under water.

3.8. It is illegal to use body-gripping or killer-type traps with an inside jaw spread of more than five (5) inches, as measured between striking surfaces of jaws when set, for terrestrial trapping. Trappers may use body-gripping or killer-type traps in water sets.

3.9. It is illegal to set or maintain spring pole snares.

3.10. It is illegal to use steel jaw traps with any teeth on or attached to them.

3.11. It is illegal to set or maintain any trap, trap set, or snare upon any tree, post, or other natural or man-made object at any point more than three (3) lineal feet from the surface of the earth (whether the surface is water, soil, or rock) measured at a right angle from the surface to the trap or trap set, except as provided in ~~Sub~~section 3.12 of this rule.

3.12. The provisions of ~~Sub~~section 3.11 of this rule do not apply to traps or trap sets that are set or maintained on natural earthen mounds, such as ant hills or muskrat houses, that were constructed without human assistance.

3.13. It is illegal to set traps or snares within 50 feet of animal or bird carcasses, or parts thereof, unless the carcasses, or parts of the carcasses, are completely covered and concealed from sight.

3.14. It is illegal to take beaver, otter, fisher, mink, or muskrat by any means other than by trap.

3.15. It is illegal for a person to have in his or her possession an untagged beaver, bobcat, ~~or~~ fisher, ~~or~~ otter ~~hide~~, or parts thereof, longer than ~~thirty (30)~~ 30 days following the close of the respective trapping season.

3.16. If any person unintentionally traps and kills more than the limit fixed by ~~the Division of Natural Resources rule, The Hunting and Trapping Regulations (Exempt Rule) (58 C.S.R.45),~~ W. Va. Code of State

Rules, Title 58 Series 45, Hunting And Tapping Rules, as a season possession limit, he or she shall, (within ~~twenty-four (24)~~ 24 hours after the trapping or killing,) deliver the excess animals to a Natural Resource Police Officer.

3.17. Each trapper shall electronically register each present beaver, bobcat, or fisher, or otter, or each pelt s to an official game checking station or a representative of the Division within ~~thirty (30)~~ 30 days after the close of the legal trapping season for that animal. A game tag number shall be issued to the person and recorded in writing with the person's name and address, or on a field tag, and shall be affixed to each beaver, bobcat, fisher, and otter, and remain attached to the animal or pelt until it is processed into commercial fur. The trapper shall affix a tag provided by the division to each bobcat or fisher pelt and keep the tag attached to the skin until the skin has been sold, tanned, or mounted.

3.18. It is legal to use snares for the purpose of taking fur-bearing animals, ~~and coyotes.~~ A snare is defined as a trap and all rules pertaining to traps and trap sets apply to snares. All snares shall be made of multiple strand twisted steel cable.

3.19. Terrestrial snares shall be equipped with a relaxing type lock system with either a breaking point of not greater than 350 pounds or a stop with a minimum loop diameter greater than or equal to ~~2~~ two inches. Set snares shall not have a loop diameter average greater than 15 inches. A trapper shall not use drags with terrestrial snares. He or she shall anchor them at the trap site.

3.20. All traps set during the month of March for the taking of beaver, shall be in water.

§58-53-4. Penalties

4.1. Any person violating the provisions of this rule is guilty of a misdemeanor and, upon conviction thereof, shall be punished in accordance with W. Va. Code §20-7-9.