

Form #2 

FILED

2001 JUN 12 P 1:45

~~OFFICE WEST VIRGINIA~~  
~~SECRETARY OF STATE~~

**TITLE 58  
LEGISLATIVE RULE  
DIVISION OF NATURAL RESOURCES**

**SERIES 47  
PROHIBITIONS WHEN HUNTING AND TRAPPING**

**SUMMARY OF THE RULE**

Title 58, Series 47, Prohibitions When Hunting And Trapping establishes prohibitions for the pursuit or taking of wildlife within the boundaries of this State.

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**CIRCUMSTANCES REQUIRING THE PROPOSED RULE**

The Division of Natural Resources proposes to clarify that no person shall use solid ball ammunition or shot larger than #4 while muzzleloader hunting for bear, waterfowl or deer and that it is illegal to take, or attempt to take, any big game species by the aid or use of any electronic call.

## FISCAL NOTE FOR PROPOSED RULE

**Rule Title:** Series 47, Prohibitions When Hunting and Trapping

**Type of Rule**      X      **Legislative**                  **Interpretive**                  **Procedural**

**Agency**    Division of Natural Resources, Wildlife Resources Section

**Address**    Capitol Complex

Building 3, Room 842

Charleston, WV 25305

### 1. Effect of Proposed Rule

|                       | ANNUAL   |          |         | FISCAL YEAR |            |
|-----------------------|----------|----------|---------|-------------|------------|
|                       | INCREASE | DECREASE | CURRENT | NEXT        | THEREAFTER |
| ESTIMATED TOTAL COST  | 0        | 0        | 0       | 0           | 0          |
| PERSONAL SERVICES     |          |          |         |             |            |
| CURRENT EXPENSE       |          |          |         |             |            |
| REPAIRS & ALTERATIONS |          |          |         |             |            |
| EQUIPMENT             |          |          |         |             |            |
| OTHER                 |          |          |         |             |            |

**2. Explanation of above estimates:** No cost to enact and enforce this rule.

**3. Objectives of these rules:** Establishes prohibitions for the pursuit or taking of wildlife within the boundaries of this state.

**4. Explanation of overall Economic Impact of Proposed Rule.**

**A. Economic Impact on State Government:** No impact.

**Rule Title:** Series 47, Prohibitions When Hunting and Trapping

**B. Economic Impact on Political Subdivisions; Specific Industries; Specific Groups of Citizens:** No impact.

**C. Economic Impact on Citizens/Public at Large:** No impact.

**Date:** \_\_\_\_\_

**Signature of Agency or  
Authorized Representative:**

  
\_\_\_\_\_  
ED HAMRICK, DIRECTOR

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**§58-47-1. General.**

1.2. Scope and Purpose. -- This rule establishes prohibitions in the pursuit or taking of wildlife within the boundaries of this State.

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

1.3. Filing Date. --

1.4. Effective Date. --

**§58-47-2. Definitions.**

2.1. All terms in this rule have the meaning prescribed in the Division of Natural Resources rule, Regulations Defining The Terms To Be Used Concerning All Hunting and Trapping Regulations (58 C.S.R. 46).

**§58-47-3. Prohibitions.**

3.1. Hunting is prohibited in State Parks and wildlife refuges, in safety zones in State Forests, and in safety zones in State Wildlife Management Areas.

3.1.1. Federal regulations prohibit hunting in Harpers Ferry National Historical Park.

3.2. Notwithstanding the provisions of W. Va. Code §20-2-5(2), woodchucks may be controlled by digging them out, cutting them out or smoking them out on private land by the landowner, his or her resident children or resident parents, or a bona fide resident tenant.

3.3. Except as provided in Subdivisions 3.3.1 and 3.3.2 of this rule, it is illegal to use poisons, chemicals, or explosives in taking any furbearing animal, game animal, game bird, protected bird, or protected mammal.

3.3.1. Woodchucks may be controlled by poison, chemicals or explosives on private land by the landowner, his or her resident children or resident parents, or a bona fide resident tenant during the period commencing each year on April 1 and ending on September 30.

3.3.2. Redwing blackbirds, grackles, pigeons, starlings, brownheaded cowbirds and English sparrows may be controlled by chemicals registered with the West Virginia Department of Agriculture and the United States Environmental Protection Agency when prescribed and authorized by the director in writing. Authorized users shall follow avicide label instructions and take all possible precautions in order to protect nontarget species of wildlife.

3.4. It is illegal to hunt from, or by means of, a motorized watercraft unless the motor has been completely shutoff and the watercraft's progress from the motor has ceased.

3.5. It is illegal to use or possess a fully automatic, rifle, shotgun, or pistol while hunting or pursuing wildlife at any time.

3.6. It is illegal to catch, capture, take, or kill, or attempt to do so, by seine, net, bait, trap, deadfall, snare, or like device of any kind, any bear, migratory bird, protected bird, protected mammal, or wild boar.

3.6.1. It is illegal to take, or attempt to take, the species listed under Subsection 3.6 of this rule, by the aid of baiting. The Director considers an area to be baited for 10 days after the removal of the bait.

3.7. It is illegal for a person to have in his or her possession solid ball ammunition ~~and lead~~ or ~~steel~~ shot larger than No. 4 during the muzzleloading season, except for a person legally hunting bear, waterfowl or ~~legally hunting~~ deer with a muzzleloader firearm. The use of .22 caliber rimfire for small game hunting is legal during the muzzleloading season.

3.8. It is illegal to use any solid ball ammunition during the two week bucks only deer season in those counties that are closed to bucks only hunting.

3.9. It is illegal to hunt between ½ hour after sunset and ½ hour before sunrise with a pistol, revolver or rifle larger than .22 caliber rimfire, a shotgun using solid ball ammunition or a shotgun using shot shells larger than #4 shot.

3.10. It is illegal to use tree stands, except for portable tree stands, on public lands.

3.11. It is illegal to transport wildlife or parts of wildlife, which were killed by another hunter unless the wildlife is accompanied by a paper or tag filled out in plain English bearing the following information from the hunter that killed the wildlife: The hunter's signature, address, hunting license number (if required), official game checking tag number (if required), the date of kill, the species, and the number, and/or quantity of wildlife.

3.12. It is illegal for any person to feed bears.

3.13. It is illegal to shoot at wildlife with either a bow or firearm after alighting from a motor vehicle along any public road or highway, unless the shooter is at least 25 yards from the motor vehicle.

3.14. It is illegal to take, or attempt to take, any big game species by the aid or use of any electronic call.