

**WEST VIRGINIA
SECRETARY OF STATE
BETTY IRELAND
ADMINISTRATIVE LAW DIVISION**

Form #3

FILED
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2008 JUL 30 AM 10:58

OFFICE WEST VIRGINIA
SECRETARY OF STATE

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

AGENCY: DOC, DNR, LAW ENFORCEMENT SECTION *Natural Resources* TITLE NUMBER: 58

CITE AUTHORITY: 20-1-7 (30)

AMENDMENT TO AN EXISTING RULE: YES X NO


IF YES, SERIES NUMBER OF RULE BEING AMENDED: 50

TITLE OF RULE BEING AMENDED: DEER HUNTING RULE

IF NO, SERIES NUMBER OF RULE BEING PROPOSED:

TITLE OF RULE BEING PROPOSED:

THE ABOVE PROPOSED LEGISLATIVE RULE HAVING GONE TO A PUBLIC HEARING OR A PUBLIC COMMENT PERIOD IS HEREBY APPROVED BY THE PROMULGATING AGENCY FOR FILING WITH THE SECRETARY OF STATE AND THE LEGISLATIVE RULE-MAKING REVIEW COMMITTEE FOR THEIR REVIEW.


Authorized Signature

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

**SERIES 50
DEER HUNTING RULES**

SUMMARY

A gun manufacturer has developed an electric-ignition muzzleloader which is not covered under the existing administrative rules. The proposed rule change would define how this muzzleloader can be carried in a motor vehicle.

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

**SERIES 50
DEER HUNTING RULES**

CIRCUMSTANCE

The proposed rule would make the rule define how a newly invented muzzleloader can be carried in a motor vehicle.

APPENDIX B

FISCAL NOTE FOR PROPOSED RULES

Rule Title: 58CSR50 DEER HUNTING RULE

Type of Rule: ☒ Legislative ☐ Interpretive ☐ Procedural

Agency: DEPARTMENT OF COMMERCE, DIVISION OF NATURAL RESOURCES, LAW

Address: Lt. Colonel Jerry B. Jenkins, 1900 Kanawha Blvd., E, Charleston WV 25305

Phone Number: (304) 558-2784 Email: jerryjenkins@wvdnr.gov

Fiscal Note Summary

Summarize in a clear and concise manner what impact this measure will have on costs and revenues of state government.

There would be minimal additional administrative expenditures as the result of the rule change.

Fiscal Note Detail

Show over-all effect in Item 1 and 2 and, in Item 3, give an explanation of Breakdown by fiscal year, including long-range effect.

FISCAL YEAR			
Effect of Proposal	Current Increase/Decrease (use "-")	Next Increase/Decrease (use "-")	Fiscal Year (Upon Full Implementation)
1. Estimated Total Cost	0.00	0.00	0.00
Personal Services			
Current Expenses			
Repairs & Alterations			
Assets			
Other			
2. Estimated Total Revenues	0.00	0.00	0.00

Rule Title: 58CSR50 DEER HUNTING RULE

3. Explanation of above estimates (including long-range effect):

Please include any increase or decrease in fees in your estimated total revenues.

The Division of Natural Resources does not anticipate any significant changes in fees or revenues resulting from the proposed rule change.

MEMORANDUM

Please identify any areas of vagueness, technical defects, reasons the proposed rule **would not** have a fiscal impact, and/or any special issues **not** captured elsewhere on this form.

n/a

Date: _____

Signature of Agency Head or Authorized Representative



QUESTIONNAIRE

(Please include a copy of this form with each filing of your rule: Notice of Public Hearing or Comment Period; Proposed Rule, and if needed, Emergency and Modified Rule.)

DATE: 7/29/08

TO: LEGISLATIVE RULE-MAKING REVIEW COMMITTEE

FROM: (Agency Name, Address & Phone No.) Division of Natural Resources Law Enforcement

1900 Kanawha BLVD., East

Charleston, WV 25305-0668

LEGISLATIVE RULE TITLE: DEER HUNTING RULES

1. Authorizing statute(s) citation 20-1-7 (30)

2. a. Date filed in State Register with Notice of Hearing or Public Comment Period:

JUNE 16, 2008

b. What other notice, including advertising, did you give of the hearing?

NEWS RELEASES TO STATE PAPERS, WEB SITE, PUBLIC MEETINGS

c. Date of Public Hearing(s) *or* Public Comment Period ended:

JULY 19, 2008

d. Attach list of persons who appeared at hearing, comments received, amendments, reasons for amendments.

Attached N/A

No comments received 0

- e. Date you filed in State Register the agency approved proposed Legislative Rule following public hearing: (be exact)

JULY 30, 2009

- f. **Name, title, address and phone/fax/e-mail numbers** of agency person(s) to receive all *written correspondence* regarding this rule: (Please type)

LT. COLONEL JERRY B. JENKINS

DNR LAW ENFORCEMENT SECTION

CHARLESTON, WV 25205-0668

PHONE-558-2784 FAX 558-1170 E-MAIL- jerryjenkins@wvdnr.gov

- g. **IF DIFFERENT FROM ITEM 'f'**, please give **Name, title, address and phone number(s)** of agency person(s) who wrote and/or has responsibility for the contents of this rule: (Please type)

N/A

3. If the statute under which you promulgated the submitted rules requires certain findings and determinations to be made as a condition precedent to their promulgation:

- a. Give the date upon which you filed in the State Register a notice of the time and place of a hearing for the taking of evidence and a general description of the issues to be decided.

N/A

b. Date of hearing or comment period:

c. On what date did you file in the State Register the findings and determinations required together with the reasons therefor?

d. Attach findings and determinations and reasons:

Attached

FILED

TITLE 58
LEGISLATIVE RULE
DEPARTMENT OF COMMERCE
DIVISION OF NATURAL RESOURCES

2008 JUL 30 AM 10: 58

OFFICE WEST VIRGINIA
SECRETARY OF STATE

SERIES 50
DEER HUNTING RULE

§58-50-1. General.

1.1. Scope and Purpose. -- The purpose of this rule is to establish rules that are to be complied with when pursuing and taking deer within the boundaries of this State.

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

1.3. Filing Date. -- April 9, 2007.

1.4. Effective Date. -- April 9, 2007.

§58-50-2. Definitions.

2.1. All terms have the meaning prescribed to them in the Division of Natural Resources' Rules Defining The Terms To Be Used Concerning All Hunting and Trapping Rules 58 C.S.R. 46.

§58-50-3. Deer Hunting Rules.

3.1. After a person has killed a deer during any of the open seasons established in the Division of Natural Resources' Hunting and Trapping Rules, 58 C.S.R. 45, he or she may not participate further in deer hunting (e.g., driving deer) with a bow or a firearm in his or her possession for the remainder of the day of the kill. Provided, that: a person may pursue additional legal deer, in accordance with the provisions of the Hunting and Trapping Rules 58 C.S.R. 45, after all previously taken deer have been legally checked with a conservation officer or an official game checking station.

3.2. No person may hunt deer with a shotgun using ammunition loaded with more than one solid ball nor with any rifle of less than twenty-five (.25) caliber using rimfire ammunition.

3.3. No person may kill or wound a deer while the deer is in any stream, lake, or pond.

3.4. The hunting of small game is permitted beginning on the fourth day after the opening date of the bucks-only deer season. During this period, a hunter may carry solid ball ammunition and Number 4 or smaller shot with a shotgun prior to killing a deer.

3.5. In those counties, or portions of counties, open to antlerless deer hunting, the hunting of deer with bow, the hunting of bear, the hunting of small game and the hunting of waterfowl is permitted during the antlerless deer season provided that no hunter, except a hunter having a valid Class N license or a hunter legally participating in bear hunting, may be afield with any firearm with solid ball ammunition or shells containing larger than Number 4 shot or, if using a combination rifle-shotgun, with rifle ammunition in his or her possession. During this period, a hunter may carry solid ball ammunition and Number 4 or smaller shot with a shotgun prior to killing a deer.

3.5.1. In those counties, or portions of counties open to antlerless deer hunting, the hunting of waterfowl is permitted. Persons legally hunting waterfowl during the antlerless deer seasons may possess nontoxic shotshells containing shot larger than Number 4, but may not possess solid ball ammunition.

3.6. After killing a deer during any of the open seasons established in the Hunting and Trapping Rules 58 C.S.R. 45, a hunter may not be afield for the remainder of the day of the kill with a firearm with solid ball ammunition or, if using a combination rifle-shotgun, he or she may not have rifle ammunition in his or her possession unless he or she is legally

participating in bear hunting or pursuing another legal deer in compliance with Sub-Section 3.1 of this rule.

3.7. It is illegal to hunt small game during the bucks-only deer season with any centerfire rifle, with any rifle of larger than twenty-two (.22) caliber using rimfire ammunition, or with a shotgun using solid ball ammunition in a county that is not open to bucks-only deer hunting.

3.8. A firearm that has been converted into a muzzle-loader by use of a plug may not be used during muzzle-loading firearms deer season.

3.9. When being transported in or on a vehicle, a muzzle-loading firearm is considered to be unloaded when the powder charge and projectile are removed from the barrel; it is uncapped or the priming charge is removed from the pan; or any other ignition source of a muzzle-loader is removed.

3.10. No person may actively participate in the hunting of antlerless deer (e.g., driving deer) unless that person has a Class N or Class NN stamp or is otherwise exempt from having a Class N or Class NN stamp.

3.11. Applications as prescribed by the director for a Class N and Class NN stamp to hunt in a county in which a limited number of Class N and Class NN stamps are issued must be completed and mailed prior to the deadline date on the application. Only one application may be submitted per individual.

3.12. Class RB archery and Class RRB archery stamps shall be purchased prior to the opening day of the archery season. A Class RG gun and Class RRG gun stamp shall be purchased prior to the opening day of the buck gun season. A Class RM muzzleloader and Class RRM muzzleloader stamp shall be purchased prior to the opening day of the muzzleloader season. A Class RB, RG, RM or Class RRB, RRG, RRM stamp must be signed to be valid.

3.12.1. The Class RB and RRB archery stamps are valid in those counties open to bucks-

only firearms hunting and in those counties closed to bucks-only firearms hunting; Provided that, if two deer are taken in counties closed to bucks-only firearm hunting, one of the deer must be antlerless.

3.13. A Class N stamp is non-transferable.

3.14. Except as provided for in the Division of Natural Resources Rule, General Trapping Rule (58 CSR 53), it is illegal to feed or bait wildlife on Beech Fork Wildlife Management Area, Burnsville Wildlife Management Area, Bluestone Wildlife Management Area, McClintic Wildlife Management Area and Coopers Rock State Forest.