

**WEST VIRGINIA**  
**SECRETARY OF STATE**  
KEN HECHLER  
**ADMINISTRATIVE LAW DIVISION**

Form #3

**FILED**  
MAY 12 1 58 PM '94  
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: Division of Natural Resources TITLE NUMBER: 58

CITE AUTHORITY § 20-1-7(30)

AMENDMENT TO AN EXISTING RULE: YES  NO

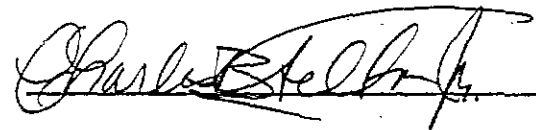
IF YES, SERIES NUMBER OF RULE BEING AMENDED: 11B

TITLE OF RULE BEING AMENDED: Regulations concerning prohibitions  
when hunting and trapping

IF NO, SERIES NUMBER OF NEW 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.

  
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3.80

CIRCUMSTANCES  
CONCERNING CHANGES TO  
PROHIBITIONS WHEN HUNTING AND TRAPPING

**AGENCY:** Department of Commerce, Labor and Environmental Resources, Division of Natural Resources.

**REGULATION:** Title 58, Series 11B, "Regulations Concerning Prohibitions When Hunting and Trapping".

**CIRCUMSTANCES:** Starlings and brownheaded cowbirds are added to the list of animals that may be controlled by chemicals. These species are not protected by state or federal law and are introduced exotics which compete with native species.

Limiting shooting from the vicinity of a motor vehicle is proposed to improve enforcement and safety.

This adds deer to the list of wildlife for which it is illegal to take over bait.

Baiting creates artificial feeding situations which increases the chance of disease and artificially concentrate wildlife.

This technical change clarifies the use of a solid ball by muzzleloader hunters during muzzleloading deer season.

This provides for better enforcement of illegal hunting methods and times.

FISCAL NOTE FOR PROPOSED RULE

Rule Title: Regulations Concerning Prohibitions When Hunting and Trapping, 58 C.S.R. 11B

Type of Rule: XX Legislative \_\_\_ Interpretive \_\_\_ Procedural

Agency: Division of Natural Resources


Address: Building 3, State Capitol Complex, Charleston, West Virginia

	ANNUAL		FISCAL YEAR	
	Increase	Decrease	Current	Next
1. Effect of Proposed Rule				Thereafter
Estimated Total Cost	\$			
Personal Services	\$			
Current Expenses	\$			
Repairs & Alterations	\$	No Change		
Equipment	\$			
Other	\$			

2. Explanation of above estimates: There is no change anticipated to administrative expenditures as a result of this rule.
3. Objectives of this rule: The proposed rule establishes the general provisions applicable to hunting and trapping.
4. Explanation of Overall Economic Impact of Proposed Rule.
  - A. Economic Impact on State Government. No impact.
  - 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: July 5, 1994

Signature of Agency Head or Authorized Representative

  
 Director, Division of Natural Resources

DATE:

TO: LEGISLATIVE RULE-MAKING REVIEW COMMITTEE

FROM:

LEGISLATIVE RULE TITLE: Regulations Concerning Prohibitions When Hunting and Trapping

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

2. a. Date filed in State Register with Notice of Hearing  
July 5, 1994 - Comment Period

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

NONE

c. Date of Hearing(s) Comment period ended August 5, 1994

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

Attached NONE No comments received 0

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

August 12, 1994

f. Name and phone number(s) of agency person(s) to contact for additional information:

Robert L. Miles, Chief

Wildlife Resources DNR

Rm 812, Bldg #3, Capitol Complex

Charleston, WV 25305  
558-2771

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

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b. Date of hearing:                     N/A                    

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

N/A

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d. Attach findings and determinations and reasons:

Attached                     N/A

PREAMBLE TO A PROPOSED RULE  
CONCERNING  
PROHIBITIONS WHEN HUNTING AND TRAPPING

AGENCY: Department of Commerce, Labor and Environmental Resources; Division of Natural Resources

REGULATION: Title 58, Series 11B "Regulations Concerning Prohibitions when Hunting and Trapping".

ACTION: Filing of a thirty day Public Comment Notice for the proposed rule.

SUMMARY: The proposed rule establishes the general provisions applicable to hunting and trapping.

Written comments received prior to 4:00 pm August 5, 1994 will be accepted. Written comments should be sent to:

Bob Miles, Chief  
Division of Natural Resources  
Wildlife Resources Section  
Capitol Complex  
Building 3, Room 812  
Charleston, West Virginia 25305

TITLE 58  
LEGISLATIVE RULES  
DEPARTMENT OF COMMERCE, LABOR AND ENVIRONMENTAL RESOURCES  
DIVISION OF NATURAL RESOURCES

SERIES 11B  
REGULATIONS CONCERNING PROHIBITIONS WHEN HUNTING AND TRAPPING

§58-11B-1. General.

1.1. Scope and Purpose. -- These regulations establish prohibitions in the pursuit or taking of wildlife within the boundaries of this State.

1.2. Authority. --- West Virginia Code §20-1-7(30).

1.3. Filing Date. --

1.4. Effective Date. --

§58-11B-2. Definitions.

2.1. All terms have the meaning prescribed in the regulations defining the terms to be used concerning all Hunting and Trapping Regulations (47 C.S.R.11A).

§58-11B-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 out, cutting out or smoking 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 regulation, 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 such means 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 must 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 its progress from the motor has ceased.

3.5. It is illegal for any person, after alighting from a motor vehicle being driven on or stopped, on or along a public highway or road open to public travel, to shoot at any wild bird or wild animal while the person doing the shooting is within 25 yards of the vehicle.

~~3.5.~~ 3.6. It is illegal to hunt, catch, take, kill, injure, or pursue a wild animal or wild bird by means of falconry or hawking.

~~3.6.~~ 3.7. The use or possession of a fully automatic, rifle, shotgun, or pistol is prohibited while hunting or pursuing wildlife at any time.

~~3.7.~~ 3.8. 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 deer, bear, migratory bird, protected bird, protected mammal, or wild boar.

~~3.7.1.~~ 3.8.1. ~~No person may take, or attempt to do so, the species under subsection 3.7 of these regulations, by the aid of baiting. It is illegal to hunt for, take, kill, or attempt to do so, with bow or firearm, any wildlife by aid of baiting or to do so at or over any baited area.~~ The Director considers an area to be baited for ten days (10) after the removal of bait.

~~3.9.~~ 3.9. 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 those persons legally hunting bear or legally hunting deer with a muzzleloader firearm. The use of .22 caliber rimfire for small game hunting is legal during the muzzleloading season.

~~3.9.~~ 3.10. No person may use tree stands, except for portable tree stands, on public lands.

~~3.10.~~ 3.11. No person may transport wildlife or parts thereof, 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 killing the wildlife:

~~3.10.1.~~ 3.11.1. The hunter's signature, address, hunting

license number (if required), official game checking tag number (if required), date of kill, species, number, and/or quantity of wildlife.

~~3.11.~~ 3.12. It is illegal for any person to feed bears.

3.13. It is illegal to hunt between 1/2 hour after sunset to 1/2 hour before sunrise with a bow or centerfire firearm or any firearm using larger than .22 caliber rimfire ammunition or shotguns using solid ball ammunition or shot shell containing larger than No. 4 shot.