

WEST VIRGINIA
SECRETARY OF STATE
KEN HECHLER
ADMINISTRATIVE LAW DIVISION

FILED

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Form #4

OFFICE OF WEST VIRGINIA
SECRETARY OF STATE

NOTICE OF RULE MODIFICATION OF A PROPOSED RULE

AGENCY: Bureau of Commerce, Division of Natural Resources TITLE NUMBER: 58

CITE AUTHORITY § 20-1-7(30)

AMENDMENT TO AN EXISTING RULE: YES NO

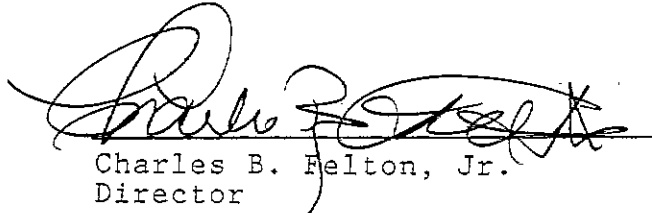
IF YES, SERIES NUMBER OF RULE BEING AMENDED: 11B

TITLE OF RULE BEING AMENDED: Prohibitions When Hunting and Trapping

IF NO, SERIES NUMBER OF NEW RULE BEING PROPOSED: _____

TITLE OF RULE BEING PROPOSED: _____

THE ABOVE PROPOSED LEGISLATIVE RULE, FOLLOWING REVIEW BY THE LEGISLATIVE RULE MAKING REVIEW COMMITTEE IS HEREBY MODIFIED AS A RESULT OF REVIEW AND COMMENT BY THE LEGISLATIVE RULE-MAKING REVIEW COMMITTEE. THE ATTACHED MODIFICATIONS ARE FILED WITH THE SECRETARY OF STATE.


Charles B. Felton, Jr.
Director

2180

62 on the sixteenth day of December, one thousand nine
63 hundred ninety-four, relating to the division of natural
64 resources (rules governing public use of West Virginia
65 state parks, state forests and state wildlife management
66 areas under the division of natural resources, 58 CSR
67 58), are authorized with the following amendment:

68 On page five, section 2.23, line four, before the word
69 "chartered" by inserting the word "A" and by deleting
70 the letter "s" at the end of the word "foundations".

58-11B

71 ~~(g)~~ The legislative rules filed in the state register on the
72 twelfth day of August, one thousand nine hundred
73 ninety-four, modified by the division on natural re-
74 sources to meet the objections of the legislative rule-
75 making review committee and refiled in the state register
76 on the fourteenth day of October, one thousand nine
77 hundred ninety-four, relating to the division of natural
78 resources (prohibitions when hunting and trapping, 58
79 CSR 11B), are authorized with the following amend-
80 ments:

81 On page two, by striking out section 3.5 and renumber-
82 ing the remaining sections;

83 In section 3.7, after the word "net" by inserting the
84 word "bait" and after the word "any" by inserting the
85 word "deer";

86 And,

87 By striking out subsection 3.7.1 and renumbering the
88 remaining sections.

TITLE 58
LEGISLATIVE RULE
BUREAU OF COMMERCE
DIVISION OF NATURAL RESOURCES

SERIES 11B
PROHIBITIONS WHEN HUNTING AND TRAPPING

§58-11B-1. General.

1.1. Scope and Purpose. -- This rule establishes 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. --

1.5. Repeal of Former Rule. -- These rules repeal and replace 58 C.S.R. 11B "Prohibitions when Hunting and Trapping" that were filed on June 24, 1993 and became effective on June 24, 1993.

§58-11B-2. Definitions.

2.1. All terms have the meaning prescribed in the rule 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 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, chemical 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 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 the watercraft's 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 motor 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 the bait.

~~3.8.~~ 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.

