

**WEST VIRGINIA
SECRETARY OF STATE
NATALIE E. TENNANT
ADMINISTRATIVE LAW DIVISION**

Form #5

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FILED

2011 AUG 23 AM 11:29

OFFICE OF THE
SECRETARY OF STATE

**NOTICE OF AGENCY ADOPTION OF A PROCEDURAL OR INTERPRETIVE RULE
OR A LEGISLATIVE RULE EXEMPT FROM LEGISLATIVE REVIEW**

AGENCY: Dept. of Commerce, Div. of Natural Resources, Wildlife Resources Section TITLE NUMBER: 58

CITE AUTHORITY: 20-1-17(7) and 29A-1-3(c)

RULE TYPE: PROCEDURAL _____ INTERPRETIVE _____

EXEMPT LEGISLATIVE RULE X

CITE STATUTE(S) GRANTING EXEMPTION FROM LEGISLATIVE REVIEW

29A-1-3(c)

AMENDMENT TO AN EXISTING RULE: YES X NO _____

IF YES, SERIES NUMBER OF RULE BEING AMENDED: 45

TITLE OF RULE BEING AMENDED: Hunting and Trapping Rules

IF NO, SERIES NUMBER OF RULE BEING PROPOSED: _____

TITLE OF RULE BEING PROPOSED: _____

THE ABOVE RULE IS HEREBY ADOPTED AND FILED WITH THE SECRETARY OF STATE. THE
EFFECTIVE DATE OF THIS RULE IS September 1, 2011

Angel R. Moore
Authorized Signature

APPENDIX B

FISCAL NOTE FOR PROPOSED RULES

Series 45, Hunting and Trapping Rule

Rule Title: _____

Type of Rule: Legislative Interpretive Procedural

Agency: Division of Natural Resources, Wildlife Resources Section

Address: 324 Fourth Avenue
South Charleston, WV 25303

Phone Number: 304-558-2771 Email: billie.j.shearer@wv.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 is no change anticipated to the administrative expenditures as a result of this rule.

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

Series 45, Hunting and Trapping Rule

Rule Title: _____

Rule Title: _____

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

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

No impact.

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.

This rule makes minor changes to the hunting and trapping season dates and bag limits for the 2011-2012 season.

Date: 8/23/11

Signature of Agency Head or Authorized Representative

Angel R. Moore

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

**SERIES 45
HUNTING AND TRAPPING RULE
(EXEMPT RULE)**

SUMMARY:

Series 45 revises the current Hunting and Trapping Rule. This rule prescribes the open seasons and the bag, size, age, weight and sex limits with respect to the hunting and trapping of wildlife in West Virginia. The rule will become effective September 1, 2011. Revisions to this rule include defining the opening dates for the statewide deer archery, squirrel, youth small game and fall turkey seasons. In addition, season bag limits, and opening and closing dates for the new otter trapping season have been incorporated into the rule. Minor changes were also made to shot size restrictions for the youth spring turkey season and artificial light colors permitted for the hunting of coyotes at night.

CIRCUMSTANCES:

This rule makes changes in the seasons and bag limits of wildlife species hunted or trapped. The Natural Resources Commission revises these rules annually to reflect management measures for different species and to provide optimal recreational opportunity.

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

FILED
2011 AUG 23 AM 11:29

**SERIES 45
HUNTING AND TRAPPING RULES**

OFFICE OF THE SECRETARY OF STATE

§58-45-1. General.

1.1. Scope. -- These rules establish the open seasons and the bag, size, age, weight, and sex limits with respect to the hunting and trapping of wildlife in West Virginia.

1.2. Authority. -- W. Va. Code §§20-1-17(7) and 29A-1-3(c).

1.3. Filing Date. -- August 23, 2011.

1.4. Effective Date. -- September 1, 2011.

1.5. Seasons in General. -- All seasons, unless otherwise noted, are statewide and subject to change under the provisions of W. Va. Code §20-1-7(7). Opening and closing dates are inclusive and time periods are prevailing time unless otherwise noted in these rules.

§58-45-2. Definitions.

2.1. All terms shall have the meaning prescribed in W. Va. Code §20-1-2 and Title 58, Series 46 "Regulations Defining the Terms to be used Concerning all Hunting and Trapping Rules" (58CSR46).

§58-45-3. Deer Hunting Seasons.

3.1. Bucks-Only Deer Season. This season, for the firearms hunting of antlered deer, runs for thirteen (13) consecutive days commencing on the Monday preceding Thanksgiving.

3.1.a. The bucks-only deer season is open except in the following: Logan, McDowell, Mingo and Wyoming counties; and the Hillcrest WMA and the Wilson Cove Study Area.

3.2. Class N Antlerless Deer Season. This season, for the firearms hunting of antlerless deer, runs for the number of days and in counties or portions thereof designated by the Natural Resources Commission and published annually by the Director.

3.3. Archery Deer Season. This season opens on the first Saturday ~~nearest to~~ in October ~~15~~ and closes on the last day in December.

3.3.a. During the archery deer season, both antlered and antlerless deer may be hunted statewide with a bow.

3.3.b. Special urban deer archery season. This season, which may be implemented within incorporated limits of a city, town or village, opens 14 days, except in Charleston which opens 28 days, prior to the opening of the statewide deer archery season and closes on the last day in December. This special deer season will in no way supersede local regulations or community prohibitions on hunting.

3.3.b.1. This season may also be implemented within incorporated homeowners associations that have defined boundaries. The governing entity of these associations shall submit a letter to the

Director prior to March 1 of the year that the hunt is requested. Based on a field review, the Director may or may not grant the request. This special deer season will in no way supersede local regulations or community prohibitions on hunting.

3.3.b.2. Deer taken during this special season, shall not apply to the regular archery deer season bag limit under Section 3.9 of these rules.

3.3.b.3. The bag limit for all incorporated cities, towns, villages and homeowners associations except Charleston is two deer. The bag limit for Charleston is seven deer which may include no more than two antlered deer and the first deer must be antlerless.

3.3.c. Special Antlerless Archery Deer Season. This season, for the archery hunting of antlerless deer, runs for the number of days and in the counties or portions thereof designated by the Natural Resources Commission and published annually by the Director.

3.4. Muzzle-loading Firearms Deer Seasons. The early season runs for thirteen (13) consecutive days commencing on the Monday preceding Thanksgiving in the Wilson Cove Study Area in Hardy County and Hillcrest WMA in Hancock County and the late season runs for six (6) consecutive days commencing on the second Monday in December in all counties open to firearm deer hunting.

3.4.a. Wilson Cove Study Area and Hillcrest WMA. Antlered deer only may be taken within boundaries of these areas during the early thirteen (13) day muzzle-loading firearm season.

3.4.a.1. The Wilson Cove Study Area is approximately 5,200 acres located on the Wardensville Wildlife Management Area of the George Washington National Forest in Hardy County.

3.4.a.2. Hillcrest WMA is a 2,212 acre area located in Hancock County.

3.4.b. Deer of either-sex may be taken during the late six (6) day muzzle-loading firearms season in those counties or portions thereof, having a Class N antlerless season as designated by the Natural Resources Commission and published annually by the Director and antlered deer only may be taken in those counties having a bucks-only deer season but no antlerless season.

3.4.c. Special Antlerless Muzzleloading Firearms Deer Season. This season, for the muzzleloading firearms hunting of antlerless deer, runs for the number of days and in the counties or portions thereof designated by the Natural Resources Commission and published annually by the Director.

3.5. Special Deer Season. This season which may be implemented within the boundaries of lands owned, operated, or controlled by the Federal or State government, opens 14 days prior to the opening of the statewide deer archery season and runs for 14 consecutive days. This special deer season will only be implemented when the resident deer population cannot be managed by general public hunting during the regular deer seasons for reasons of safety, security or other special circumstances, as recommended by the Wildlife Resources Section.

3.5.a. During this special deer season, two (2) deer may be taken which shall not apply to the regular annual archery or firearms deer seasons bag limits under Section 3.9 of these rules.

3.6. Special Youth Deer Season. There will be a special split youth deer season for youth hunters, ages 8 to less than 18, to be held on the last Saturday in October and on the first two (2) days (excluding Sunday) after Christmas Day on private land in counties open to firearms deer hunting and on selected wildlife management areas and state forests designated by the Natural Resources Commission and published annually by the Director.

3.6.a. During this special season, one (1) antlerless deer may be taken per day which will not apply to the regular deer firearms bag limit under Section 3.9 of these rules.

3.7. State Park Deer Season. This season, for the hunting of deer with archery and/or firearms designated by the Director, will be a permit hunt implemented within the boundaries of designated State Parks. The season runs for the number of days designated by the Natural Resources Commission and published annually by the Director.

3.7.a. During this season, two (2) deer may be taken by each hunter, one (1) deer per day which shall not apply to the regular annual firearms, muzzleloader or archery deer season bag limits under Section 3.9 of these rules. Only antlerless deer may be taken during this hunt, except that each day of the hunt an on-site lottery will be held which will allow a selected number of hunters as determined by the District Game Biologist to hunt a deer of either sex.

3.8. Class Q Deer Season. There will be a special split deer season for Class Q permit holders to be held on the last Saturday in October and on the first two days (excluding Sundays) after Christmas Day on private land in counties open to firearms deer hunting and on selected wildlife management areas and state forests designated by the Natural Resources Commission and published annually by the Director.

3.8.a. During this special season, one (1) antlerless deer may be taken per day which will not apply to the regular deer firearms bag limit under Section 3.9 of these rules.

3.9. No person may take more than three (3) antlered deer or more than a total of thirteen (13) deer in this State during a calendar year unless otherwise provided for in this series or he/she holds a valid permit to kill deer causing damage to crops as provided under 58CSR15.

3.9.a. Deer taken during the open seasons established in Section 3 of these rules may be a combination of the following:

3.9.a.1. One (1) deer by bow during the archery deer season.

3.9.a.2. One (1) antlered deer by either bow or firearm during the bucks-only deer season.

3.9.a.3. One (1) antlerless deer by either bow or firearm during the Class N antlerless deer season; except that two (2) or four (4) antlerless deer may be taken by bow or firearm in selected counties or portions thereof designated by the Natural Resources Commission and published annually by the Director. Only residents may hunt during the Class N antlerless deer season in counties or portions thereof designated by the Natural Resources Commission and published annually by the Director. Only one (1) antlerless deer may be taken per Class N or NN stamp.

3.9.a.4. Two (2) deer by bow on Class RB or RRB stamps during the archery deer season; provided that one (1) of the deer must be an antlerless deer. And one (1) antlerless deer by bow on a Class RB or RRB stamp during the special antlerless archery deer season. No more than one (1) antlered deer and no more than two (2) total deer may be taken in counties closed to bucks-only firearms hunting. No more than one (1) deer may be taken by bow on Class RB or RRB stamps in counties closed to antlerless firearms hunting.

3.9.a.5. One (1) deer on Class RG or RRG stamp as follows: one (1) antlered deer by either bow or firearm during the bucks-only deer season.

3.9.a.6. One (1) deer with a muzzleloader during the muzzleloader season on a Class RM or RRM stamp as follows: One (1) deer of either sex in counties or parts thereof having a Class N season

with a bag limit of two (2) or more antlerless deer or one (1) antlered deer in all other counties or parts thereof having a firearms deer season as designated by the Natural Resources Commission and published annually by the Director. And one (1) antlerless deer on a Class RM or RRM stamp during the special antlerless muzzleloader deer season.

3.9.a.7. One (1) deer by single-shot muzzle-loading rifle or pistol during the muzzle-loading firearms deer season.

3.9.a.8 McClintic WMA, Beech Fork WMA, Burnsville WMA, Hillcrest WMA, Wilson Cove Study Area, Bluestone WMA, Calvin Price State Forest and Coopers Rock State Forest. Only one (1) antlered deer may be taken on each area for all seasons combined.

3.10. No person may hunt deer between thirty (30) minutes after sunset and thirty (30) minutes before sunrise on the following day.

3.11. The hunting of all game species for which a legal hunting season is open is permitted during the muzzle-loading firearms deer season.

3.12. Antler restrictions on McClintic WMA, Beech Fork WMA, Burnsville WMA, Bluestone WMA, Calvin Price State Forest and Coopers Rock State Forest. All antlered bucks taken on McClintic WMA, Beech Fork WMA, Burnsville WMA, Bluestone WMA and Coopers Rock State Forest during the archery, bucks-only and muzzleloader seasons must have an outside antler spread of fourteen (14) inches or greater.

§58-45-4. Bear Hunting Seasons.

4.1. Firearms Dog Bear Season. Except as provided in Sections 4.1.a of these rules, the firearms dog bear season opens on the first Monday following the close of the bucks-only deer season and runs for the number of days and in the counties or portion of counties designated by the Natural Resources Commission and published annually by the Director.

4.1.a. The firearms dog bear season is also open for the number of days and in counties or portions of counties designated by the Natural Resources Commission and published annually by the Director.

4.1.b. The firearms dog bear season on Nathaniel Mountain and Short Mountain WMAs is by limited permit only and limited to parties of no more than four (4) hunters with no more than eight (8) dogs for selected two (2) day periods.

4.2. Firearms/no dogs bear seasons. The firearms no dogs bear season opens on the first Monday following the close of the bucks-only deer season and runs for the number of days and in the counties or portions of counties designated by the Natural Resources Commission and published annually by the Director.

4.2.a. The firearms/no dogs bear season is also open for the number of days and in counties or portion of counties designated by the Natural Resources Commission and published annually by the Director.

4.3. Archery/no dogs Bear Season. The archery/no dogs bear season opens statewide on the Saturday nearest to October 15 and closes on the Saturday preceding the opening of the bucks-only deer season.

4.4. No person may hunt bear between thirty (30) minutes after sunset and thirty (30) minutes before sunrise on the following day, except that hunting dogs may be trained on bear during these hours in accordance with the provisions of W. Va. Code §20-2-5(24).

§58-45-5. Wild Turkey Hunting Seasons.

5.1. Fall Wild Turkey Season. This season opens on the ~~first second~~ first Saturday after the Saturday nearest the 15th of October ~~opening of squirrel season~~ and runs for the number of days and in the counties designated by the Natural Resources Commission and published annually by the Director.

5.2. Spring Wild Turkey Season. This season opens on the fourth Monday in April and runs for twenty-seven (27) consecutive days thereafter and is open statewide for the hunting of bearded turkeys only.

5.2.a. Youth Spring Wild Turkey Season. There will be a special youth spring wild turkey season, bearded turkey only, for youth hunters, ages 8 to less than 18, to be held on the Saturday prior to the fourth Monday of April using shotguns and shot sizes no larger than #4, #5 or #6 only or smaller than #7 1/2.

5.3. No person may hunt wild turkey between one o'clock postmeridian (1:00 p.m.) and thirty (30) minutes before sunrise during the spring wild turkey season.

§58-45-6. Wild Boar Hunting Seasons.

6.1. Firearms Wild Boar Season. This season runs for eight (8) consecutive days commencing on the fourth Saturday in October.

6.1.a. The firearms wild boar season is open in those counties, or portions thereof, designated by the Natural Resources Commission and published annually by the Director.

6.2. Archery Wild Boar Season. This season opens on the Saturday nearest to October 15 and closes on the last day in December.

6.2.a. The archery wild boar season is open in those counties, or portions thereof, open to firearms wild boar hunting.

6.3. No person may hunt boar between thirty (30) minutes after sunset and thirty (30) minutes before sunrise.

6.4. Provided that if a hunter uses a bow, the hunting of deer is permitted during the wild boar seasons in those counties, or portions thereof, designated by the Natural Resources Commission as boar hunting areas.

§58-45-7. Other Hunting Seasons.

7.1. Bobcat Season. This season opens on the first Saturday in November and closes on the last day in February.

7.2. Fox Season. This season opens on the first Saturday in November and closes on the last day in February.

7.3. Grouse Season. This season opens on the Saturday nearest to October 15 and closes on the last day in February.

7.4. Hare Season. This season opens on the first Saturday in November and closes on the last day in February.

7.5. Opossum, Skunk, Weasel, Coyote, Pigeon and Woodchuck Seasons. These seasons are open year-round.

7.5.a. Coyote Hunting with Artificial Lights Season. Coyotes may be hunted at night using hand held red, green or amber colored artificial light from the first day in January through the last day in July.

7.6. Pheasant Season. This season opens on the first Saturday in November and closes on the first Saturday in January and is open for the hunting of cock birds only.

7.6.a. Pheasant season on Hillcrest WMA. This season opens on the second Saturday in November and closes on the first Saturday in December and is open for the hunting of cock birds only.

7.7. Quail Season. This season opens on the first Saturday in November and closes on the first Saturday in January.

7.8. Rabbit Season. This season opens on the first Saturday in November and closes on the last day of February.

7.9. Raccoon Season. This season opens on the Saturday nearest to October 15 and closes on the last day of February.

7.9.a. Raccoon hunting is legal only during the eleven hour period beginning at six o'clock postmeridian (6:00 p.m.) and ending at five o'clock antemeridian (5:00 a.m.) on the following day.

7.10. Otter Season. Closed.

7.11. Squirrel Season. This season opens on the second Saturday of September ~~prior to the Saturday nearest to October 15~~ and closes on the last day of January.

7.12. Crow Season. This season is open from the first day of January through the first Saturday in March and the first day of October through the Saturday preceding the bucks-only firearms deer season.

7.13. Youth Small Game Season. This one (1) day season for taking all small game species except migratory game birds by youth hunters under the age of 18 is open on the first Saturday of October ~~prior to the statewide squirrel season opening date.~~

§58-45-8. Hunting Bag and Possession Limits.

8.1. Bear. The bag and possession limit is one (1) bear per day and two (2) bears per calendar year. Provided that a second bear per calendar year may only be taken in counties designated by the Natural Resources Commission and published annually by the Director.

8.2. Deer. The bag and possession limit is one (1) deer per day and thirteen (13) deer per calendar year, as specified in Section 3.9 of these rules. Provided, that two (2) antlerless deer may be taken per day, on private lands only, on specific days within the antlerless and special urban archery deer seasons designated by the Natural Resources Commission and published annually by the Director.

8.3. Wild Boar. The bag and possession limit is one (1) boar per calendar year.

8.4. Wild Turkey. The bag and possession limit is three (3) turkeys per calendar year, only one of which may be taken during the fall wild turkey season. Two (2) bearded turkeys may be taken in the spring and one (1) turkey of either sex may be taken in the fall. During the spring wild turkey seasons, only one (1) turkey may be taken per day.

8.4.a. Youth Spring Wild Turkey. The bag and possession limit for the youth spring wild turkey season is one (1) bearded turkey which does count as part of the annual turkey bag limit established in Section 8.4 of this rule.

8.5. Bobcat. The bag and possession limit is three (3) bobcats per day and three (3) bobcats per season for hunting and trapping seasons combined.

8.6. Fox (Gray and Red Foxes). There are no daily or season bag limits for fox.

8.7. Grouse. The bag limit is four (4) grouse per day. The possession limit is sixteen (16) grouse after the third day of the season.

8.8. Hare. The bag limit is two (2) hares per day. The possession limit is eight (8) after the third day of the season.

8.9. Opossum, Skunk, Weasel, Coyote, Crow, Pigeon and Woodchuck. There are no daily or season limits for opossum, skunk, weasel, coyote, crow, pigeon and woodchuck.

8.10. Pheasant. The bag limit is two (2) pheasants per day and possession limit is two (2) pheasants.

8.10.a. The bag limit on Hillcrest WMA is one (1) pheasant per day and the possession limit is one (1).

8.11. Quail. The bag limit is three (3) quail per day. The possession limit is nine (9) quail after the second day of the season.

8.12. Rabbit. The bag limit is five (5) rabbits per day. The possession limit is twenty (20) rabbits after the third day of the season.

8.13. Raccoon. The bag limit during the eleven hour period beginning at six o'clock postmeridian (6:00 p.m.) and ending at five o'clock antemeridian (5:00 a.m.) on the following day is four (4) raccoons for one person or four (4) raccoons for a group of persons hunting as a party. The possession limit is unlimited.

8.14. Squirrel (Fox and Gray Squirrels, including black and albino color phases). The bag limit is six (6) squirrels in aggregate per day. The possession limit is twenty-four (24) squirrels in aggregate after the third day of the season.

8.15. Youth Small Game. The bag limit and possession limits for the youth small game season are the same as the regular season daily bag limits for the respective species.

§58-45-9. Trapping Seasons.

9.1. No traps may be set before eight o'clock antemeridian (8:00 a.m.) on the first day of a trapping season or either set or left set after noon on the last day of a trapping season.

9.2. Beaver Trapping Season. This season opens on the first Saturday in November and closes on the last day in March.

9.3. Bobcat Trapping Season. This season opens on the first Saturday in November and closes on the last day in February.

9.4. Fisher Trapping Season. This season opens on the first Saturday in November and closes on the last day in January.

9.5. Fox Trapping Season. This season opens on the first Saturday in November and closes on the last day in February.

9.6. Mink Trapping Season. This season opens on the first Saturday in November and closes on the last day in February.

9.7. Muskrat Trapping Season. This season opens on the first Saturday in November and closes on the last day in February.

9.8. Raccoon Trapping Season. This season opens on the first Saturday in November and closes on the last day in February.

9.9. ~~Otter trapping season~~ Trapping Season. ~~Closed:~~ This season opens on the first Saturday in November and closes on the last day in February.

9.10. Skunk, opossum, coyote and weasel trapping season. This season opens on the first Saturday in November and closes on the last day in February.

§58-45-10. Trapping Bag and Possession Limits.

10.1. Beaver. There are no daily or season limits for beaver.

10.2. Bobcat. The bag and possession limit is three (3) bobcats per day and three (3) bobcats per season for hunting and trapping seasons combined.

10.3. Fisher. The bag and possession limit is one (1) fisher per day and one (1) fisher per season.

10.4. Fox (Gray and Red Foxes). There are no daily or season limits for fox.

10.5. Mink. There are no daily or season limits for mink.

10.6. Muskrat. There are no daily or season limits for muskrat.

10.7. Raccoon. There is no daily or season bag limit for raccoons.

10.8. Otter. The bag limit and possession limit is one (1) otter per day and one (1) otter per season.

10.89. Skunk, opossum, coyote, and weasel. There are no daily or season limits for these species.