

**WEST VIRGINIA
SECRETARY OF STATE
JOE MANCHIN, III
ADMINISTRATIVE LAW DIVISION**

Form #5

Do Not Mark In This Box

FILED

2004 AUG 27 P 1:16

OFFICE WEST VIRGINIA
SECRETARY OF STATE

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

AGENCY: BOC DNR 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, 2004



Authorized Signature

CIRCUMSTANCE AND SUMMARY FOR EXEMPT RULE CONCERNING HUNTING AND TRAPPING

AGENCY: Bureau of Commerce, Division of Natural Resources

REGULATION: Title 58, Series 45, Hunting and Trapping Rules

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, 2004. Revisions to this rule clarifies the taking of a deer on the Class R & RR licenses during the archery season; simplifies the language relating to the number of counties open to bear hunting and turkey hunting; establishes a youth spring wild turkey season; establishes a hunting season for coyotes using amber colored artificial light; revises dates/or bag limits for crow.

CIRCUMSTANCE: This rule establishes a youth spring turkey season and a coyote hunting season using artificial lights and 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.

■
APPENDIX B

FISCAL NOTE FOR PROPOSED RULES

Rule Title: Series 45, Hunting and Trapping Rules

Type of Rule: Legislative Interpretive Procedural

Agency: Division of Natural Resources, Wildlife Resources Section

Address: 1900 Kanawha Blvd., E., 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:

There is no change anticipated to administrative expenditures as a result of this rule.

3. Objectives of These Rules:

This rule establishes the open seasons and the bag, size, age, weight and sex limits with respect to the hunting and trapping of wildlife in West Virginia.

Rule Title: Series 45, Hunting and Trapping Rules

4. Explanation of Overall Economic Impact of Proposed Rule:

A. Economic Impact on State Government:

No impact.

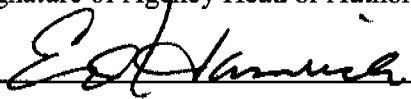
B. Economic Impact on Political Subdivisions; Specific Industries; Specific Groups of Citizens: No impact.

C. Economic Impact on Citizens/Public at Large.

Hunting and fishing in West Virginia generates approximately \$707 million annually for the state's economy.

Date: 8/27/04

Signature of Agency Head or Authorized Representative:



TITLE 58
LEGISLATIVE RULE
DIVISION OF NATURAL RESOURCES

FILED

2004 AUG 27 P 1:16

SERIES 45
HUNTING AND TRAPPING RULES
(EXEMPT RULE)

OFFICE WEST VIRGINIA
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 27, 2004

1.4. Effective Date. -- September 1, 2004

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" (58 C.S.R. 46).

§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 first Monday preceding Thanksgiving.

3.1.1. 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 Saturday nearest to October 15 and closes on the last day in December.

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

3.3.2. Special urban deer archery season. This season, which may be implemented within incorporated limits of a city, town or village, opens 14 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.

3.3.2.a. 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.

3.3.2.b. During this special season, two deer may be taken which shall not apply to the regular archery deer season bag limit under Section 3.9 of these rules.

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 ~~third~~ second Monday in December in all counties open to firearm deer hunting.

3.4.1. 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.

3.4.1.a. 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.

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

3.4.2. 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.

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.

3.5.1. 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 ~~10~~ 8 to less than 15, to be held on the first Saturday in November and on the fourth Monday and Tuesday in December on private land in counties or portions thereof, open to Class N antlerless deer hunting and on selected wildlife management areas designated by the Natural Resources Commission and published annually by the Director.

3.6.1. 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. Blennerhassett Island State Park Deer Season. This split season, for the hunting of deer with muzzleloader, shotgun with slugs, and archery, will be a permit hunt implemented within the boundaries of Blennerhassett Island State Park. The season runs for three (3) consecutive days commencing on fourth Monday in October and for three (3) consecutive days beginning on the first Thursday in November.

3.7.1. 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 license holders to be held on the first Saturday in November and on the fourth Monday and Tuesday in December on private land in counties, or portions thereof, open to Class N antlerless deer hunting and on selected wildlife management areas designated by the Natural Resources Commission and published annually by the director.

3.8.1. 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 nine (9) 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 58 C.S.R. 15.

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

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

3.9.1.b. One (1) antlered deer by either bow or firearm during the bucks-only deer season.

3.9.1.c. One (1) antlerless deer by either bow or firearm during the Class N antlerless deer season; except that three (3) 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 license;

3.9.1.d. Two (2) deer by bow on Class R or RR licenses during the archery deer season; provided that one (1) of the deer must be an antlerless deer. ~~and only~~ No more than one (1) antlered deer and no more than two (2) total deer maybe taken may be taken on a Class R or RR license in counties closed to bucks-only firearms hunting. No more than one (1) antlered deer may be taken by bow on Class R or RR license in counties closed to bucks-only antlerless firearms hunting.

3.9.1.e. One (1) deer on Class R or RR licenses as follows: one (1) antlered deer by either bow or firearm during the bucks-only deer season; or one antlerless deer during the antlerless Class N season in counties, or portions thereof as designated by the Natural Resources Commission; or one deer of either-sex during the muzzle-loading firearms season in counties, or portions thereof, as designated by the Natural Resources Commission except as provided in Section 3.4.1 of these rules;

3.9.1.f. A Class R or Class RR license is valid beginning on the day after the licensee has checked his or her first deer for the respective season with a conservation officer or an official game checking station.

3.9.1.g. One (1) deer by single-shot muzzle-loading rifle or pistol during the muzzle-loading firearms deer season.

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. All antlered bucks taken on McClintic WMA in Mason County 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 Section 4.4 of these rules, the firearms dog bear season opens on the first Monday following the close of the bucks-only deer season and ~~closes on the last day in December in the following counties or portions of counties: Boone, Fayette, Grant, Greenbrier, Hardy, Kanawha, Nicholas, Raleigh, Pendleton, Pocahontas, Preston, Randolph, Tucker, Webster; that portion of Barbour County lying east of Rt. 92; that portion of Mineral County lying west of New Creek; that portion of Monroe County lying east of Rt. 219.~~ 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.

4.1.1. The firearms dog bear season is also open for six (6) consecutive days beginning on the first Monday of November ~~in the following counties or portions of counties: Boone, Fayette, Kanawha, Nicholas and Raleigh.~~ designated by the Natural Resources Commission and published annually by the Director.

4.2. Firearms/no dogs bear seasons. Except as provided in Section 4.4 of these rules, the firearms no dogs bear season is open for six (6) days beginning on the first Monday following the close of the bucks-only deer season ~~in the following counties: Barbour (west of State Route 92), Berkeley, Braxton, Cabell, Clay, Hampshire (south of U.S. Route 50), Jefferson, Lewis, Lincoln, Logan, Marion, Mason, McDowell, Mercer, Mineral (east of New Creek), Mingo, Monongalia, Monroe (west of U.S. Route 219), Morgan, Putnam, Summers, Upshur, Wayne, and Wyoming.~~ or portions of counties designated by the Natural Resources Commission and published annually by the Director.

4.2.1. The firearms/no dogs bear season is also open for six (6) consecutive days beginning on the Monday preceeding Thanksgiving ~~in the following counties or portion of counties: Boone, Kanawha, Fayette, Nicholas and Raleigh.~~ designated by the Natural Resources Commission and published annually by the Director.

4.3. Archery/no dogs Bear Season. Except as provided in Section 4.4 of these rules, 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. The Cranberry Closed Area (known as Back Country) lying in Pocahontas, Greenbrier and Webster counties is closed to all bear hunting.

4.4.1. The Cranberry Closed Area is bounded as follows: Starting at Dyer, the northern boundary proceeds along Forest Service Route 86 east to Forest Service Route 76 (the Black Mountain Road); then follows Forest Service Route 76 south to its intersection with Highland Scenic Highway (State Route 150); and then follows State Route 150 to State Route 39. The southern boundary of the Closed Area follows State Route 39 to the Nicholas County line; then proceeds north following the Nicholas County

line to Forest Service Route 76; then follows Forest Service Route 76 north to Forest Service Route 101; and then follows Forest Service Route 101 north to Dyer.

4.5. 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(26).

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

5.1. Fall Wild Turkey Season. This season opens on the second Saturday after the opening of squirrel season and runs for twenty nine (29) consecutive days commencing on the second Saturday after the opening of squirrel season, except as provided in Subsections 5.1.2, 5.1.3 and 5.1.4 of this rule. the number of days and in the counties designated by the Natural Resources Commission and published annually by the Director.

~~5.1.1. The fall wild turkey season is open in the following counties: Berkeley, Grant, Greenbrier, Hampshire, Hardy, Mineral, Monroe, Morgan, Nicholas, Pendleton, Pocahontas, Randolph, Tucker and Webster.~~

~~5.1.2. In Preston County, the fall wild turkey season runs for fifteen (15) consecutive days commencing on the second Saturday after the start of squirrel season.~~

~~5.1.3. In Brooke, Hancock, Jackson, Marshall, Mason, Monongalia, Ohio, Ritchie, Tyler, Wirt and Wood counties the early fall wild turkey season runs for eight (8) consecutive days commencing on the second Saturday after the opening of squirrel season.~~

~~5.1.4. Special Fall Wild Turkey Permit Season. This season, by permit only, opens on the second Saturday after the opening of squirrel season and 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.~~

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.

5.2.1. Youth Spring Wild Turkey Season. There will be a special youth spring wild turkey season, bearded turkey only, for youth hunters, ages 10 to less than 15, to be held on the Saturday prior to the fourth Monday of April using shotguns and shot sizes #4, #5 or #6 only.

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 six (6) consecutive days commencing on the fourth Monday in October.

6.1.1. 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.

6.2.1. 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.

7.5.1. Coyote Hunting with Artificial Lights Season. Coyotes may be hunted at night using hand held 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.

7.6.1. 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.

7.9.1. 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 Saturday prior to the Saturday nearest to October 15 and closes on the last day of January.

7.11.1 Special Youth Squirrel Season. This one (1) day season for youth hunters, under the age of 15, will be held on the first Saturday in October.

7.12. Crow Season. This season is open from the first day of January through the first Saturday in March and on Thursdays, Fridays and Saturdays and from the first day in September through the last day in December.

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

8.1. Bear. The bag and possession limit is one (1) bear per calendar year.

8.2. Deer. The bag and possession limit is one (1) deer per day and nine (9) 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 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.

8.4.1. 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 two (2) bobcats per day and two (2) bobcats per season.

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.

8.10.1. 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.

§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. Closed.

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 two (2) bobcats per day and two (2) bobcats per season.

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