

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

**SERIES 47
PROHIBITIONS WHEN HUNTING AND TRAPPING**

SUMMARY OF THE RULE

Title 58, Series 47, Prohibitions When Hunting And Trapping establishes prohibitions for the pursuit or taking of wildlife within the boundaries of this State.

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CIRCUMSTANCES REQUIRING THE PROPOSED RULE

The Division of Natural Resources proposes to clarify that no person shall use solid ball ammunition or shot larger than #4 while muzzleloader hunting for bear, waterfowl or deer and that it is illegal to take, or attempt to take, any big game species by the aid or use of any electronic call.

FISCAL NOTE FOR PROPOSED RULE

Rule Title: Series 47, Prohibitions When Hunting and Trapping

Type of Rule X **Legislative** **Interpretive** **Procedural**

Agency Division of Natural Resources, Wildlife Resources Section

Address 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: No cost to enact and enforce this rule.

3. Objectives of these rules: Establishes prohibitions for the pursuit or taking of wildlife within the boundaries of this state.

4. Explanation of overall Economic Impact of Proposed Rule.

A. Economic Impact on State Government: No impact.

Rule Title: Series 47, Prohibitions When Hunting and Trapping

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: _____

**Signature of Agency or
Authorized Representative:**



ED HAMRICK, DIRECTOR

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: July 19, 2001

TO: LEGISLATIVE RULE-MAKING REVIEW COMMITTEE

FROM: *(Agency Name, Address & Phone No.)* BOC, DNR - Wildlife Resources Section

1900 Kanawha Blvd., E.

Charleston, WV 25305

LEGISLATIVE RULE TITLE: 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 or Public Comment Period:
June 15, 2001

b. What other notice, including advertising, did you give of the hearing?
No public hearing was held. There was a 30 day comment period which was also advertised in a Statewide News Release distributed June 22, 2001.

c. Date of Public Hearing(s) *or* Public Comment Period ended:
July 12, 2001

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

Attached _____ No comments received X

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

N/A

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

Gordon Robertson, Deputy Chief

DNR Wildlife Resources Section

Capitol Complex, Bldg. 3, Room 842

Charleston, WV 25305

- 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)

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:

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

d. Attach findings and determinations and reasons:

Attached N/A

**TITLE 58
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DIVISION OF NATURAL RESOURCES**

FILED

**SERIES 47
PROHIBITIONS WHEN HUNTING AND TRAPPING**

JUL 27 A 8:49
OFFICE WEST VIRGINIA
SECRETARY OF STATE

§58-47-1. General.

1.2. Scope and Purpose. -- This rule establishes prohibitions in the pursuit or taking of wildlife within the boundaries of this State.

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

1.3. Filing Date. --

1.4. Effective Date. --

§58-47-2. Definitions.

2.1. All terms in this rule have the meaning prescribed in the Division of Natural Resources rule, Regulations Defining The Terms To Be Used Concerning All Hunting and Trapping Regulations (58 C.S.R. 46).

§58-47-3. 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, chemicals 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 shall 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 to use or possess a fully automatic, rifle, shotgun, or pistol while hunting or pursuing wildlife at any time.

3.6. 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 bear, migratory bird, protected bird, protected mammal, or wild boar.

3.6.1. It is illegal to take, or attempt to take, the species listed under Subsection 3.6 of this rule, by the aid of baiting. The Director considers an area to be baited for 10 days after the removal of the bait.

3.7. 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 deer muzzleloading season, except for a person legally hunting deer with a muzzleloader firearm, or legally hunting bear or waterfowl. ~~or legally hunting deer with a muzzleloader firearm.~~ The use of .22 caliber rimfire for small game hunting is legal during the muzzleloading season.

3.8. It is illegal to use any solid ball ammunition during the two week bucks only deer season in those counties that are closed to bucks only hunting.

3.9. It is illegal to hunt between ½ hour after sunset and ½ hour before sunrise with a pistol, revolver or rifle larger than .22 caliber rimfire, a shotgun using solid ball ammunition or a shotgun using shot shells larger than #4 shot.

3.10. It is illegal to use tree stands, except for portable tree stands, on public lands.

3.11. It is illegal to transport wildlife or parts of wildlife, 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 that killed the wildlife: The hunter's signature, address, hunting license number (if required), official game checking tag number (if required), the date of kill, the species, and the number, and/or quantity of wildlife.

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

3.13. It is illegal to shoot at wildlife with either a bow or firearm after alighting from a motor vehicle along any public road or highway, unless the shooter is at least 25 yards from the motor vehicle.

3.14. It is illegal to take, or attempt to take, any big game species by the aid or use of any electronic call.