

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

Form #2

Do Not Mark In This Box

FILED

2002 JUN 14 P 3:02

OFFICE WEST VIRGINIA
SECRETARY OF STATE

NOTICE OF A COMMENT PERIOD ON A PROPOSED RULE

AGENCY: DIVISION OF NATURAL RESOURCES TITLE NUMBER: 58

RULE TYPE: LEGISLATIVE CITE AUTHORITY: 20-1-7(30)

AMENDMENT TO AN EXISTING RULE: YES NO

IF YES, SERIES NUMBER OF RULE BEING AMENDED: 47

TITLE OF RULE BEING AMENDED: PROHIBITIONS WHEN HUNTING AND TRAPPING

IF NO, SERIES NUMBER OF RULE BEING PROPOSED: _____

TITLE OF RULE BEING PROPOSED: _____

IN LIEU OF A PUBLIC HEARING, A COMMENT PERIOD HAS BEEN ESTABLISHED DURING WHICH ANY INTERESTED PERSON MAY SEND COMMENTS CONCERNING THESE PROPOSED RULES. THIS COMMENT PERIOD WILL END ON JULY 15, 2002 AT 4:30 P.M. ONLY WRITTEN COMMENTS WILL BE ACCEPTED AND ARE TO BE MAILED TO THE FOLLOWING ADDRESS:

Curtis I. Taylor, Chief

Division of Natural Resources

Wildlife Resources Section

Capitol Complex, Bldg. 3, Room 842

Charleston, WV 25305

THE ISSUES TO BE HEARD SHALL BE LIMITED TO THIS PROPOSED RULE.

Authorized Signature

ATTACH A **BRIEF** SUMMARY OF YOUR PROPOSAL

SCANNED

**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.

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

**SERIES 47
PROHIBITIONS WHEN HUNTING AND TRAPPING**

CIRCUMSTANCES REQUIRING THE PROPOSED RULE

The Division of Natural Resources proposes to modify in 3.6.1. that it is illegal to feed and/or take, or attempt to take, by the aid of baiting any game animal or game bird on any public lands at any time.

The Division of Natural Resources proposes to clarify in 3.7.1. that persons legally hunting waterfowl during the muzzleloader deer season may possess nontoxic shot shells containing larger than No. 4 shot but may not possess solid ball ammunition.

The Division of Natural Resources proposes to modify in 3.14. that it is illegal to take, or attempt to take, any deer, bear or boar by the aid or use of any electronic call.

The Division of Natural proposes to clarify in 3.15., 3.15.1, 3.15.2, 3.15.3. that it is illegal for any person to use a modified bow for the purpose of hunting or fishing unless he or she possesses a special permit to do so issued by the director.

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.

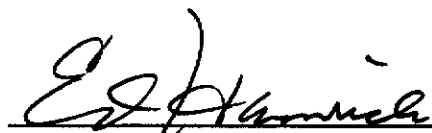
Rule Title: Series 47, Prohibitions When Hunting and Trapping

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: 6-14-02

**Signature of Agency or
Authorized Representative:**



ED HAMRICK, DIRECTOR

TITLE 58
LEGISLATIVE RULE
DIVISION OF NATURAL RESOURCES

SERIES 47
PROHIBITIONS WHEN HUNTING AND TRAPPING

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§58-47-1. 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. -- 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 Code of State Rules, §58-46, Rules Defining The Terms To Be Used Concerning All Hunting and Trapping Regulations (58 C.S.R. 46) Rules.~~

§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 feed and/or take, or attempt to take, by the aid of baiting any game animal or game bird on any public lands at any time.

~~3.6.1.~~ 3.6.2. 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 shotshells containing~~ shot larger than No. 4 during the muzzleloading season, except for a person 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.

3.7.1. Persons legally hunting waterfowl during the muzzleloader deer season may possess nontoxic shot shells containing larger than No. 4 shot but may not possess solid ball ammunition.

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 deer, bear or boar by the aid or use of any electronic call.

3.15. It is illegal for any person to use a modified bow for the purpose of hunting or fishing unless he or she possesses a special permit to do so issued by the director. Application will be on forms issued by the Division of Natural Resources. These forms will include a section for a licensed physician to certify that the applicant requires a modified bow.

3.15.1. The physician's examination and certification must have been completed within the six months immediately preceding the date of the application.

3.15.2. The applicant must authorize, by written release, an examination of all medical records regarding the applicant's impairment.

3.15.3. This special permit must be accompanied by a valid resident or non-resident Statewide hunting and/or fishing license unless otherwise exempted from the license requirements as provided in chapter twenty of the West Virginia Code.