

**WEST VIRGINIA
SECRETARY OF STATE
KEN HECHLER
ADMINISTRATIVE LAW DIVISION**

Form #2

Do Not Write In This Box

FILED

JUL 31 9 31 AM '98

OFFICE OF WEST VIRGINIA
SECRETARY OF STATE

NOTICE OF COMMENT PERIOD ON A PROPOSED RULE

AGENCY: BUREAU OF COMMERCE, 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 NEW 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 31 AUGUST 1998 AT 4:30 p.m. ONLY WRITTEN COMMENTS WILL BE ACCEPTED AND ARE TO BE MAILED TO THE FOLLOWING ADDRESS:

LIEUTENANT COLONEL W. B. DANIEL, DEPUTY CHIEF
DIVISION OF NATURAL RESOURCES
LAW ENFORCEMENT SECTION
ROOM 840, BLDG. 3, CAPITOL COMPLEX
CHARLESTON, WEST VIRGINIA 25305

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


JOHN B. RADER, DIRECTOR

ATTACH A **BRIEF** SUMMARY OF YOUR PROPOSAL

\$3.40

**SUMMARY OF PROPOSED RULE
CONCERNING
PROHIBITIONS WHEN HUNTING AND TRAPPING**

The purpose of this proposed rule is to establish prohibitions on the use of solid ball ammunition in those counties closed to bucks only hunting and to make it 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.

PREAMBLE TO A PROPOSED RULE
CONCERNING
PROHIBITIONS WHEN HUNTING AND TRAPPING

AGENCY: Bureau of Commerce, Division of Natural Resources

REGULATION: Title 58, Series 47, "PROHIBITIONS WHEN HUNTING AND TRAPPING"

ACTION: Filing of a proposed legislative rule.

SUMMARY: Amends current rule by adding a prohibition on the use of solid ball ammunition in those counties closed to bucks only hunting and to make it illegal to hunt between ½ hour after sunset and ½ hour before sunrise with a pistol, revolver or shotgun using solid ball ammunition or a shotgun using shot shells larger than #4 shot.

FISCAL NOTE FOR PROPOSED RULE

Rule Title: Prohibitions When Hunting and Trapping

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

Agency Bureau of commerce, Division of Natural Resources

Address Building 3, Capitol Complex

Charleston, West Virginia 25305

1. Effect of Proposed Rule

	ANNUAL			FISCAL YEAR	
	INCREASE	DECREASE	CURRENT	NEXT	THEREAFTER
ESTIMATED TOTAL COST	NONE				
PERSONAL SERVICES	NONE				
CURRENT EXPENSE	NONE				
REPAIRS & ALTERATIONS	NONE				
EQUIPMENT	NONE				
OTHER	NONE				

2. Explanation of above estimates: There will be no fiscal impact in the implementation of these rules.

3. Objectives of these rules: The objective of these rules is to add a prohibition on using solid ball ammunition in those counties closed to bucks only hunting and to make it 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.

Rule Title: Prohibitions When Hunting and Trapping

4. Explanation of overall Economic Impact of Proposed Rule.

A. Economic Impact on State Government:

None

B. Economic Impact on Political Subdivisions; Specific Industries; Specific Groups of Citizens:

None

C. Economic Impact on Citizens/Public at Large:

None

Date: July 31, 1998

**Signature of Agency or
Authorized Representative:**



JOHN B. RADER, DIRECTOR

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

**SERIES 47
PROHIBITIONS WHEN HUNTING AND TRAPPING**

FILED
JUL 31 9 34 AM '98
OFFICE OF WEST VIRGINIA
SECRETARY OF STATE

§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 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 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. The use or possession of a fully automatic; rifle, shotgun, or pistol is prohibited 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. No person may 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 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.

3.8. 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. 3-8:~~ No person may use tree stands, except for portable tree stands, on public lands.

~~3.11. 3-9:~~ No person may 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 killing the wildlife:

~~3.11.1 3-9-1:~~ 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. 3-10:~~ It is illegal for any person to feed bears.

~~3.13. 3-11:~~ No person shall, after alighting from a motor vehicle along any public road or highway, shoot at wildlife with either a bow or firearm unless they are at least 25 yards from the motor vehicle.