

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

Form #3

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OFFICE OF WEST VIRGINIA
SECRETARY OF STATE

**NOTICE OF AGENCY APPROVAL OF A PROPOSED RULE
AND
FILING WITH THE LEGISLATIVE RULE-MAKING REVIEW COMMITTEE**

AGENCY: BUREAU OF COMMERCE, DIVISION OF NATURAL RESOURCES TITLE NUMBER: 58

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: _____

THE ABOVE PROPOSED LEGISLATIVE RULE HAVING GONE TO A PUBLIC HEARING OR A PUBLIC COMMENT PERIOD IS HEREBY APPROVED BY THE PROMULGATING AGENCY FOR FILING WITH THE SECRETARY OF STATE AND THE LEGISLATIVE RULE MAKING REVIEW COMMITTEE FOR THEIR REVIEW.



ROBERT A. REINTSEMA, COMMISSIONER

\$4.20

DATE: July 16, 1997

TO: LEGISLATIVE RULE-MAKING REVIEW COMMITTEE

FROM: BOC, DNR - WILDLIFE RESOURCES SECTION

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 May 30, 1997

b. What other notice, including advertising, did you give of the hearing

Statewide DNR News Release

c. Date of Hearing(s) N/A

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

Attached X No comments received

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

N/A

f. Name and phone number(s) of agency persons(s) to contact for additional information:

Gordon Robertson - 304-558-2771

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: 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

CIRCUMSTANCES REQUIRING THE PROPOSED RULE

The Division of Natural Resources proposes to require any person, after alighting from a motor vehicle along a public road or highway, to be at least 25 yards from the motor vehicle before shooting at wildlife with either bow or firearm. This is to prevent individuals from shooting at wildlife with a bow or firearm from beside their vehicle along a public road.

SUMMARY OF THE RULE

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

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: To require any person to be at least 25 yards from the motor vehicle before shooting at wildlife with either bow or firearm.

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: 5/27/97

**Signature of Agency or
Authorized Representative:**



ROBERT A. REINTSEMA, COMMISSIONER

TITLE 58
LEGISLATIVE RULE
BUREAU OF COMMERCE
DIVISION OF NATURAL RESOURCES

SERIES 47
PROHIBITIONS WHEN HUNTING AND TRAPPING

FILED
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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. -- West Virginia 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. No person may use tree stands, except for portable tree stands, on public lands.

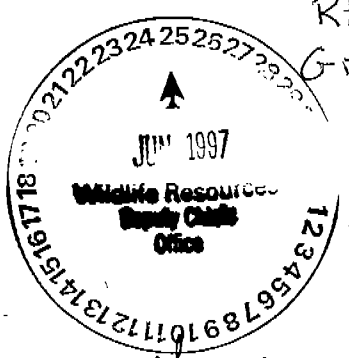
3.9. No person may transport wildlife or parts of wildlife, which were killed by another hunter unless the wildlife is accompanied by a paper or tag filled out in plain English bearing the following information from the hunter killing the wildlife:

3.9.1. 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.

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

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.

June 25, 1997
Rt 81, Box 44
Greenville, WV
24945



Gordon C. Robertson,

Dear Mr Robertson, I am writing this letter in regard to a proposed change in the general hunting rules that gives a person 72 hours to check their game in at a game checking station. We are 100% opposed to this change - 24 hrs is plenty long enough for anyone to check in game. We hunt in one of the remotest sections of WV and we can still get our deer out of the field and to a checking station. We do not need more laws which protect poachers. - We already allow people to drive around with uncased guns in their vehicles even though it only takes a poacher 3 seconds to slip a bullet into the chamber. How lenient are we willing to get with people who are intent on destroying our wildlife?

If you give them 72 hrs to check in game they'll have the animal butchered and in the freezer by then and it will never get checked in at all. We need tougher rules on Poachers not more lenient ones.

Sincerely →
Hermit & Cindy
Stover

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P.S. The ~~only~~ ~~ones~~ who may need more than 24 hrs are the few people who backpack or take horse trips into the remoter parts of the state. These people could be required to have special permits which give them 72 hrs - but do not extend the privilege to everyone in the state. It would do far more harm than good.

Kermit and Cindy
Stover

P.S. we are in favor of the rule which would require persons to be at least 25 yds from a vehicle before shooting at wildlife. ~~that is a step in the~~ that is a step in the right direction to make hunting a sport instead of just killing.

DNR
West Virginia
Division of
Natural Resources

Wildlife Resources Section
State Capitol Complex
Building 3
Charleston, West Virginia 25305
Telephone (304) 558-2771
Fax (304) 558-3147



CECIL H. UNDERWOOD
Governor

Equal Opportunity Employer

Administration (304) 558-3315 FAX (304) 558-2768	Law Enforcement (304) 558-2783 FAX (304) 558-1170	Parks and Recreation (304) 558-2764 FAX (304) 558-0077	Wildlife Resources (304) 558-2771 FAX (304) 558-3147	Conservation Education and Litter Control (304) 558-3370 FAX (304) 558-2768	Public Information (304) 558-3380 FAX (304) 558-2768	Real Estate Management (304) 558-3225 FAX (304) 558-3680	Wonderful West Virginia Magazine (304) 558-9152 FAX (304) 558-2768
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July 15, 1997

Mr. and Mrs. Kermit Stover
Rt. 81, Box 44
Greenville, WV 24945

Dear Mr. and Mrs. Stover:

Thank you for taking the time to provide a written comment of opposition on the proposed Division of Natural Resources rule requiring that all deer and turkey be checked within 72 of the time of kill or within 24 hours of the end of the season, whichever occurs first. We also appreciate you comments in support of requiring persons shooting at wildlife to be more than 25 yards from a motor vehicle parked along a public road.

Both of these proposed rules were strongly supported by conservation clubs across the state as well as by individuals who attended the 16 public meetings concerning rule changes. Based on the solid support for this proposal, it is the Division's intention to file the rule with the Legislative Rule Making Committee as submitted. Should the rule pass as submitted, deer and turkey will have to be checked as proposed in the rule and it will be a violation to shoot at wildlife if within 25 yards of a motor vehicle along a public road. These will become effective in 1999.

Your interest in West Virginia's fish and wildlife is appreciated.

Sincerely,

A handwritten signature in cursive script that reads "Gordon C. Robertson".

Gordon C. Robertson
Deputy
Wildlife Resources

cc: Bernie Dowler

