



FISCAL NOTE FOR PROPOSED RULE

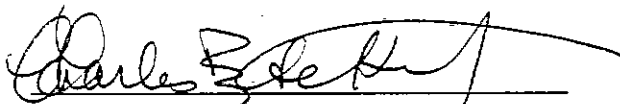
Rule Title: Prohibitions When Hunting and Trapping  
 Type of Rule:  X  Legislative   Interpretive   Procedural  
 Agency: Division of Natural Resources  
 Address: State Capitol Complex  
Building 3, Room 842  
1900 Kanawha Blvd.  
Charleston, WV 25305

1. Effect of Proposed Rule

	ANNUAL		FISCAL YEAR		
	INCREASE	DECREASE	CURRENT	NEXT	THEREAFTER
ESTIMATED TOTAL COST	\$	\$	\$	\$	\$
PERSONAL SERVICES					
CURRENT EXPENSE					
REPAIRS & ALTERATIONS					
EQUIPMENT					
OTHER (LICENSE FEES)					

2. Explanation of above estimates:  
N/A
3. Objectives of these rules:  
To establish prohibitions in the pursuit or taking of wildlife within the boundaries of this State.
4. Explanation of Overall Economic Impact of Proposed Rule.
- A. Economic Impacts 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: 8/16/96

  
 Charles B. Felton, Jr.  
 Director

**RULE SUMMARY**

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

**SERIES 47  
PROHIBITIONS WHEN HUNTING AND TRAPPING**

Series 47, Prohibitions When Hunting and Trapping, prescribes the various prohibitions for hunting and trapping wildlife. The rule currently states that taking wildlife by "falconry" or "hawking" is prohibited. The rule being submitted for approval removes that prohibition.

**STATEMENT OF CIRCUMSTANCES REQUIRING RULE**

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

**SERIES 47  
PROHIBITIONS WHEN HUNTING AND TRAPPING**

Series 47, Prohibitions When Hunting and Trapping, prescribes prohibitions for hunters and trappers in West Virginia. The amended rule removes the prohibition for "falconry" or "hawking." This is necessary to comply with the Division of Natural Resources proposed new rule prescribing the procedures for falconry in West Virginia.

DATE: August 16, 1996  
TO: Legislative Rule-Making Review Committee  
FROM: BOC - DNR Wildlife Resources

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 6/28/96
  - b. What other notice, including advertising, did you give of the hearing?  
Statewide news release requesting comments
  - c. Date of Hearing(s) N/A
  - d. Attached 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 and phone number(s) of agency person(s) to contact for additional information: Gordon Robertson 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

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

**SERIES 47  
PROHIBITIONS WHEN HUNTING AND TRAPPING**

**§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 have the meaning prescribed in the rule 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, chemical 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. It is illegal to hunt, catch, take, kill, injure, or pursue a wild animal or wild bird by means of falconry or hawking.~~

3.65. The use or possession of a fully automatic, rifle, shotgun, or pistol is prohibited while hunting or pursuing wildlife at any time.

3.76. 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.

3.76.1. No person may take, or attempt to take, the species listed under Subsection 3.7 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.

3.87. 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.

3.98. No person may use tree stands, except for portable tree stands, on public lands.

3.109. No person may transport wildlife or parts thereof, 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:

3.109.1. The hunter's signature, address, hunting license number (if required), official game checking tag number (if required), date of kill, species, number, and/or quantity of wildlife.

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