

**WEST VIRGINIA
SECRETARY OF STATE
NATALIE E. TENNANT
ADMINISTRATIVE LAW DIVISION**

Form #2

Do Not Mark In This Box

2012 JUL 31 PM 2:43

OFFICE WEST VIRGINIA
SECRETARY OF STATE

NOTICE OF A COMMENT PERIOD ON A PROPOSED RULE

AGENCY: Dept. of Commerce, Div. of Natural Resources, Wildlife Resources Section 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: 50

TITLE OF RULE BEING AMENDED: Deer Hunting Rule

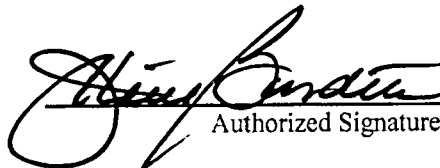
IF NO, SERIES NUMBER OF RULE BEING PROPOSED: _____

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 August 31, 2012 AT 10:00 a.m. ONLY WRITTEN COMMENTS WILL BE ACCEPTED AND ARE TO BE MAILED TO THE FOLLOWING ADDRESS:

Curtis I. Taylor, Chief
DNR Wildlife Resources Section
324 Fourth Avenue
So. Charleston, WV 25303

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


Authorized Signature

ATTACH A **BRIEF** SUMMARY OF YOUR PROPOSAL

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

**SERIES 50
DEER HUNTING RULE**

SUMMARY:

Series 50 revises the current Deer Hunting Rule. Revisions to this rule include language which addresses the checking requirements for deer relating to the change in the deer daily bag limit to two for all deer seasons, and modification to language which prohibits small game hunting during that portion of the antlerless deer season which coincides with the first three days of the buck firearms season. In addition, minor technical changes were also made to the rule.

CIRCUMSTANCES:

The purpose of this rule is to establish rules that are to be complied with when pursuing and taking deer within the boundaries of this State.

APPENDIX B

FISCAL NOTE FOR PROPOSED RULES

Series 50, Deer Hunting Rule

Rule Title: _____
 Type of Rule: Legislative Interpretive Procedural
 Agency: Division of Natural Resources, Wildlife Resources Section
 Address: 324 Fourth Avenue
South Charleston, WV 25303
 Phone Number: 304-558-2771 Email: billie.j.shearer@wv.gov

Fiscal Note Summary

Summarize in a clear and concise manner what impact this measure will have on costs and revenues of state government.

There is no change anticipated to the administrative expenditures as a result of this rule.

Fiscal Note Detail

Show over-all effect in Item 1 and 2 and, in Item 3, give an explanation of Breakdown by fiscal year, including long-range effect.

FISCAL YEAR			
Effect of Proposal	Current Increase/Decrease (use "--")	Next Increase/Decrease (use "--")	Fiscal Year (Upon Full Implementation)
1. Estimated Total Cost	0.00		0.00
Personal Services			
Current Expenses			
Repairs & Alterations			
Assets			
Other			
2. Estimated Total Revenues	0.00		0.00

Series 50, Deer Hunting Rule

Rule Title: _____

Rule Title: _____

3. **Explanation of above estimates (including long-range effect):**
Please include any increase or decrease in fees in your estimated total revenues.

No impact.

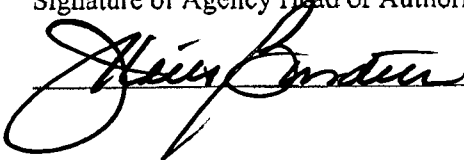
MEMORANDUM

Please identify any areas of vagueness, technical defects, reasons the proposed rule would not have a fiscal impact, and/or any special issues not captured elsewhere on this form.

Series 50 revises the current Deer Hunting Rule. Revisions to this rule include language which addresses the checking requirements for deer relating to the change in the deer daily bag limit to two for all deer seasons, and modification to language which prohibits small game hunting during that portion of the antlerless deer season which coincides with the first three days of the buck firearms season. In addition, minor technical changes were also made to the rule.

Date: _____

Signature of Agency Head or Authorized Representative

 _____

TITLE 58
LEGISLATIVE RULE
DEPARTMENT OF COMMERCE
DIVISION OF NATURAL RESOURCES

FILED

2012 JUL 31 PM 2:43

SERIES 50
DEER HUNTING RULE

OFFICE WEST VIRGINIA
SECRETARY OF STATE

§58-50-1. General.

1.1. Scope and Purpose. -- The purpose of this rule is to establish rules that are to be complied with when pursuing and taking deer within the boundaries of this State.

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

1.3. Filing Date. -- ~~May 3, 2010.~~

1.4. Effective Date. -- ~~July 1, 2010.~~

§58-50-2. Definitions.

2.1. All terms have the meaning prescribed to them in the Division of Natural Resources' Rules Defining The Terms To Be Used ~~In Concerning~~ All Hunting and Trapping, Rules 58CSR46.

§58-50-3. Deer Hunting Rules.

3.1. ~~If more than one deer may be legally killed in a single day, a person may remain afield and continue hunting until he or she has met the daily bag limit, however all deer legally killed must be delivered to an official game checking station or Natural Resources Police officer for retagging prior to hunting during the remainder of the season. After a person has killed a deer met the daily or season bag limit during any of the open deer seasons established in the Division of Natural Resources' Hunting and Trapping Rules, 58CSR45, he or she may not participate further in deer hunting (e.g., driving deer) with a bow or a firearm in his or her possession for the remainder of the day or season of the kills. Provided, that a person may pursue additional legal deer, in accordance with the provisions of the Hunting and Trapping Rules 58CSR45, after all previously taken deer have been legally checked with a conservation officer or an official game checking station.~~

3.2. A person may not hunt deer with a shotgun using ammunition loaded with more than one solid ball nor with any rifle of less than twenty-five (.25) caliber using rimfire ammunition.

3.3. A person may not kill or wound a deer while the deer is in any stream, lake, or pond.

3.4. The hunting of small game is permitted beginning on the fourth day after the opening date of the ~~bucks-only~~ firearms deer season. During this period, a hunter may carry solid ball ammunition and Number 4 or smaller shot with a shotgun prior to killing a deer.

3.5. In those counties, or portions of counties, open to antlerless deer hunting, the hunting of deer with bow, the hunting of bear, ~~the hunting of small game~~ and the hunting of waterfowl is permitted during the antlerless deer season provided that no hunter, except a hunter having a valid Class N or NN license or a hunter legally participating in bear hunting, may be afield with any firearm with solid ball ammunition or shells containing larger than Number 4 shot or, if using a combination rifle-shotgun, with rifle ammunition in his or her possession. During this period, a hunter may carry solid ball ammunition and Number 4 or smaller shot with a shotgun prior to killing a deer. Subject to the provisions of this section.

the hunting of small game is also permitted during the antlerless deer season, however small game hunting is prohibited during the portion of the antlerless deer season which coincides with the first three days of buck firearms season.

3.5.a. In those counties, or portions of counties open to antlerless deer hunting, the hunting of waterfowl is permitted. Persons legally hunting waterfowl during the antlerless deer seasons may possess nontoxic shotshells containing shot larger than Number 4, but may not possess solid ball ammunition.

3.6. After ~~killing a deer~~ a person has met the daily or season bag limit during any of the open deer seasons established in the Hunting and Trapping Rules 58CSR45 a hunter may not be afield for the remainder of the day of the kill with a firearm with solid ball ammunition or, if using a combination rifle-shotgun, he or she may not have rifle ammunition in his or her possession unless he or she is legally participating in bear hunting or pursuing another legal deer in compliance with Subsection 3.1 of this rule.

3.7. It is illegal to hunt small game during the ~~bucks-only~~ firearms deer season with any centerfire rifle, with any rifle of larger than twenty-two (.22) caliber using rimfire ammunition, or with a shotgun using solid ball ammunition in a county that is not open to bucks-only deer hunting.

3.8. A hunter may not use a firearm that has been converted into a muzzle-loader by use of a plug during muzzle-loading firearms deer season.

3.9. When being transported in or on a vehicle, a muzzle-loading firearm is considered to be unloaded when the powder charge and projectile are removed from the barrel; it is uncapped or the priming charge is removed from the pan; or any other ignition source of a muzzle-loader is removed.

3.10. A person may not actively participate in the hunting of antlerless deer (e.g., driving deer) unless that person has a Class N or Class NN stamp or is otherwise exempt from having a Class N or Class NN stamp.

3.11. A person shall complete and mail the application as prescribed by the director for a Class N and Class NN stamp to hunt in a county in which a limited number of Class N and Class NN stamps are issued prior to the deadline date on the application. Only one application may be submitted per person.

3.12. A person shall purchase Class RB archery and Class RRB archery stamps prior to the opening day of the archery season; Class RG gun and Class RRG gun stamp prior to the opening day of the ~~buck~~ firearms season; and Class RM muzzleloader and Class RRM muzzleloader stamp prior to the opening day of the muzzleloader season. Class RB, RG, RM or Class RRB, RRG, RRM stamp must be signed to be valid.

3.12.a. The Class RB and RRB archery stamps are valid in those counties open to bucks-only firearms hunting and in those counties closed to bucks-only firearms hunting; Provided that, if two deer are taken in counties closed to bucks-only firearm hunting, one of the deer must be antlerless.

3.13. A Class N stamp is non-transferable.

3.14. Except as provided for in the Division of Natural Resources Rule, General Trapping Rule (58CSR53), it is illegal to feed or bait wildlife on Beech Fork Wildlife Management Area, Burnsville Wildlife Management Area, Bluestone Wildlife Management Area, McClintic Wildlife Management Area, Calvin Price State Forest and Coopers Rock State Forest.