



WEST VIRGINIA SECRETARY OF STATE

MAC WARNER

ADMINISTRATIVE LAW DIVISION

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8/28/2020 2:11:47 PM

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: Natural Resources TITLE-SERIES: 58-50
RULE TYPE: Legislative Amendment to Existing Rule: Yes Repeal of existing rule: No
RULE NAME: Deer Hunting Rule

PRIMARY CONTACT

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CITE STATUTORY AUTHORITY: §20-1-7(31)

EXPLANATION OF THE STATUTORY AUTHORITY FOR THE LEGISLATIVE RULE, INCLUDING A DETAILED SUMMARY OF THE EFFECT OF EACH PROVISION OF THE LEGISLATIVE RULE WITH CITATION TO THE SPECIFIC STATUTORY PROVISION WHICH EMPOWERS THE AGENCY TO ENACT SUCH RULE PROVISION:

§20-1-7(31) provides statutory authority to the Director of the Division of Natural Resources to promulgate rules to implement and make effective the powers and duties vested in him or her by the provisions of Chapter 20 and take such other steps as may be necessary in his or her discretion for the proper and effective enforcement of Chapter 20.

IS THIS FILING SOLELY FOR THE SUNSET PROVISION REQUIREMENTS IN W. VA. CODE §29A-3-19(e)? No

IF YES, DO YOU CERTIFY THAT THE ONLY CHANGES TO THE RULE ARE THE FILING DATE, EFFECTIVE DATE AND AN EXTENSION OF THE SUNSET DATE? No

DATE eFiled FOR NOTICE OF HEARING OR PUBLIC COMMENT PERIOD: 7/29/2020

DATE OF PUBLIC HEARING(S) OR PUBLIC COMMENT PERIOD ENDED: 8/28/2020

COMMENTS RECEIVED: No

(IF YES, PLEASE UPLOAD IN THE COMMENTS RECEIVED FIELD COMMENTS RECEIVED AND RESPONSES TO COMMENTS)

PUBLIC HEARING: No

(IF YES, PLEASE UPLOAD IN THE PUBLIC HEARING FIELD PERSONS WHO APPEARED AT THE HEARING(S) AND TRANSCRIPTS)

RELEVANT FEDERAL STATUTES OR REGULATIONS: No

WHAT OTHER NOTICE, INCLUDING ADVERTISING, DID YOU GIVE OF THE HEARING?

agency press release

SUMMARY OF THE CONTENT OF THE LEGISLATIVE RULE, AND A DETAILED DESCRIPTION OF THE RULE'S PURPOSE AND ALL PROPOSED CHANGES TO THE RULE:

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. Revisions to this rule include language which allows for the hunting of coyotes during the first 3 days of the buck firearms season; clarification that trapping is permitted on the first 3 days of the buck firearms season; and clarification of what concurrent hunting activities are permitting during the antlerless deer season.

STATEMENT OF CIRCUMSTANCES WHICH REQUIRE THE RULE:

This rule is required in order to establish regulations necessary for hunters when pursuing and taking deer within the state.

SUMMARIZE IN A CLEAR AND CONCISE MANNER THE OVERALL ECONOMIC IMPACT OF THE PROPOSED LEGISLATIVE RULE:

A. ECONOMIC IMPACT ON REVENUES OF STATE GOVERNMENT:

There is no change anticipated to the revenue of the state as a result of this rule.

B. ECONOMIC IMPACT ON SPECIAL REVENUE ACCOUNTS:

This is no effect anticipated on special revenue accounts of the state as a result of this rule.

C. ECONOMIC IMPACT OF THE LEGISLATIVE RULE ON THE STATE OR ITS RESIDENTS:

There is no economic impact anticipated for the state as a result of this rule.

D. FISCAL NOTE DETAIL:

Effect of Proposal	Fiscal Year		
	2020 Increase/Decrease (use "-")	2021 Increase/Decrease (use "-")	Fiscal Year (Upon Full Implementation)
1. Estimated Total Cost	0	0	0
Personal Services			
Current Expenses			
Repairs and Alterations			
Assets			
Other			
2. Estimated Total Revenues	0	0	0

E. EXPLANATION OF ABOVE ESTIMATES (INCLUDING LONG-RANGE EFFECT):

There is no effect anticipated on costs or revenues as a result of this rule.

BY CHOOSING 'YES', I ATTEST THAT THE PREVIOUS STATEMENT IS TRUE AND CORRECT.

Yes

Wesley H White -- By my signature, I certify that I am the person authorized to file legislative rules, in accordance with West Virginia Code §29A-3-11 and §39A-3-2.

TITLE 58
LEGISLATIVE RULE
DEPARTMENT OF COMMERCE
DIVISION OF NATURAL RESOURCES

SERIES 50
DEER HUNTING RULE

§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(~~3031~~).

1.3. Filing Date. -- ~~April 20, 2016~~.

1.4. Effective Date. -- ~~April 20, 2016~~.

1.5. Sunset Provision. -- This rule shall terminate and have no further force or effect upon the expiration of five years from its effective date.

§58-50-2. Definitions.

2.1. All terms have the meaning prescribed to them in ~~the Division of Natural Resources' Rules Defining The Terms Used In All Hunting and Trapping, 58CSR46~~ W. Va. Code of State Rules, Series 58 Title 46, Defining the Terms Used in All Hunting and Trapping.

§58-50-3. Deer Hunting Rules.

3.1. ~~After a~~ No person who has 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~~ W. Va. Code of State Rules, Series 58 Title 45, Hunting and Trapping Rules ~~he or she may not~~ participate further in deer hunting (e.g., ~~driving deer~~) with a bow, crossbow, or a firearm in his or her possession for that season in which he or she has met the daily or season bag limit. ~~the remainder of the day of the kill.~~ In the event that a hunter kills a deer and wishes to pursue an additional deer on the same day, the hunter is not required to electronically register the deer prior to pursuing an additional deer during the remainder of that day. However, all deer must be electronically registered prior to hunting during the remainder of the season.

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 river, stream, lake, or pond.

3.4. The hunting of small game is permitted beginning on the fourth day after the opening date of the buck firearms deer season, with the exception that the hunting of coyotes is permitted during the entire buck firearms season. ~~During this period,~~ While hunting for small game during buck firearms season, a hunter may carry solid ball ammunition and Number 4 or smaller shot with a shotgun prior to killing a the legal limit of deer.

~~3.5. In those counties, or portions of counties, open to antlerless deer hunting, the hunting of deer with a bow or crossbow, the hunting of bear, the hunting of small game (with the exception of that portion of the antlerless deer season running concurrent with the first three days of the buck firearms season) 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 stamp 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.~~

3.5. In those counties, or portions of counties, open to antlerless deer hunting, the following conditions and restrictions apply for concurrent hunting seasons during the antlerless deer season:

3.5.1. The hunting of deer with a bow or crossbow is permitted.

3.5.2. The hunting of bear is permitted.

3.5.3. The hunting of small game is permitted, except during that portion of antlerless season running concurrent with the first three days of buck firearms season.

3.5.4. The hunting of waterfowl is permitted.

3.5.5. Except a hunter having a valid Class N or Class NN stamp or a hunter legally participating in bear hunting, no hunter may:

3.5.5.a. Be afield with any firearm with solid ball ammunition or shot shells containing larger than Number 4 shot.

3.5.5.b. Have rifle ammunition in his or her possession if using a combination rifle-shotgun.

3.5.6. While hunting small game during antlerless season, a hunter may carry solid ball ammunition and Number 4 or smaller shot with a shotgun prior to killing the legal limit of deer.

~~3.5.a.~~ 3.5.7. 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 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 W. Va. Code of State Rules, Series 58 Title 45, Hunting and Trapping Rules,~~ 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 ~~Sub~~section 3.1 of this rule.

3.7. It is illegal to hunt small game during the buck 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.

58CSR50

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.~~ 3.10. The trapping of fur-bearing animals and coyotes is permitted the first three days of buck firearms season, provided no trapper is afield with any rifle of larger than twenty-two (.22) caliber using rimfire ammunition.

3.11. A person shall comply with permit procedures and deadlines established by the Director to apply for limited antlerless deer permits (Class N/NN) in designated counties, wildlife management areas, and state forests as established in ~~§58CSR45(3.2)~~ W. Va. Code of State Rules, Series 58 Title 45 3.2, Hunting and Trapping Rules, as well as for state park deer season permits as established in ~~§58CSR45(3.8)~~ W. Va. Code of State Rules, Series 58 Title 45 3.8. Hunting and Trapping Rules.

3.12. A person shall purchase Class RB archery and Class RRB archery stamps prior to the opening day of the deer archery and crossbow seasons; 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~~ All stamps must be signed to be valid.

~~3.12.a.~~ 3.12.1. 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 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.~~