

WEST VIRGINIA
SECRETARY OF STATE
KEN HECHLER
ADMINISTRATIVE LAW DIVISION
Form #2

Do Not Mark In This Box

FILED
JUL 28 4 11: 59

NOTICE OF A COMMENT PERIOD ON A PROPOSED RULE

AGENCY: DCL&ER. Division of Natural Resources

TITLE NUMBER: 47

RULE TYPE: Legislative:

CITE AUTHORITY § 20-1-7(30)

AMENDMENT TO AN EXISTING RULE: YES _____ NO X

IF YES, SERIES NUMBER OF RULE BEING AMENDED: _____

TITLE OF RULE BEING AMENDED: _____


IF NO, SERIES NUMBER OF RULE BEING PROPOSED: 12A

TITLE OF RULE BEING PROPOSED: Special Migratory Bird Hunting Regulations

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, 1992 AT 4:00 pm

ONLY WRITTEN COMMENTS WILL BE ACCEPTED AND ARE TO BE MAILED TO THE FOLLOWING ADDRESS Bob Miles, Chief, Division of Natural Resources, Wildlife Resources Section, Capitol Complex, Building 3, Room 812, Charleston, West Virginia 25305

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


J. Edward Hamrick III, Director
Division of Natural Resources

ATTACH A **BRIEF** SUMMARY OF YOUR PROPOSAL

2-70



DEPARTMENT OF COMMERCE, LABOR & ENVIRONMENTAL RESOURCES
OFFICE OF THE SECRETARY

State Capitol, Room R-151
Charleston, West Virginia 25305-0310
Telephone: (304) 558-3255
Fax No.: (304) 558-4983

GASTON CAPERTON
Governor

JOHN M. RANSON
Cabinet Secretary

July 22, 1992

RECEIVED
JUL 23 1992

J. Edward Hamrick III, Director
Division of Natural Resources
Building 3, Room 669
Charleston, West Virginia 25305

WATER RESOURCE SECTION

RE: Proposed Rules - Title 47, Series 11A, 11B, 11C, 11D,
11E, 11F, 11G, 11H, 11I, 12A & 13A (Regulations relating
to Wildlife Resources)

Dear Ed:

Pursuant to West Virginia Code §5F-2-2(a)(12), I hereby
consent to the proposal of the rules specified above.

You may attach a copy of this letter to your filing with the
Secretary of State as evidence of my consent.

Sincerely yours,

John M. Ranson
John M. Ranson
Cabinet Secretary

JMR:cjb
B:RULDNR-W:RUL

FISCAL NOTE FOR PROPOSED RULE

Rule Title: Special Migratory Bird Hunting Regulations, 47 C.S.R. 12A

Type of Rule: X Legislative Interpretive Procedural

Agency: Division of Natural Resources

Address: Building 3, State Capitol Complex, Charleston, West Virginia

1. Effect of Proposed Rule	ANNUAL		FISCAL YEAR		
	Increase	Decrease	Current	Next	Thereafter
Estimated Total Cost	\$				
Personal Services	\$				
Current Expenses	\$				
Repairs & Alterations	\$		No Change		
Equipment	\$				
Other	\$				

2. Explanation of above estimates: There is no change anticipated to administrative expenses as a result of this rule.

3. Objectives of this rule: This rule establishes regulations applicable to the hunting of migratory game birds in West Virginia.

4. Explanation of Overall Economic Impact of Proposed Rule.

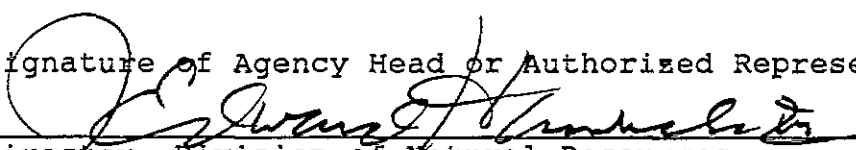
A. Economic Impact on State Government. No impact.

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: July 27, 1992

Signature of Agency Head or Authorized Representative


Director, Division of Natural Resources

PREAMBLE TO A PROPOSED RULE
CONCERNING
SPECIAL MIGRATORY BIRD HUNTING REGULATIONS

AGENCY: Department of Commerce, Labor, and Environmental Resources; Division of Natural Resources.

REGULATION: Title 47, Series 12A, "Special Migratory Bird Hunting Regulations."

ACTION: Filing of a thirty day Public Comment Period Notice for the proposed rule.

SUMMARY: This rule establishes regulations applicable to the hunting of migratory game birds in West Virginia.

Written comments received prior to 4:00 pm August 31, 1992 will be accepted. Written comments should be sent to:

Bob Miles, Chief
Division of Natural Resources
Wildlife Resources Section
Capitol Complex
Building 3, Room 812
Charleston, West Virginia 25305

TITLE 47
LEGISLATIVE RULES
DEPARTMENT OF COMMERCE, LABOR, AND ENVIRONMENTAL RESOURCES
DIVISION OF NATURAL RESOURCES

SERIES 12A
SPECIAL MIGRATORY BIRD HUNTING REGULATIONS

§ 47-12A-1. General.

1.1. Scope and Purpose. -- This rule establishes regulations applicable to the hunting of migratory game birds in West Virginia.

1.2. Authority. -- West Virginia Code § 20-1-7(30).

1.3. Filing Date. --

1.4. Effective Date. --

1.5. Seasons in General. -- All seasons are subject to change under the provisions of W. Va. Code § 20-1-7(7). Opening and closing dates are inclusive and time periods are prevailing time unless otherwise noted in these regulations. Sunday hunting is illegal.

§ 47-12A-2. Definitions.

2.1. "Aggregate" means the total bag or possession limit of similar kinds of migratory game birds.

2.2. "Bait" means shelled, shucked, or unshucked corn, wheat or other grain, salt, or other feed.

2.3. "Baited Area" means any area where baiting occurs.

2.4. "Baiting" means the direct or indirect placing, exposing, depositing, distributing, or scattering of bait so as to constitute for migratory game birds a lure, attraction, or enticement to, on, or over any areas where hunters are attempting to take them.

2.5. "Blind Area" means the area within seventy-five (75) yards of the hunter's assigned blind.

2.6. "Migratory Game Birds" means doves, rails, snipe, and woodcock for which open seasons are prescribed in Title 47, Series 12, Section 4, Migratory Bird Hunting Regulations.

2.7. "Prevailing Time" means either Eastern Standard Time or Eastern Daylight Time as established by the United States Congress.

§ 47-12A-3. General Migratory Bird Hunting Rules.

3.1. Dual Violation - Violation of any provision of these regulations is also a violation of federal migratory bird hunting regulations under 50 C.F.R. Part 20, Subpart H.

3.2. Illegal Methods of Taking Migratory Game Birds.

3.2.1. No person may take migratory game birds with a trap, snare, net, crossbow, rifle, pistol, swivel gun, shotgun larger than 10-gauge, punt gun, battery gun, machine gun, fishhook, poison, drug, explosive, or stupefying substance.

3.2.2. No person may take migratory game birds with a shotgun capable of holding more than three shells, unless it is plugged with a one-piece filler which is incapable of removal without disassembling the gun.

3.2.3. No person may take migratory game birds from a sink box (i.e., a low floating device having a depression affording the hunter a means of concealment beneath the surface of the water).

3.2.4. No person may take migratory game birds from or with the aid or use of a motor vehicle, other land conveyance, or an aircraft of any kind.

3.2.5. No person may take migratory game birds from or by means of any motorboat or sailboat unless the motor has been completely shut off or the sail furled and progress therefrom has ceased.

3.2.6. No person may take migratory game birds by the use or aid of live birds as decoys.

3.2.7. No person may take migratory game birds by the use of records or tapes of bird calls or sounds, or recorded or electrically-amplified imitations of bird calls.

3.2.8. No person may take migratory game birds by concentrating, driving, rallying, or chasing such birds with any motorized land, water, or air conveyance or any sailboat.

3.2.9. No person may take migratory game birds by the aid of baiting, or on or over any baited area. Hunters should be aware that a baited area is considered to be baited for ten (10) days after the removal of the bait, and is not necessary for the hunter to know an area is baited to be in violation of federal regulations and Section 3.2 of these regulations.

3.3. Wanton Waste - All migratory game birds killed or crippled must be retrieved if possible and retained in the custody of the hunter in the field.

3.4. Tagging - No person may give, put, or leave migratory game birds at any place, or in the custody of another person, unless the birds are tagged by the hunter with the following information:

3.4.1. The hunter's signature;

3.4.2. The hunter's address;

3.4.3. The total number of birds involved, by species; and

3.4.4. The date on which each bird was killed.

3.5. Field Dressing - No person may completely field dress migratory game birds, except doves and band-tailed pigeons, and then transport the birds from the field. The head or one fully-feathered wing must remain attached to all such birds while being transported from the field to one's home or to a migratory bird preservation facility, as defined in 50 C.F.R. § 20.11.

3.6. Shipment - No person may ship migratory game birds unless the package is marked on the outside with the following information:

3.6.1. The name and address of the person sending the birds;

3.6.2. The name and address of the person to whom the birds are being sent; and

3.6.3. The number of birds, by species, contained in the package.

3.7. Importation - For information regarding the importation of migratory game birds killed in another country, hunters should consult 50 C.F.R. §§ 20.61 through 20.66. One (1) fully-feathered wing must remain attached to all migratory game birds being transported between the port of entry and one's home or to a migratory bird preservation facility, as defined in 50 C.F.R. § 20.11. No person may import migratory game birds killed in any foreign country, except Canada, unless such birds are dressed (except as required in 50 C.F.R. § 20.63), drawn, and the head and feet removed. No person may import migratory game birds belonging to another person.