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WEST VIRGINIA
SECRETARY OF STATE
KEN HECHLER
ADMINISTRATIVE LAW DIVISION

Form #3

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OFFICE OF THE SECRETARY OF STATE

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

Department of Commerce, Labor, and Environmental
Resources, Division of Natural Resources

AGENCY: _____ TITLE NUMBER: 47

CITE AUTHORITY West Virginia Code §20-1-7(30)

AMENDMENT TO AN EXISTING RULE: YES ___ NO X

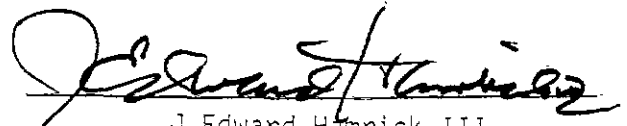
IF YES, SERIES NUMBER OF RULE BEING AMENDED: _____

TITLE OF RULE BEING AMENDED: _____

IF NO, SERIES NUMBER OF NEW RULE BEING PROPOSED: 11B

TITLE OF RULE BEING PROPOSED: Regulations concerning prohibitions
when Hunting and Trapping.

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.



J. Edward Hamrick III
Director

FISCAL NOTE FOR PROPOSED RULES

Rule Title: Regulations Concerning Prohibitions When Hunting and Trapping

Type of Rule: XX Legislative Interpretive Procedural

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

Address: Building 3, State Capitol Complex, Charleston, West Virginia 25305

1. Effect of Proposed Rule	Increase \$	ANNUAL		FISCAL YEAR	
		Decrease \$	Current \$	Next \$	Thereafter \$
Personal Services					
Current Expense					
Repairs and Alterations			NO CHANGE		
Equipment					
Other					

2. Explanation of Above Estimates: These regulations establish prohibitions in the pursuit or taking of game within the boundaries of this State. No new administrative expenditures are anticipated.

3. Objectives of These Rules: The objectives of this rule is to provide standards when hunting and trapping for the safety of the public and proper management of the State's wildlife resources.

4. Explanation of Overall Economic Impact of Proposed Rule.

A. Economic Impact on State Government: No impact.

B. 1. Economic Impact on Political Subdivisions: No impact.

2. Economic Impact on Specific Industries: No impact.

3. Economic Impact on Specific Groups of Citizens: No impact.
- C. Economic Impact on Citizens/Public at Large: No impact.


J. Edward Hamrick III
Director

Date: August 12, 1991

DATE: October 15, 1991.

TO: LEGISLATIVE RULE-MAKING REVIEW COMMITTEE

FROM: West Virginia Department of Commerce, Labor, and
Environmental Resources, Division of Natural Resources

LEGISLATIVE RULE TITLE: "Regulations Concerning Prohibitions When
Hunting and Trapping.

1. Authorizing statute(s) citation:

West Virginia Code §20-1-7(30)

2. a. Date filed in State Register with Notice of Hearing:

Notice of Comment period was filed
August 20, 1991.

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

None

c. Date(s) of hearing(s): Comment period ended on September
20, 1991.

d. Attach list of persons who appeared at the hearing,
comments received, amendments to the proposed rule, and
the reasons for those amendments.

Attached _____ No comments received XX

e. Date you filed in the State Register the agency-approved
proposed Legislative Rule following public hearing:

October 15, 1991

f. Name and phone number of agency person to contact for
additional information:

Michael E. Comer, Regulatory Analyst
Office of Environmental and Regulatory Affairs
348-2761

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: NA

- 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: NA
- b. Date of hearing: NA
- c. On what date did you file in the State Register the findings and determinations required together with the reasons therefor? NA
- d. Attach findings and determinations and reasons: NA

PREAMBLE TO A PROPOSED RULE CONCERNING
REGULATIONS CONCERNING PROHIBITIONS WHEN HUNTING AND TRAPPING

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

REGULATIONS: Title 47, Series 11B "Regulations Concerning Prohibitions When Hunting and Trapping"

AUTHORITY: West Virginia Code §20-1-7(30).

ACTION: Filing an Agency-Approved Rule.

SUMMARY: - Today's filing proposes a new rule that will establish prohibitions when hunting and trapping wildlife within the boundaries of this State. This rule incorporates provisions that were filed as an exempt regulation under Title 47, Series 11 "Hunting and Trapping Regulations."

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

SERIES 11B
REGULATIONS CONCERNING PROHIBITIONS WHEN HUNTING AND TRAPPING

§47-11B-1. General.

1.1. Scope and Purpose. -- These regulations establish 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. --

§47-11B-2. Definitions.

2.1. All terms shall have the meaning prescribed in Title 47, Series 11A (47 C.S.R. 11A).

§47-11B-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 such means on private land by the landowner, his resident children or resident parents, or a bona fide resident tenant.

3.3. Except as provided in Sections 3.3.1 and 3.3.2 of these regulations, 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 such means on private land by the landowner, his resident children or resident parents, or a bona fide resident tenant during the period commencing on April 1 and ending on September 30.

3.3.2. Redwing blackbirds, grackles, pigeons, 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 shall be illegal to hunt from, or by means of, a motorized watercraft unless the motor has been completely shutoff and its progress therefrom has ceased.

3.5. It shall be illegal to hunt, catch, take, kill, injure, or pursue a wild animal or wild bird by means of falconry or hawking.

3.6. With the exception of hand-held releasing devices, all mechanical devices built into or attached to a bow that will lock the bow at full or partial draw are prohibited, unless otherwise specified by the director.

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

3.8. 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.

3.8.1. No person may take, or attempt to do so, the species under Section 3.8 of these regulations, by the aid of baiting. An area is considered to be baited for ten (10) days after the removal of bait.

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MEMORANDUM OF CONSENT
OFFICE OF THE SECRETARY OF STATE

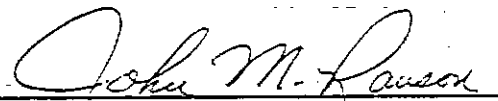
MEMORANDUM TO: J. Edward Hamrick III, Director
Division of Natural Resources

FROM: John M. Ranson, Secretary
Department of Commerce, Labor,
and Environmental Resources

SUBJECT: Consent to File Agency Proposed Regulations

The following regulations concerning hunting, trapping, and fishing have my approval to be proposed pursuant to the Administrative Procedures Act set forth under Chapter 29A of the West Virginia Code [W. Va. Code §29A et seq.].

<u>Title</u>	<u>Series</u>	<u>Name</u>
47	11A	Terms To Be Used Concerning All Hunting and Trapping Regulations.
47	11B	Prohibitions When Hunting and Trapping.
47	11C	Special Bear Hunting Regulations.
47	11D	General Hunting Regulations.
47	11E	Deer Hunting Regulations.
47	11F	Wild Turkey Hunting Regulations.
47	11G	Wild Boar Hunting Regulations.
47	11H	General Trapping Regulations.
47	11I	Dog Training Regulations.
47	12A	Special Migratory Bird Hunting Regulations.
47	13A	Special Waterfowl Hunting Regulations.
47	14A	Special Regulations for Waterfowl Hunting Areas.
47	21	Special Fishing Regulations.


John M. Ranson
Secretary

12/3/91
Date

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DEPT. OF NATURAL RESOURCES
OFFICE OF THE DIRECTOR