

**WEST VIRGINIA**  
**SECRETARY OF STATE**  
**KEN HECHLER**  
**ADMINISTRATIVE LAW DIVISION**  
Form #7

Do Not Mark In This Box, Filing Date

FILED

JUL 28 AM 11:47

Effective Date

Aug 19, 1992

**NOTICE OF AN EMERGENCY RULE**

AGENCY: DCL&ER, Division of Natural Resources

TITLE NUMBER: 47

CITE AUTHORITY: § 20-1-7(30)

EMERGENCY AMENDMENT TO AN EXISTING RULE: YES  NO

IF YES, SERIES NUMBER OF RULE BEING AMENDED: \_\_\_\_\_

TITLE OF RULE BEING AMENDED: \_\_\_\_\_

IF NO, SERIES NUMBER OF RULE BEING FILED AS AN EMERGENCY: 111

TITLE OF RULE BEING FILED AS AN EMERGENCY: Dog Training Regulations

THE ABOVE RULE IS BEING FILED AS AN EMERGENCY RULE TO BECOME EFFECTIVE AFTER APPROVAL BY THE SECRETARY OF STATE OR THE 35TH DAY AFTER FILING, WHICHEVER OCCURS FIRST.

THE FACTS AND CIRCUMSTANCES CONSTITUTING THE EMERGENCY ARE AS FOLLOWS (Use Additional Sheets If Necessary) : See attached.



J. Edward Hamrick III, Director  
Division of Natural Resources

2.60



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

## **Hunting and Trapping Regulations 47 C.S.R. 11**

### **Background of Problem Rule Currently in Effect**

The existing 47 C.S.R. 11 is a legislative exempt rule which was last placed in effect September 18, 1990. This rule contains the agency's complete Hunting and Trapping regulations, both exempt and non-exempt provisions.

### **Agency Attempt to Correct Improper Filing of Hunting and Trapping Regulations**

To correct this problem the current 47 C.S.R. 11 is being repealed and replaced by a purely exempt 47 C.S.R. 11 and the following non-exempt rules 47 C.S.R. 11A through 11I. Therefore, to have all the hunting and trapping regulations in place for the 1992-1993 seasons, it is necessary for 47 C.S.R. 11A through 11I to be filed as emergency rules and for 47 C.S.R. 11 to be repealed and replaced on the date the emergency 47 C.S.R. 11A through 11I rules become effective.

FISCAL NOTE FOR PROPOSED RULE

Rule Title: Dog Training Regulations, 47 C.S.R. 111

Type of Rule:  Legislative  Interpretive  Procedural

Agency: Division of Natural Resources

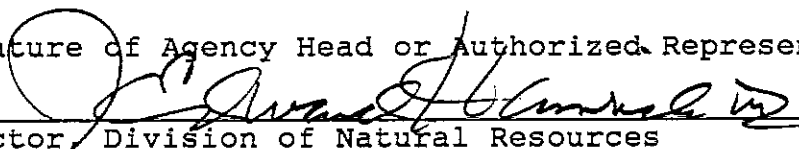
Address: Building 3, State Capitol Complex, Charleston, West Virginia

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: The purpose of this regulation is to establish standards to be complied with when training dogs within the boundaries of this State.
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

**Date:** July 24, 1992

**To:** Legislative Rule-Making Review Committee

**From:** Department of Commerce Labor and Environmental Resources, Division of Natural Resources

**Emergency Rule Title:** Dog Training Regulations, 47 C.S.R. 111

1. Date of filing: July 28, 1992
2. Statutory authority for promulgating the emergency rule: § 20-1-7(30)
3. Date of filing the proposed legislative rule: July 31, 1992 (notice of 30 day comment period.)
4. Does the emergency rule adopt new language or does it amend or repeal a current legislative rule: The emergency rule adopts language that was previously filed incorrectly as an exempt rule.
5. Has the same or similar emergency rule previously been filed and expired: No.
6. State, with particularity, those facts and circumstances which make the emergency rule necessary for the immediate preservation of public peace, health, safety or welfare: N.A.
7. If the emergency rule was promulgated in order to comply with a time limit established by the code or federal statute or regulation, cite the code provision, federal statute or regulation and time limit established therein: N.A.
8. State, with particularity, those facts and circumstances which make the emergency rule necessary to prevent substantial harm to the public interest: To correctly file the exempt rule the existing exempt series 11 rule containing both exempt and non-exempt provisions must be repealed and replaced. Therefore to have in place for the 92-93 Hunting and Trapping season a complete set of Hunting and Trapping Regulations (exempt and non-exempt rules) it is necessary to file the non-exempt rules as emergency rules.

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

SERIES 11I  
DOG TRAINING REGULATIONS  
(EMERGENCY RULE)

§ 47-11I-1.      General.

1.1.      Scope and Purpose. -- The purpose of this regulation is to establish standards to be complied with when training dogs within the boundaries of this State.

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

1.3.      Filing Date. --

1.4.      Effective Date. --

§ 47-11I-2.      Definitions.

2.1.      All terms shall have the meanings prescribed to them in the Code of State Regulations, Title 47, Series 11A (47 C.S.R. 11A).

§ 47-11I-3.      Dog Training Rules.

3.1.      Notwithstanding the provisions of W. Va. Code § 20-2-5(26), residents of the State of Ohio may train their dogs in this state between the 16th day of August and the 30th day of April, but may not train a dog in any bear county, or parts thereof, in which a legal bear hunting season has been established prior to July 1, 1988, except during the small game hunting season.

KEN HECHLER  
Secretary of State

MARY P. RATLIFF  
Deputy Secretary of State

A. RENEE COE  
Deputy Secretary of State

CATHERINE FREROTTE  
Executive Assistant

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Director, Corporations

(Plus all the volunteer  
help we can get)

August 19, 1992

NOTICE OF EMERGENCY RULE DECISION BY THE SECRETARY OF STATE

AGENCY: Natural Resources

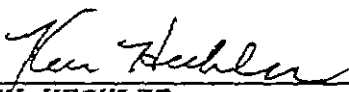
RULE: New Rules, Series 11A, Regs Defining the Terms to be Used  
Concerning All Hunting & Trapping Regulations  
Series 11B, Prohibitions When Hunting & Trapping  
Series 11C, Special Bear Hunting Regs  
Series 11D, General Hunting Regs  
Series 11E, Deer Hunting Regs  
Series 11F, Wild Turkey Regs  
Series 11G, Wild Boar Hunting Regs  
Series 11H, General Trapping Regs  
Series 11I, Dog Training Regs

DATE FILED AS AN EMERGENCY RULE: July 28, 1992

DECISION NO. 18-92

Following review under WV Code 29A-3-15a, it is the decision of the Secretary of State that the above emergency rule be approved. A copy of the complete decision with required findings is available from this office.

FILED IN THE OFFICE OF  
THE SECRETARY OF STATE  
THIS DATE Aug 19, 1992  
ADMINISTRATIVE LAW DIVISION

  
KEN HECHLER  
Secretary of State

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Secretary of State

MARY P. RATLIFF  
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## STATE OF WEST VIRGINIA

### SECRETARY OF STATE

Building 1, Suite 157-K  
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#### DECISION

#### EMERGENCY RULE DECISION (ERD 18-92)

AGENCY: Natural Resources  
RULE: New Rules, Series 11A, Regs Defining the Terms to be Used Concerning All Hunting & Trapping Regulations  
Series 11B, Prohibitions When Hunting & Trapping  
Series 11C, Special Bear Hunting Regs  
Series 11D, General Hunting Regs  
Series 11E, Deer Hunting Regs  
Series 11F, Wild Turkey Regs  
Series 11G, Wild Boar Hunting Regs  
Series 11H, General Trapping Regs  
Series 11I, Dog Training Regs

FILED AS AN EMERGENCY RULE: July 28, 1992

- par. 1 The Natural Resources (DNR) has filed the above new rules as emergency rules.
- par. 2 West Virginia Code 29A-3-a requires the Secretary of State to review all emergency rules filed after March 8, 1986. This review requires the Secretary of State to determine if the agency filing such emergency rule: 1) has complied with the procedures for adopting an emergency rule; 2) exceeded the scope of its statutory authority in promulgating the emergency rule; or 3) can show that an emergency exists justifying the promulgation of an emergency rule.
- par. 3 Following review, the Secretary of State shall issue a decision as to whether or not such an emergency rule should be disapproved [(29A-3-a(a))].
- par. 4 (A) Procedural Compliance: WV Code 29A-3-15 permits an agency to adopt, amend or repeal, without hearing, any legislative rule by filing such rule, along with a statement of the circumstances constituting the emergency, with the Secretary of State and forthwith with the Legislative Rule-Making Review Committee (LRMRC).



- par. 5 If an agency has accomplished the above two required filings with the appropriate supporting documents by the time the emergency rule decision is issued or the expiration of the thirty-five day review period, whichever is sooner, the Secretary of State shall rule in favor of procedural compliance.
- par. 6 The filed this emergency rule with supporting documents with the Secretary of State July 28, 1992 and with the LRMRC July 28, 1992.
- par. 7 It is the determination of the Secretary of State that the DNR has complied with the procedural requirements of WV Code §29A-3-15 for adoption of an emergency rule.
- par. 8 (B) Statutory Authority -- WV Code §20-1-7(30) reads:  
 Promulgate rules and regulations, in accordance with the provisions of §29A-1-1 et seq. of this code, to implement and make effective the powers and duties vested in him by the provisions of this chapter and take such other steps as may be necessary in his discretion for the proper and effective enforcement of the provisions of this chapter.
- par. 9 It is the determination of the Secretary of State that the DNR has not exceeded its statutory authority in promulgating this emergency rule.
- par. 10 (C) Emergency WV Code 29A-3-15(g) defines "emergency" as follows:  
 (g) For the purposes of this section, an emergency exists when the promulgation of a rule is necessary for the immediate preservation of the public peace, health, safety or welfare or is necessary to comply with a time limitation established by this code or by a federal statute or regulation or to prevent substantial harm to the public interest.
- par. 11 There are essentially three classes of emergency broadly presented with the above provision: 1) immediate preservation; 2) time limitation; and 3) substantial harm. An agency need only document to the satisfaction of the Secretary of State that there exists a nexus between the proposal and the circumstances creating at least one of the above three emergency categories.
- par. 12 The facts and circumstances as presented by the DNR are as follows:  
 To correctly file the exempt rule the existing series 11 rule containing both exempt and non-exempt provisions must be repealed and replaced. Therefore to have in place for the 92-93 Hunting and Trapping season a complete set of Hunting and

Trapping Regulations (exempt and non-exempt rules) it is necessary to file the non-exempt rules as emergency rules.

- par. 13 It is the determination of the Secretary of State that this proposal qualifies under the definition of an emergency as defined in §29A-3-15(g).
- par. 14 This decision shall be cited as Emergency Rule Decision 18-92 or ERD 18-92 and may be cited as precedent. This decision is available from the Secretary of State and has been filed with the Natural Resources, the Attorney General and the Legislative Rule Making Review Commission.

*Ken Hechler*

KEN HECHLER  
Secretary of State

FILED IN THE OFFICE OF  
THE SECRETARY OF STATE

Entered

THIS DATE Aug. 19, 1992  
ADMINISTRATIVE LAW DIVISION