

WEST VIRGINIA
SECRETARY OF STATE
KEN HECHLER
ADMINISTRATIVE LAW DIVISION

Form #5

FILED
1990 AUG 22 AM 9 18
OFFICE OF WEST VIRGINIA
SECRETARY OF STATE

NOTICE OF AGENCY ADOPTION OF A PROCEDURAL OR INTERPRETIVE RULE
OR A LEGISLATIVE RULE EXEMPT FROM LEGISLATIVE REVIEW

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

AGENCY: _____ TITLE NUMBER: 47

CITE AUTHORITY: West Virginia Code §§20-1-7(30), 20-1-17(7)

RULE TYPE: PROCEDURAL _____ INTERPRETIVE _____

EXEMPT LEGISLATIVE RULE X

CITE STATUTE(S) GRANTING EXEMPTION FROM LEGISLATIVE REVIEW

West Virginia Code §20-1-17(7)

AMENDMENT TO AN EXISTING RULE: YES X, NO _____

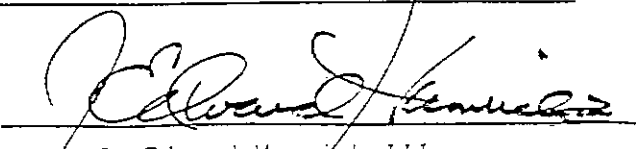
IF YES, SERIES NUMBER OF RULE BEING AMENDED: 12

TITLE OF RULE BEING AMENDED: "Migratory Bird Hunting Regulations"

IF NO, SERIES NUMBER OF NEW RULE BEING ADOPTED: _____

TITLE OF RULE BEING ADOPTED: _____

THE ABOVE RULE IS HEREBY ADOPTED AND FILED WITH THE SECRETARY OF STATE. THE
EFFECTIVE DATE OF THIS RULE IS September 1, 1990



J. Edward Hamrick III
Director

FISCAL NOTE FOR PROPOSED RULES

Rule Title: "Migratory Bird Hunting Regulations"

Type of Rule: X Legislative ___ Interpretive ___ Procedural

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

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

1. Effect of Proposed Rule	Increase \$	ANNUAL		FISCAL YEAR	
		Decrease \$	Current \$	Next \$	Thereafter \$
Personal Services					
Current Expense					
Repairs and Alterations					
Equipment					
Other					

NO CHANGE

2. Explanation of Above Estimates:

This rule makes changes to the migratory bird hunting seasons reflecting the 1990-1991 year. No new administrative expenditures are anticipated.

3. Objectives of These Rules:

This rule implements the date changes to the migratory bird hunting seasons and reflects the 1990-1991 hunting seasons.

4. Explanation of Overall Economic Impact of Proposed Rule.

A. Economic Impact on State Government: No impact

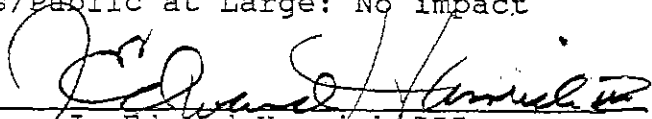
B. Economic Impact on Political Subdivisions: No impact

Economic Impact on Specific Industries: No impact

Economic Impact on Specific Groups of Citizens: No impact

C. Economic Impact on Citizens/Public at Large: No impact

Date: August 20, 1990



J. Edward Hamrick III,
Director

**PREAMBLE TO THE
MIGRATORY BIRD HUNTING REGULATIONS**

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

REGULATIONS: Title 47, Series 12, "Migratory Bird Hunting Regulations"

AUTHORITY: West Virginia Code §§20-1-7(30) and 20-1-17(7)

ACTION: Filing of a Legislative Exempt Rule

SUMMARY: The West Virginia Department of Commerce, Labor and Environmental Resources, Division of Natural Resources in today's filing repeals and replaces the existing "Migratory Bird Hunting Regulations" (47 C.S.R. 12). Today's filing makes changes in the migratory bird hunting seasons. Opening and closing dates have been changed to reflect the 1990-1991 year. The promulgation of this rule has been exempt from Legislative Review due to the seasonal hunting seasons. No substantive changes were made.

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

FILED
1990 AUG 22 AM 9:19
SECRETARY OF STATE

SERIES 12
MIGRATORY BIRD HUNTING REGULATIONS

§47-12-1. General.

1.1. Scope and Purpose. -- These regulations establish the open seasons and the bag, size, age, weight, and sex limits with respect to the hunting of migratory game birds in West Virginia.

1.2. Authority. -- West Virginia Code §§20-1-7(30) and 20-1-17(7).

1.3. Filing Date. -- August 22, 1990.

1.4. Effective Date. -- September 1, 1990.

1.5. Repeal of Former Rule. -- This rule repeals and replaces 47 C.S.R. 12 "Migratory Bird Hunting Regulations" filed August 18, 1989 and effective September 1, 1989.

1.6. 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.

§47-12-2. 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 Section 4 of these regulations.

2.7. "Paraplegic" means an individual afflicted with paralysis of the lower half of the body with involvement of both legs, usually due to disease of or injury to the spinal cord.

2.8. "Permanently Disabled in the Lower Extremities" means an individual who is paraplegic, who is missing both legs, or who has a disability affecting both legs which requires permanent use of a wheelchair or crutches.

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

§47-12-3. 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, except as provided in Section 3.2.4.a of these regulations.

3.2.4.a. A person who is permanently disabled in the lower extremities and who holds a valid Class Q special resident hunting permit may take migratory game birds from a stationary motor vehicle provided that he is the only occupant of that vehicle, that the engine of the vehicle is not operating, and that the vehicle is not parked on the right-of-way of any public road or highway.

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. Closed Season. No person may take migratory game birds during the closed season.

3.4. Shooting or Hawking Hours. No person may take migratory game birds except during the hours open to hawking or shooting as prescribed in these regulations.

3.5. Daily Bag Limit. No person may take more than the daily bag limit of any migratory game bird.

3.6. Field Possession Limit. No person may possess more than the daily bag limit of any migratory game bird while in the field or while returning from the field to one's car, hunting camp, home, or other place.

3.7. 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.

3.8. 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:

3.8.1. The hunter's signature;

3.8.2. The hunter's address;

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

3.8.4. The date on which each bird was killed.

3.9. Custody of Birds of Another. No person may receive or have in his custody migratory game birds belonging to another person unless such birds are properly tagged.

3.10. Possession of Live Birds. No person at any time, or by any means, possess or transport live migratory game birds taken under 50 C.F.R. Part 20 or under these regulations. Wounded birds reduced to possession must be immediately killed and included in the daily bag limit.

3.11. 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.

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

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

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

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

3.13. 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.

§47-12-4. Open Seasons.

4.1. Mourning Dove Season.

4.1.1. The first segment of this season opens on September 1, 1990 and closes on October 13, 1990.

4.1.2. The second segment of this season opens on December

17, 1990 and closes on January 12, 1991.

4.2. Rail Season (Sora and Virginia Rails).

4.2.1. This season opens on September 1, 1990 and closes on November 9, 1990.

4.2.2. There is no open season for king rails or clapper rails.

4.3. Common Snipe Season.

4.3.1. This season opens on September 1, 1990 and closes on December 15, 1990.

4.4. Woodcock Season.

4.4.1. This season opens on October 13, 1990 and closes on November 26, 1990.

§47-12-5. Shooting Hours.

5.1. Mourning Doves.

5.1.1. Shooting hours in the first segment of the mourning dove season are from thirty (30) minutes before sunrise until sunset except on opening day when shooting hours are from noon until sunset.

5.1.2. Shooting hours in the second segment of the mourning dove season are from thirty (30) minutes before sunrise until sunset.

5.2. Sora and Virginia Rails.

5.2.1. Shooting hours are from thirty (30) minutes before sunrise until sunset.

5.3. Common Snipe.

5.3.1. Shooting hours are from thirty (30) minutes before sunrise until sunset.

5.4. Woodcock.

5.4.1. Shooting hours are from thirty (30) minutes before sunrise until sunset.

§47-12-6. Bag and Possession Limits.

6.1. Mourning Doves.

6.1.1. The bag limit is twelve (12) doves per day.

6.1.2. The possession limit is twenty-four (24) doves.

6.2. Sora and Virginia Rails.

6.2.1. The bag limit is twenty-five (25) rails in aggregate per day.

6.2.2. The possession limit is twenty-five (25) rails in aggregate.

6.3. Common Snipe.

6.3.1. The bag limit is eight (8) snipe per day.

6.3.2. The possession limit is sixteen (16) snipe.

6.4. Woodcock.

6.4.1. The bag limit is three (3) woodcock per day.

6.4.2. The possession limit is six (6) woodcock.

TO BE REPEALED

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

SERIES 12
MIGRATORY BIRD HUNTING REGULATIONS

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1.2. Authority. -- West Virginia Code §§20-1-7(30) and 20-1-17(7).

1.3. Filing Date. -- August 18, 1989.

1.4. Effective Date. -- September 1, 1989.

1.5. Repeal of Former Rule. -- This rule repeals and replaces 47 C.S.R. 12 "Migratory Bird Hunting Regulations" filed August 31, 1988 and effective September 1, 1988.

1.6. 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.

§47-12-2. Definitions.

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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.

TO BE REPEALED

2.6. "Migratory Game Birds" means doves, rails, snipe, and woodcock for which open seasons are prescribed in Section 4 of these regulations.

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TO BE REPEALED

that the vehicle is not parked on the right-of-way of any public road or highway.

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3.4. Shooting or Hawking Hours. No person may take migratory game birds except during the hours open to hawking or shooting as prescribed in these regulations.

3.5. Daily Bag Limit. No person may take more than the daily bag limit of any migratory game bird.

3.6. Field Possession Limit. No person may possess more than the daily bag limit of any migratory game bird while in the field or while returning from the field to one's car, hunting camp, home, or other place.

3.7. 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.

3.8. 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:

TO BE REPEALED

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- 3.8.2. The hunter's address;
- 3.8.3. The total number of birds involved, by species; and
- 3.8.4. The date on which each bird was killed.

3.9. Custody of Birds of Another. No person may receive or have in his custody migratory game birds belonging to another person unless such birds are properly tagged.

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TO BE REPEALED

§47-12-4. - Open Seasons.

4.1. Mourning Dove Season.

4.1.1. The first segment of this season opens on September 1, 1989 and closes on October 14, 1989.

4.1.2. The second segment of this season opens on December 19, 1989 and closes on January 13, 1990.

4.2. Rail Season (Sora and Virginia Rails).

4.2.1. This season opens on September 1, 1989 and closes on November 9, 1989.

4.2.2. There is no open season for king rails or clapper rails.

4.3. Common Snipe Season.

4.3.1. This season opens on September 1, 1989 and closes on December 16, 1989.

4.4. Woodcock Season.

4.4.1. This season opens on October 14, 1989 and closes on November 27, 1989.

§47-12-5. Shooting Hours.

5.1. Mourning Doves.

5.1.1. Shooting hours in the first segment of the mourning dove season are from thirty (30) minutes before sunrise until sunset except on opening day when shooting hours are from noon until sunset.

5.1.2. Shooting hours in the second segment of the mourning dove season are from thirty (30) minutes before sunrise until sunset.

5.2. Sora and Virginia Rails.

5.2.1. Shooting hours are from thirty (30) minutes before sunrise until sunset.

5.3. Common Snipe.

5.3.1. Shooting hours are from thirty (30) minutes before sunrise until sunset.

TO BE REPEALED

5.4. Woodcock.

5.4.1. Shooting hours are from thirty (30) minutes before sunrise until sunset.

§47-12-6. Bag and Possession Limits.

6.1. Mourning Doves.

6.1.1. The bag limit is twelve (12) doves per day.

6.1.2. The possession limit is twenty-four (24) doves.

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6.2.1. The bag limit is twenty-five (25) rails in aggregate per day.

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6.3. Common Snipe.

6.3.1. The bag limit is eight (8) snipe per day.

6.3.2. The possession limit is sixteen (16) snipe.

6.4. Woodcock.

6.4.1. The bag limit is three (3) woodcock per day.

6.4.2. The possession limit is six (6) woodcock.



KEN HECHLER
Secretary of State

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Deputy Secretary of State

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JUDY COOPER
Director, Administrative Law

DONALD R. WILKES
Director, Corporations

(Plus all the volunteer
help we can get)

STATE OF WEST VIRGINIA

SECRETARY OF STATE

Building 1, Suite 157-K
1900 Kanawha Blvd., East
Charleston, WV 25305-0770

TO: Mike Comer

AGENCY: Natural Resources

FROM: JUDY COOPER, DIRECTOR, ADMINISTRATIVE LAW DIVISION

DATE: July 6, 1992

THE ATTACHED RULE RECENTLY FILED BY YOUR AGENCY HAS BEEN ENTERED INTO OUR COMPUTER SYSTEM. PLEASE REVIEW, PROOF AND RETURN IT WITH ANY CORRECTIONS. IF THERE ARE NO CORRECTIONS, PLEASE SIGN THIS MEMO AND RETURN IT TO THIS OFFICE. YOU WILL BE SENT A FINAL VERSION OF THE RULE FOR YOUR RECORDS.

PLEASE RETURN EITHER THE CORRECTED RULE OR THIS FORM WITHIN TEN (10) WORKING DAYS OF THE DATE YOU RECEIVED THIS REQUEST. CALL IF YOU HAVE ANY QUESTIONS.

SERIES: 12 TITLE: 47 Natural Resources

* THE ATTACHED RULE HAS BEEN REVIEWED AND IS CORRECT.

SIGNED: [Signature]

TITLE OF PERSON SIGNING: Administrator DEP Regulatory Office

DATE: 9/2/92

* THE ATTACHED RULE HAS BEEN REVIEWED AND NEEDS CORRECTING. THE CORRECTIONS HAVE BEEN MARKED.

SIGNED: _____

TITLE OF PERSON SIGNING: _____

DATE: _____

NOTE: IF YOU ARE NOT THE PERSON WHO HANDLES THIS RULE, PLEASE FORWARD TO THE CORRECT PERSON.

This rule has recently been replaced. Thanks, not reviewed