

WEST VIRGINIA
SECRETARY OF STATE
KEN HECHLER
ADMINISTRATIVE LAW DIVISION

Form #5

Do Not Mark In this Box

FILED
1988 AUG 31 AM 11:11
WEST VIRGINIA
SECRETARY OF STATE

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

AGENCY: WV Department of Natural Resources TITLE NUMBER: 47

CITE AUTHORITY: W. Va. Code §§20-1-7(30) and 20-1-17(7)

RULE TYPE: PROCEDURAL _____ INTERPRETIVE _____

EXEMPT LEGISLATIVE RULE X
CITE STATUTE(S) GRANTING EXEMPTION FROM LEGISLATIVE REVIEW

W. Va. Code §29A-1-3(c)

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, 1988



FILED

TITLE 47
 LEGISLATIVE RULES
 DEPARTMENT OF NATURAL RESOURCES

1988 AUG 31 AM 11:12

SERIES 12
 MIGRATORY BIRD HUNTING REGULATIONS

OFFICE OF WEST VIRGINIA
 SECRETARY OF STATE

§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 waterfowl and other migratory game birds in this State.

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

1.3. Filing Date. -- August 31, 1988.

1.4. Effective Date. -- September 1, 1988.

1.5. Repeal of Former Rule. -- This rule repeals and replaces 47 C.S.R. 12 "Migratory Bird Hunting Regulations" filed August 28, 1987 and effective September 1, 1987.

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.

1.7. Concurrent Hunting. -- Concurrent hunting for waterfowl on major rivers, lakes, and reservoirs is legal during the bucks-only deer season if the season for such waterfowl is also open.

1.8. West Virginia Migratory Waterfowl Conservation Stamp. -- Each waterfowl hunter sixteen (16) years of age and over, except those persons exempt by statute from the payment of hunting license fees, must carry on his person a valid West Virginia Migratory Waterfowl Conservation Stamp (i.e., a "state duck stamp") signed in ink across the face. This stamp is not needed in order to hunt coots, doves, gallinules, rails, snipe, or woodcock.

§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 those migratory birds defined in 50 C.F.R. §20.11 and belonging to the families listed in Sections 2.6.1 through 2.6.4 of these regulations for which open seasons are prescribed in Section 3 of these regulations.

2.6.1. **Anatidae** (ducks, geese, mergansers, and swans).

2.6.2. **Columbidae** (doves and pigeons).

2.6.3. **Gruidae** (little brown cranes).

2.6.4. **Rallidae** (rails, coots, and gallinules).

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

2.9. "Waterfowl" means members of the family **Anatidae** (ducks, geese, mergansers, and swans) for which open seasons are prescribed in Section 3 of these regulations.

2.10. "Zone 1" means the entire State except Zone 2.

2.11. "Zone 2" means the following area:

2.11.1. Beginning at the West Virginia-Maryland boundary line, the eastern boundary of Zone 2 extends south along U.S. Route 220 through Keyser, West Virginia to the intersection with U.S. Route 50 and follows U.S. Route 50 to the intersection with State Route 93. The eastern

boundary then follows State Route 93 south to the intersection with State Route 42 and continues south on State Route 42 to Petersburg. At Petersburg, the eastern boundary follows State Route 28 south to Minnehaha Springs and then follows State Route 39 west to U.S. Route 219. The eastern boundary then follows U.S. Route 219 south to the intersection with Interstate 64.

2.11.2. The southern boundary of Zone 2 follows Interstate 64 west to the intersection with U.S. Route 60 and then follows U.S. Route 60 west to the intersection with U.S. Route 19.

2.11.3. The western boundary of Zone 2 follows U.S. Route 19 north to the intersection with Interstate 79 and then follows Interstate 79 north to the intersection with U.S. Route 48.

2.11.4. The northern boundary of Zone 2 follows U.S. Route 48 east to the West Virginia-Maryland boundary line.

§47-12-3. Open Seasons.

3.1. Mourning Dove Season.

3.1.1. The first segment of this season opens on September 1, 1988 and closes on October 31, 1988.

3.1.2. The second segment of this season opens on December 26, 1988 and closes on January 3, 1989.

3.2. Rail Season (Sora and Virginia Rails). -- This season opens on September 1, 1988 and closes on November 9, 1988. There is no open season for king rails or clapper rails.

3.3. Woodcock Season. -- This season opens on October 15, 1988 and closes on November 28, 1988.

3.4. Common Snipe Season. -- This season opens on September 1, 1988 and closes on December 16, 1988.

3.5. Duck Seasons (excluding pintails).

3.5.1. Zone 1 Duck Season.

3.5.1.a. The first segment of this season opens on October 8, 1988 and closes on October 15, 1988.

3.5.1.b. The second segment of this season opens on December 17, 1988 and closes on January 7, 1989.

3.5.2. Zone 2 Duck Season.

3.5.2.a. The first segment of this season opens on October 8, 1988 and closes on October 15, 1988.

3.5.2.b. The second segment of this season opens on October 29, 1988 and closes on November 19, 1988.

3.5.3. There is no open season for canvasbacks.

3.6. Pintail Seasons.

3.6.1. Zone 1 Pintail Season.

3.6.1.a. The first segment of this season opens on October 8, 1988 and closes on October 14, 1988.

3.6.1.b. The second segment of this season opens on January 2, 1989 and closes on January 7, 1989.

3.6.2. Zone 2 Pintail Season.

3.6.2.a. The first segment of this season opens on October 8, 1988 and closes on October 14, 1988.

3.6.2.b. The second segment of this season opens on November 14, 1988 and closes on November 19, 1988.

3.7. Merganser Seasons.

3.7.1. Zone 1 Merganser Season.

3.7.1.a. The first segment of this season opens on October 8, 1988 and closes on October 15, 1988.

3.7.1.b. The second segment of this season opens on December 17, 1988 and closes on January 7, 1989.

3.7.2. Zone 2 Merganser Season.

3.7.2.a. The first segment of this season opens on October 8, 1988 and closes on October 15, 1988.

3.7.2.b. The second segment of this season opens on October 29, 1988 and closes on November 19, 1988.

3.8. Coot Seasons.

3.8.1. Zone 1 Coot Season.

3.8.1.a. The first segment of this season opens on October 8, 1988 and closes on October 15, 1988.

3.8.1.b. The second segment of this season opens on December 17, 1988 and closes on January 7, 1989.

3.8.2. Zone 2 Coot Season.

3.8.2.a. The first segment of this season opens on October 8, 1988 and closes on October 15, 1988.

3.8.2.b. The second segment of this season opens on October 29, 1988 and closes on November 19, 1988.

3.9. Gallinule Seasons.

3.9.1. Zone 1 Gallinule Season.

3.9.1.a. The first segment of this season opens on October 8, 1988 and closes on October 15, 1988.

3.9.1.b. The second segment of this season opens on December 17, 1988 and closes on January 7, 1989.

3.9.2. Zone 2 Gallinule Season.

3.9.2.a. The first segment of this season opens on October 8, 1988 and closes on October 15, 1988.

3.9.2.b. The second segment of this season opens on October 29, 1988 and closes on November 19, 1988.

3.10. Canada Goose Seasons.

3.10.1. Zone 1 Canada Goose Season.

3.10.1.a. The first segment of this season opens on October 1, 1988 and closes on October 15, 1988.

3.10.1.b. The second segment of this season opens on November 28, 1988 and closes on January 20, 1989.

3.10.2. Zone 2 Canada Goose Season.

3.10.2.a. The first segment of this season opens on October 1, 1988 and closes on November 19, 1988.

3.10.2.b. The second segment of this season opens on January 2, 1989 and closes on January 20, 1989.

3.11. Snow Goose and Blue Goose Seasons.

3.11.1. Zone 1 Snow Goose and Blue Goose Season.

3.11.1.a. The first segment of this season opens on October 1, 1988 and closes on October 15, 1988.

3.11.1.b. The second segment of this season opens on November 28, 1988 and closes on January 20, 1989.

3.11.2. Zone 2 Snow Goose and Blue Goose Season.

3.11.2.a. The first segment of this season opens on October 1, 1988 and closes on November 19, 1988.

3.11.2.b. The second segment of this season opens on January 2, 1989 and closes on January 20, 1989.

3.12. Brant Seasons.

3.12.1. Zone 1 Brant Season. -- This season opens on December 17, 1988 and closes on January 7, 1989.

3.12.2. Zone 2 Brant Season. -- This season opens on October 29, 1988 and closes on November 19, 1988.

3.13. Swan Season. -- There is no open season for swans.

§47-12-4. Shooting Hours.

4.1. Mourning Doves.

4.1.1. Shooting hours in the first segment of the mourning dove season are from noon until sunset.

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

4.2. Sora and Virginia Rails. -- Shooting hours are from thirty (30) minutes before sunrise until sunset.

4.3. Woodcock. -- Shooting hours are from thirty (30) minutes before sunrise until sunset.

4.4. Common Snipe. -- Shooting hours are from thirty (30) minutes before sunrise until sunset.

4.5. Ducks (including pintails). -- Shooting hours are from sunrise until sunset.

4.6. Mergansers. -- Shooting hours are from sunrise until sunset.

4.7. Coots. -- Shooting hours are from thirty (30) minutes before sunrise until sunset.

4.8. Gallinules. -- Shooting hours are from thirty (30) minutes before sunrise until sunset.

4.9. Canada Geese. -- Shooting hours are from sunrise until sunset.

4.10. Snow Geese and Blue Geese. -- Shooting hours are from sunrise until sunset.

4.11. Brant. -- Shooting hours are from sunrise until sunset.

§47-12-5. Bag and Possession Limits.

5.1. Mourning Doves. -- The bag limit is twelve (12) doves per day. The possession limit is twenty-four (24) doves.

5.2. Sora and Virginia Rails. -- The bag limit is twenty-five (25) rails in aggregate per day. The possession limit is twenty-five (25) rails in aggregate.

5.3. Woodcock. -- The bag limit is three (3) woodcock per day. The possession limit is six (6) woodcock.

5.4. Common Snipe. -- The bag limit is eight (8) snipe per day. The possession limit is sixteen (16) snipe.

5.5. Ducks (including pintails). -- The bag limit is three (3) ducks in aggregate per day, as specified in Section 5.5.1 of these regulations. The possession limit is six (6) ducks in aggregate, as specified in Section 5.5.2 of these regulations.

5.5.1. The daily bag limit of three (3) ducks in aggregate may include:

5.5.1.a. Only one (1) black duck;

5.5.1.b. Only one (1) hen mallard;

5.5.1.c. Only one (1) pintail during the first segment of the pintail seasons (October 8, 1988 through October 14, 1988);

5.5.1.d. No more than two (2) drake pintails during the second segment of the Zone 1 pintail season (January 2, 1989 through January 7, 1989);

5.5.1.e. No more than two (2) drake pintails during the second segment of the Zone 2 pintail season (November 14, 1988 through November 19, 1988);

5.5.1.f. No more than two (2) redheads; and

5.5.1.g. No more than two (2) wood ducks.

5.5.2. The possession limit of six (6) ducks in aggregate may include:

5.5.2.a. No more than two (2) black ducks;

5.5.2.b. No more than two (2) hen mallards;

5.5.2.c. No more than two (2) pintails during the first segment of the pintail seasons (October 8, 1988 through October 14, 1988);

5.5.2.d. No more than four (4) drake pintails during the second segment of the Zone 1 pintail season (January 2, 1989 through January 7, 1989);

5.5.2.e. No more than four (4) drake pintails during the second segment of the Zone 2 pintail season (November 14, 1988 through November 19, 1988);

5.5.2.f. No more than four (4) redheads; and

5.5.2.g. No more than four (4) wood ducks.

5.6. Mergansers. -- The bag limit is five (5) mergansers in aggregate per day, as specified in Section 5.6.1 of these regulations. The possession limit is ten (10) mergansers in aggregate, as specified in Section 5.6.2 of these regulations.

5.6.1. The daily bag limit of five (5) mergansers in aggregate may include only one (1) hooded merganser.

5.6.2. The possession limit of ten (10) mergansers in aggregate may include no more than two (2) hooded mergansers.

5.7. Coots. -- The bag limit is fifteen (15) coots per day. The possession limit is thirty (30) coots.

5.8. Gallinules. -- The bag limit is fifteen (15) gallinules per day. The possession limit is thirty (30) gallinules.

5.9. Canada Geese. -- The bag limit is three (3) Canada geese per day. The possession limit is six (6) Canada geese.

5.10. Snow Geese and Blue Geese. -- The bag limit is four (4) snow and blue geese in aggregate per day. The possession limit is eight (8) snow and blue geese in aggregate.

5.11. Brant. -- The bag limit is two (2) brant per day. The possession limit is four (4) brant.

§47-12-6. Federal Regulations.

6.1. The purpose of Section 6 of these regulations is to recapitulate federal regulations that are found in 50 C.F.R. Part 20 concerning the taking, possession, shipping, transporting, and storing of migratory game birds.

6.2. Illegal Methods of Taking Migratory Game Birds.

6.2.1. 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.

6.2.2. 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.

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

6.2.4. No person may take migratory game birds from or with the aid or use of a motor vehicle, motor-driven land conveyance, or aircraft of any kind, except as provided in Section 6.2.4.a of these regulations.

6.2.4.a. Paraplegics and persons missing one or both legs may take migratory game birds from any

stationary motor vehicle or stationary motor-driven land conveyance.

6.2.5. 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.

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

6.2.6.a. All live, tame, or captive ducks and geese must have been removed from the hunt area for a period of ten (10) consecutive days prior to hunting and confined within an enclosure which substantially reduces the audibility of their calls and totally conceals such tame birds from the sight of migratory waterfowl.

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

6.2.8. 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.

6.2.9. 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 it is not necessary for the hunter to know an area is baited to be in violation of federal regulations and Section 6.2 of these regulations.

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

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

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

6.6. 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.

6.7. 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.

6.8. 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:

6.8.1. The hunter's signature;

6.8.2. The hunter's address;

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

6.8.4. The date(s) such birds were killed.

6.9. 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.

6.10. Possession of Live Birds. -- No person may 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.

6.11. 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.

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

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

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

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

6.13. Importation. -- For information regarding the importation of migratory 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.

6.14. Federal Migratory Bird Hunting and Conservation Stamp. -- Each waterfowl hunter sixteen (16) years of age and over must carry on his person a valid federal Migratory Bird Hunting and Conservation Stamp (i.e., a "duck stamp") signed in ink across the face. This stamp is not needed in order to hunt coots, doves, gallinules, rails, snipe, or woodcock.

6.15. Dual Violation. -- Violation of state migratory bird regulations (i.e., these regulations) is also a violation of federal regulations.

§47-12-7. McClintic Public Hunting and Fishing Area.

7.1. The provisions of Sections 3 through 6 of these regulations are in effect at the McClintic Public Hunting and Fishing Area, except as provided in Sections 7.2 through 7.4 of these regulations.

7.2. Waterfowl hunting is prohibited on Ponds #12 and #13.

7.3. Seasons for Canada geese, snow geese, and blue geese in the McClintic Public Hunting and Fishing Area are closed until October 8, 1988.

7.4. The Controlled Waterfowl Hunting Area.

7.4.1. The controlled waterfowl hunting area is marked by signs and includes Ponds #3, #6, #7, #8, #9, #11, #17, #18, #19, #36, #39, and #40.

7.4.2. Hunting in the controlled area is restricted to waterfowl hunting from state-controlled blinds. Only waterfowl may be taken in the controlled area during the period commencing on October 8, 1988 and ending on October 15, 1988 even if other hunting seasons run concurrently.

7.4.3. Shooting hours in the controlled area are from sunrise until noon.

7.4.4. Waterfowl hunting in the controlled area is by permit only.

7.4.4.a. Applications for controlled area hunting permits must be received at the DNR Point Pleasant Office, Route 1, Box 484, Point Pleasant, West Virginia 25550, prior to September 12, 1988.

7.4.4.b. Letters of notification granting controlled area hunting permits will be sent to successful applicants.

7.4.4.c. Controlled area hunting permits are not transferable.

7.4.5. Hunters with valid controlled area hunting permits must report to the McClintic PHFA Office prior to six o'clock antemeridian (6:00 a.m.) on the morning of the hunt. Failure to report by that time forfeits the hunter's reservation and the reserved blind will then be filled on a first-come, first-served basis.

7.4.6. Hunters in the controlled area are restricted to fifteen (15) shells per hunter per day per hunt and must have a valid controlled area hunting permit in possession while hunting in the controlled area.

7.4.7. Guns must be cased and unloaded except when in the blind area.

7.4.8. Alcoholic beverages are prohibited in the blind area.

7.4.9. Dogs must be on a leash except when in the blind area.

7.4.10. Hunters may not travel more than seventy-five (75) yards from the blind in the pursuit of cripples.

7.4.11. Hunters must check out at the McClintic PHFA Office, present the day's bag for inspection, and return their controlled area hunting permits prior to one o'clock postmeridian (1:00 p.m.) on the day of the hunt.

7.4.12. Hunters in the controlled area who violate the provisions of these regulations or conduct themselves in an unsportsmanlike manner at the McClintic Public Hunting and Fishing Area will not receive any further permits.

KEN HECHLER
Secretary of State

MARY P. RATLIFF
Deputy Secretary of State

BARBARA STARCHER
Deputy Secretary of State

RICHARD S. STEPHENSON
Deputy Secretary of State

Telephone: (304) 345-4000
Corporations: 342-8000



STATE OF WEST VIRGINIA
SECRETARY OF STATE
Charleston 25305

WILLIAM H. HARRINGTON
Chief of Staff

RICH O. HARTMAN
Director, Administrative Law

DONALD R. WILKES
Director, Corporations

VIRGINIA SKEEN
Special Assistant

(Plus all the volunteer
help we can get)

TO: Jeff Harkle - DNR
FROM: RICH O. HARTMAN, DIR. ADMIN. LAW DIV.
DATE: Oct 4, 1988

THE ATTACHED RULE(S) RECENTLY FILED BY YOUR AGENCY HAVE BEEN ENTERED INTO THE COMPUTER. PLEASE REVIEW AND PROOF AND RETURN WITH ANY CORRECTIONS. IF THERE ARE NO CORRECTIONS PLEASE SIGN THIS MEMO AND RETURN TO THIS OFFICE. YOU WILL BE SENT A FINAL VERSION OF YOUR RULE(S) 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

THE ATTACHED RULE(S) HAVE BEEN REVIEWED AND ARE CORRECT.

SIGNED: _____

TITLE OF PERSON SIGNING: _____

DATE: _____

THE ATTACHED RULE(S) HAVE BEEN REVIEWED AND NEEDS CORRECTED. THESE CORRECTIONS HAVE BEEN MARKED.

SIGNED: Jeffrey E. Ferrell

TITLE OF PERSON SIGNING: Regulatory Analyst

DATE: October 5, 1988