

WEST VIRGINIA  
SECRETARY OF STATE  
KEN HECHLER  
ADMINISTRATIVE LAW DIVISION

Form #6

FILED

JUN 24 12 16 PM '93

OFFICE OF WEST VIRGINIA  
SECRETARY OF STATE

NOTICE OF FINAL FILING AND ADOPTION OF A LEGISLATIVE RULE AUTHORIZED  
BY THE WEST VIRGINIA LEGISLATURE.

AGENCY: Commerce, Labor and Environmental Resources TITLE NUMBER: 47

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 NEW RULE BEING PROPOSED: 12A

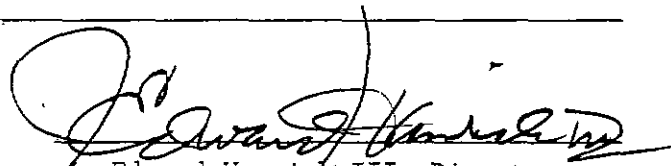
TITLE OF RULE BEING PROPOSED: Special Migratory Bird Hunting

THE ABOVE RULE HAS BEEN AUTHORIZED BY THE WEST VIRGINIA LEGISLATURE.

AUTHORIZATION IS CITED IN (house or senate bill number) HB 100

SECTION 64-3-8(bbb), PASSED ON May 26, 1993

THIS RULE IS FILED WITH THE SECRETARY OF STATE. THIS RULE BECOMES EFFECTIVE ON  
THE FOLLOWING DATE: July 1, 1993

  
J. Edward Hamrick III, Director  
Division of Natural Resources

2.80

KEN HECHLER  
Secretary of State

MARY P. RATLIFF  
Deputy Secretary of State

A. RENEE COE  
Deputy Secretary of State

CATHERINE FREROTTE  
Executive Assistant

Telephone: (304) 558-6000  
Corporations: (304) 558-8000



## STATE OF WEST VIRGINIA

### SECRETARY OF STATE

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

WILLIAM H. HARRINGTON  
Chief of Staff

JUDY COOPER  
Director, Administrative Law

DONALD R. WILKES  
Director, Corporations

(Plus all the volunteer  
help we can get)

FAX: (304) 558-0900

May 28, 1993

Jim Ruckle  
Natural Resources  
Building 3, Room 814  
Capitol Complex  
Charleston, WV 25305

**HB 100** authorizing, Title 47, Series 12A, Special Migratory Bird Hunting, passed the Legislature on **May 26, 1993**. It is now awaiting the Governor's signature.

You have sixty (60) days after the Governor signs **HB 100**, to final file the legislative rule with the Secretary of State's office. To final file your legislative rule, fill in the blanks on the enclosed form #6, the "Final Filing" form and file the form with our office. Authorization for your legislative rule is cited in **HB 100** section 64-3-8(bbb). The agency may set the effective date of the legislative rule up to ninety (90) days from the date the legislative rule is final filed with the Secretary of State's office. Please have an authorized signature on the bottom line.

**\*\*\*IMPORTANT: IF YOUR AGENCY HAS COMPLETED THE LEGISLATIVE RULE ON A COMPUTER SYSTEM THAT USES A 3 1/2" OR 5 1/4" DISK, PLEASE SUBMIT A CLEAN COPY, WITH ALL UNDERLINING AND STRIKE-THROUGHS TAKEN OUT, TO OUR OFFICE WHEN FINAL FILING THE RULE. STATE ON THE DISK THE FORMAT THE RULE IS IN AND THE TITLE IT IS FILED UNDER. THIS WILL MAKE IT QUICKER FOR US TO ENTER YOUR RULES ON THE LEGISLATIVE DATA BASE. REMEMBER THE TEXT OF THE COMPUTER FILED RULE MUST BE IDENTICAL - WORD FOR WORD, COMMA FOR COMMA, WITH ALL UNDERLINING AND STRIKE-THROUGHS TAKEN OUT, AS THE HARD COPY AUTHORIZED BY THE LEGISLATURE.**

After the final rule is entered into the legislative data base, the rule will be sent to the agency for review and proofing. Following confirmation or corrections, as the case may be, the Secretary of State shall submit to the agency a final version of the rule for their records.

If you have any questions or need any assistance, please do not hesitate to call our office.

Thank You  
Administrative Law Division

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. -- These rule<sup>s</sup> establishes regulations when hunting migratory game birds in West Virginia.

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

1.3. Filing Date. --

1.4. Effective Date. -- July 1, 1993

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 Section 4 of the Migratory Bird Hunting Regulations (47 C.S.R 12).

2.9. "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 this regulation 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 being removed 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 from the motor or the sail 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 the 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 Subsection 3.2 of this regulation.

3.3. Wanton Waste. A hunter must retrieve all migratory game birds killed or crippled, if possible and retain them in his or her custody 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 birds while being transported from the field to the hunters 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 the hunters 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 the 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.

SENATE BILL NO. 157

(By **Senator Manchin**)

[Introduced March 1, 1993; referred to the  
Committee on Natural resources; and then to the  
Committee on the Judiciary.]

8

9

10 A BILL to amend and reenact section eight, article three, chapter  
11 sixty-four of the code of West Virginia, one thousand nine  
12 hundred thirty-one, as amended, relating to authorizing the  
13 division of natural resources to promulgate legislative rules  
14 relating to special migratory bird hunting regulations.

15 Be it enacted by the Legislature of West Virginia:

16 That section eight, article three, chapter sixty-four of the  
17 code of West Virginia, one thousand nine hundred thirty-one, as  
18 amended, be amended and reenacted, to read as follows:

19 **ARTICLE 3. AUTHORIZATION FOR DEPARTMENT OF COMMERCE, LABOR AND**  
20 **ENVIRONMENTAL RESOURCES TO PROMULGATE LEGISLATIVE RULES.**

21 **§64-3-8. Division of natural resources.**

22 (a) The legislative rules filed in the state register on the  
23 eighth day of December, one thousand nine hundred eighty-three,

1 relating to the department of natural resources (surface mining),  
2 are authorized with the amendments set forth below:

3 Page 3-4, §3E.01 by adding after the word "engineer" the  
4 words "or licensed land surveyor."

5 Page 3-5, §3E.02, subsection (a), by adding after the word  
6 "mining" the words "or civil."

7 And,

8 Page 3-5, §3E.02, subsection (b), by adding after the first  
9 sentence -- "Those persons who have been approved to date need  
10 not make said demonstration."

11 (b) The legislative rules filed in the state register on the  
12 twentieth day of January, one thousand nine hundred eighty-four,  
13 relating to the department of natural resources (solid waste  
14 management), are authorized with the amendments set forth below:

15 Page 9, section 4.04, line five, add the following paragraph:

16 "Upon request of any applicant, the division shall meet with  
17 the applicant for prefiling review of the application. The  
18 division, with the cooperation of the solid waste authority,  
19 shall assist the applicant in preparing a complete and proper  
20 application which would not be rejected as incomplete."

21 On page 15, section 6.03(c)(1) in the first full sentence,  
22 after the word "cease", strike the remainder of the sentence and  
23 insert in lieu thereof the words "within fifteen (15) days of  
24 receipt of an order of suspension" and in the second sentence  
25 strike the word "recommence" and insert the words "continue

1 beyond fifteen (15) days"; (c)(2) in the first full sentence,  
2 after the word "cease" by striking out the remainder of the  
3 sentence and insert in lieu thereof the words "immediately upon  
4 receipt of an order of revocation."

5 (c) The legislative rules filed in the state register on the  
6 twenty-sixth day of September, one thousand nine hundred  
7 eighty-four, relating to the department of natural resources  
8 (public use of state parks, forests, hunting and fishing areas),  
9 are authorized.

10 (d) The legislative rules filed in the state register on the  
11 seventh day of November, one thousand nine hundred eighty-four,  
12 relating to the department of natural resources (surface mining  
13 reclamation), are authorized.

14 (e) The legislative rules filed in the state register on the  
15 seventh day of November, one thousand nine hundred eighty-four,  
16 relating to the department of natural resources (coal refuse  
17 disposal), are authorized.

18 (f) The legislative rules filed in the state register on the  
19 ninth day of November, one thousand nine hundred eighty-four,  
20 relating to the department of natural resources (transfer of the  
21 state national pollutant discharge elimination system program),  
22 are authorized with the amendment set forth below:

23 Page 10-5, by striking §10B.19 and inserting in lieu thereof  
24 a new §10B.19, to read as follows: "'Effluent limitations  
25 guidelines' means a regulation published by the Administrator

1 under Section 304(b) or Section 301(b)(1)(B) of the CWA to adopt  
2 or revise effluent limitations or levels of effluent quality  
3 attainable through the application of secondary or equivalent  
4 treatment. For the coal industry these regulations are published  
5 at 40 C.F.R. Parts 434 and 133. (See: Appendix G and H)."

6 (g) The legislative rules filed in the state register on the  
7 twenty-eighth day of August, one thousand nine hundred  
8 eighty-four, relating to the department of natural resources  
9 (small arms hunting), are authorized.

10 (h) The legislative rules filed in the state register on the  
11 sixth day of January, one thousand nine hundred eighty-four,  
12 relating to the department of natural resources (hazardous waste  
13 management), are authorized.

14 (i) The legislative rules filed in the state register on the  
15 third day of December, one thousand nine hundred eighty-four,  
16 modified by the department of natural resources to meet the  
17 objections of the legislative rule-making review committee and  
18 refiled in the state register on the thirteenth day of February,  
19 one thousand nine hundred eighty-five, relating to the department  
20 of natural resources (hazardous waste management), are  
21 authorized.

22 (j) The legislative rules filed in the state register on the  
23 tenth day of October, one thousand nine hundred eighty-five,  
24 relating to the department of natural resources (hazardous waste  
25 management: Small quantity generators and waste minimization

1 certification), are authorized with the amendment set forth  
2 below:

3       On page 1, §3.1.4b, delete the word "or" in the reference to  
4 "paragraph (g) or (j)" and insert in lieu thereof the words "and,  
5 if applicable."

6       (k) The legislative rules filed in the state register on the  
7 ninth day of September, one thousand nine hundred eighty-five,  
8 relating to the department of natural resources (WV/NPDES  
9 regulations for the coal mining point source category and related  
10 sewage facilities), are authorized.

11       (l) The legislative rules filed in the state register on the  
12 eleventh day of December, one thousand nine hundred eighty-five,  
13 modified by the department of natural resources to meet the  
14 objections of the legislative rule-making review committee and  
15 refiled in the state register on the twentieth day of February,  
16 one thousand nine hundred eighty-six, relating to the department  
17 of natural resources (hazardous waste management), are  
18 authorized.

19       (m) The legislative rules filed in the state register on the  
20 twenty-sixth day of September, one thousand nine hundred  
21 eighty-six, modified by the department of natural resources to  
22 meet the objections of the legislative rule-making review  
23 committee and refiled in the state register on the ninth day of  
24 December, one thousand nine hundred eighty-six, relating to the

1 department of natural resources (hazardous waste management  
2 regulations), are authorized.

3 (n) The legislative rules filed in the state register on the  
4 seventh day of August, one thousand nine hundred eighty-six,  
5 relating to the director of the department of natural resources  
6 (procedures for transporting and dealing in furbearing animals),  
7 are authorized.

8 (o) The legislative rules filed in the state register on the  
9 thirtieth day of December, one thousand nine hundred eighty-six,  
10 relating to the department of natural resources (WV/NPDES program  
11 for coal mines and preparation plants, and the refuse and waste  
12 therefrom), are authorized with the amendments set forth below:

13 On page four, §1.9.1.a by inserting the words "five thousand  
14 dollars or" after the words "'significant portion of income'  
15 means."

16 And,

17 On page four, §1.9.1.a by inserting the words "whichever is  
18 less," after the words "ten percent or more of gross personal  
19 income for a calendar year."

20 (p) The legislative rules filed in the state register on the  
21 fifth day of March, one thousand nine hundred eighty-six,  
22 relating to the department of natural resources (hazardous waste  
23 management), are authorized.

24 (q) The legislative rules filed in the state register on the  
25 twelfth day of August, one thousand nine hundred eighty-seven,

1 relating to the department of natural resources (WV/NPDES  
2 regulations for coal mining facilities), are authorized.

3 (r) The legislative rules filed in the state register on the  
4 tenth day of June, one thousand nine hundred eighty-seven,  
5 relating to the director of the department of natural resources  
6 (outfitters and guides), are authorized.

7 (s) The legislative rules filed in the state register on the  
8 ninth day of January, one thousand nine hundred eighty-seven,  
9 relating to the department of natural resources (hazardous waste  
10 management regulations), are authorized.

11 (t) The legislative rules filed in the state register on the  
12 fifth day of March, one thousand nine hundred eighty-seven,  
13 relating to the department of natural resources (hazardous waste  
14 management regulations, series 35), are authorized.

15 (u) The legislative rules filed in the state register on the  
16 seventh day of December, one thousand nine hundred eighty-seven,  
17 relating to the department of natural resources (hazardous waste  
18 management regulations, series 35), are authorized.

19 (v) The legislative rules filed in the state register on the  
20 sixteenth day of December, one thousand nine hundred  
21 eighty-seven, modified by the department of natural resources to  
22 meet the objections of the legislative rule-making review  
23 committee and refiled in the state register on the fourteenth day  
24 of January, one thousand nine hundred eighty-eight, relating to

1 the department of natural resources (solid waste management), are  
2 authorized.

3 (w) The legislative rules filed in the state register on the  
4 twenty-eighth day of July, one thousand nine hundred  
5 eighty-seven, modified by the director of the department of  
6 natural resources to meet the objections of the legislative  
7 rule-making review committee and refiled in the state register on  
8 the seventh day of August, one thousand nine hundred  
9 eighty-seven, relating to the director of the department of  
10 natural resources (boating regulations), are authorized with the  
11 amendment set forth below:

12 On page 16, section 6.2, line 3 by inserting following the  
13 period "This regulation does not apply to licensed outfitters  
14 and guides." These rules were proposed by the director of the  
15 department of natural resources pursuant to section seven,  
16 article one and section twenty-two, article seven, chapter twenty  
17 of this code.

18 (x) The legislative rules filed in the state register on the  
19 second day of September, one thousand nine hundred eighty-eight,  
20 modified by the department of natural resources to meet the  
21 objections of the legislative rule-making review committee and  
22 refiled in the state register on the seventeenth day of October,  
23 one thousand nine hundred eighty-eight, relating to the  
24 department of natural resources (hazardous waste management), are  
25 authorized.

1 (y) The legislative rules filed in the state register on the  
2 thirty-first day of August, one thousand nine hundred  
3 eighty-eight, relating to the director of the department of  
4 natural resources (boating), are authorized.

5 (z) The legislative rules filed in the state register on the  
6 eighth day of March, one thousand nine hundred eighty-eight,  
7 modified by the director of the department of natural resources  
8 to meet the objections of the legislative rule-making review  
9 committee and refiled in the state register on the thirtieth day  
10 of August, one thousand nine hundred eighty-eight, relating to  
11 the director of the department of natural resources (commercial  
12 sale of wildlife), are authorized.

13 (aa) The legislative rules filed in the state register on the  
14 twenty-seventh day of January, one thousand nine hundred  
15 eighty-eight, relating to the director of the department of  
16 natural resources (catching and selling bait fish), are  
17 authorized.

18 (bb) The legislative rules filed in the state register on the  
19 twenty-fifth day of March, one thousand nine hundred  
20 eighty-eight, relating to the director of the department of  
21 natural resources (West Virginia public hunting and fishing  
22 areas), are authorized with the following amendment:

23 On page three, section 3.8.4, by inserting after the word  
24 "vehicle" the following: ", all terrain vehicle (ATV)."

1 (cc) The legislative rules filed in the state register on the  
2 seventeenth day of March, one thousand nine hundred eighty-nine,  
3 modified by the division of natural resources to meet the  
4 objections of the legislative rule-making review committee and  
5 refiled in the state register on the sixteenth day of January,  
6 one thousand nine hundred ninety, relating to the division of  
7 natural resources (solid waste management), are authorized with  
8 the amendments set forth below:

9 On page 13, Section 3.2.6, by deleting the current language  
10 and inserting in lieu thereof the following:

11 "3.2.6. Within two hundred (200) feet of faults that have  
12 had displacement in Holocene time (i.e., during the last eleven  
13 thousand years);"

14 On page 64, Section 3.14.25, by deleting the current language  
15 and inserting in lieu thereof the following language:

16 "3.14.25. **Environmental Compliance History.** The chief or  
17 the director may refuse to grant any permit if he has reasonable  
18 cause to believe, as indicated by documented evidence, that the  
19 applicant, or any officer, director or manager, thereof, or  
20 shareholder owning twenty percent (20%) or more of its capital  
21 stock, beneficial or otherwise, or other person conducting or  
22 managing the affairs of the applicant or of the proposed  
23 permitted premises, in whole or part, has exhibited a pattern of  
24 violation of the environmental statutes or regulations of this  
25 State, any other state, or the federal government."

1 On page 104, section 4.5.4.a, by inserting after the words  
2 "at that landfill" the following:

3 "Nothing within these regulations shall be construed to allow  
4 the installations of any liner or system on areas not lined as of  
5 November 30, 1989, that is not in conformance with section  
6 4.5.4.a.E or 4.5.4.a.G of these regulations. Landfills that do  
7 have an article 5f permit and a liner installed as of November  
8 30, 1989, may install a liner as approved by the chief."

9 And,

10 On pages 147 through 151, sections 4.11.5 and 4.11.6, by  
11 deleting the current language and inserting in lieu thereof the  
12 following:

13 "4.11.5. Corrective Action Program.

14 Whenever a statistically significant increase is found in a  
15 Phase II or Phase III monitoring parameter, or when groundwater  
16 contamination is otherwise identified by the Chief at sites  
17 without monitoring programs, which is determined by the Chief to  
18 have resulted in a significant adverse effect on an aquifer, and  
19 which is attributable to a solid waste facility, the Chief may  
20 require appropriate corrective or remedial action pursuant to W.  
21 Va. Code Chapter 20, article 5A, and Chapter 20, article 5F to  
22 abate, remediate or correct such pollution. Any such corrective  
23 or remedial action order shall take into account any applicable  
24 groundwater quality protection standards, the existing use of

1 such waters, the reasonable uses of such waters, background water  
2 quality, and the protection of human health and the environment."

3       -(dd) The legislative rules filed in the state register on the  
4 seventeenth day of February, one thousand nine hundred  
5 eighty-nine, relating to the director of the department of  
6 natural resources (underground storage tanks), are authorized.

7       (ee) The legislative rules filed in the state register on the  
8 twenty-seventh day of January, one thousand nine hundred  
9 eighty-nine, relating to the director of the department of  
10 natural resources (transporting and selling wildlife pelts), are  
11 authorized.

12       (ff) The legislative rules filed in the state register on the  
13 seventeenth day of February, one thousand nine hundred  
14 eighty-nine, modified by the director of the department of  
15 natural resources to meet the objections of the legislative  
16 rule-making review committee and refiled in the state register on  
17 the ninth day of August, one thousand nine hundred eighty-nine,  
18 relating to the director of the department of natural resources  
19 (underground storage tank fee assessments), are authorized.

20       (gg) The legislative rules filed in the state register on the  
21 twenty-fourth day of April, one thousand nine hundred  
22 eighty-nine, modified by the director of the department of  
23 natural resources to meet the objections of the legislative  
24 rule-making review committee and refiled in the state register on  
25 the twenty-second day of May, one thousand nine hundred

1 eighty-nine, relating to the director of the department of  
2 natural resources (public hunting and fishing areas), are  
3 authorized.

4 (hh) The legislative rules filed in the state register on the  
5 first day of December, one thousand nine hundred eighty-nine,  
6 relating to the department of natural resources (water pollution  
7 control permit fee schedules), are authorized with the amendments  
8 set forth below:

9 On page five, section 3.3, by deleting the following:  
10 "Submitted fees are not refundable."

11 On page two, after section 2.6, by inserting the following:

12 "Customer" means any person that purchases waste disposal  
13 services from a facility permitted under article five-a, chapter  
14 twenty of the code of West Virginia, one thousand nine hundred  
15 thirty-one, as amended. For the purposes of these regulations,  
16 commercial and other non-single family dwelling customers shall  
17 be translated into customer equivalents by dividing the total  
18 daily estimated volume of waste water by three hundred and fifty  
19 gallons per day." and renumbering the remaining subsections.

20 On page nine, section 7.2, by striking out the words "seven  
21 hundred fifty dollars (\$750)." and inserting in lieu thereof the  
22 following:

23 "determined using Table D, but in no case shall be less than  
24 two hundred fifty dollars (\$250)."

25 And,

1 On page thirteen, by striking out all of Table D, Schedule of  
2 Annual Permit Fees, and inserting in lieu thereof a new Table D,  
3 designated "Schedule of Annual Permit Fees", to read as follows:

4 "TABLE D

5 SCHEDULE OF ANNUAL PERMIT FEES

6 SEWAGE FACILITIES

7 Number of Customers	Annual Permit Fee
8 less than 1000	\$ 250
9 1000 to 1499	\$ 500
10 1500 to 1999	\$ 750
11 2000 to 2499	\$ 1000
12 2500 to 2999	\$ 1250
13 3000 to 3499	\$ 1500
14 3500 to 3999	\$ 1750
15 4000 to 4499	\$ 2000
16 4500 to 4999	\$ 2250
17 greater than 5000	\$ 2500

18 INDUSTRIAL OR OTHER WASTE FACILITIES

19 Average Discharge Volume	Annual Permit Fee
20 (gallons per day)	
21 less than 1,000	\$ 50
22 1,001 to 10,000	\$ 500
23 10,001 to 50,000	\$ 1000
24 greater than 50,000	\$ 2500"

1 (ii) The legislative rules filed in the state register on the  
2 twenty-fifth day of July, one thousand nine hundred eighty-nine,  
3 modified by the director of the department of natural resources  
4 to meet the objections of the legislative rule-making review  
5 committee and refiled in the state register on the fifteenth day  
6 of September, one thousand nine hundred eighty-nine, relating to  
7 the director of the department of natural resources (revocation  
8 of hunting and fishing licenses), are authorized.

9 (jj) The legislative rules filed in the state register on the  
10 twentieth day of December, one thousand nine hundred eighty-nine,  
11 modified by the division of natural resources to meet the  
12 objections of the legislative rule-making review committee and  
13 refiled in the state register on the twenty-fourth day of  
14 January, one thousand nine hundred ninety, relating to the  
15 division of natural resources (state water pollution control  
16 revolving fund program), are authorized.

17 (kk) The legislative rules filed in the state register on the  
18 twenty-ninth day of March, one thousand nine hundred ninety,  
19 modified by the division of natural resources to meet the  
20 objections of the legislative rule-making review committee and  
21 refiled in the state register on the thirtieth day of August, one  
22 thousand nine hundred ninety, relating to the division of natural  
23 resources (assessment of civil administrative penalties), are  
24 authorized.

1  
1  
1  
1 (11) The legislative rules filed in the state register on the  
2 sixth day of August, one thousand nine hundred ninety, relating  
3 to the division of natural resources (water pollution control  
4 permit fee schedules), are authorized.

5 (mm) The legislative rules filed in the state register on the  
6 fifteenth day of June, one thousand nine hundred ninety, modified  
7 by the division of natural resources to meet the objections of  
8 the legislative rule-making review committee and refiled in the  
9 state register on the twenty-second day of August, one thousand  
10 nine hundred ninety, relating to the division of natural  
11 resources (underground storage tank insurance trust fund), are  
12 authorized with the amendment set forth below:

13 On page four, after subsection 5.1, by inserting a new  
14 subdivision 5.1.1 to read as follows:

15 "5.1.1 The fee shall be one hundred dollars per tank per  
16 year (\$100/tank/year) for a period of not less than one (1) year  
17 and not more than three (3) years. Second and third year  
18 capitalization fees may be levied if there is an inadequate  
19 surplus of funds, as determined by the Board of Risk and  
20 Insurance Management, the Division of Natural Resources and the  
21 Underground Storage Tank Advisory Committee pursuant to W. Va.  
22 Code, §20-5H-7."

23 (nn) The legislative rules filed in the state register on the  
24 thirteenth day of August, one thousand nine hundred ninety,  
25 modified by the division of natural resources to meet the

1 objections of the legislative rule-making review committee and  
2 refiled in the state register on the second day of October, one  
3 thousand nine hundred ninety, relating to the division of natural  
4 resources (underground storage tanks), are authorized with the  
5 amendment set forth below:

6 On page four, section five, subsection 5.1, after the word  
7 "requirements" by striking out the remainder of the subsection  
8 and inserting in lieu thereof, the following:

9 "of Title 47, Series 37 (Underground Storage Tank Fee  
10 Assessments); Title 47, Series 36, Section 4 (Notification  
11 Requirements); and Title 47, Series 37A, Section 5  
12 (Capitalization Fees) of the Code of State Regulations and the  
13 owner or operator presents proof of the certification to the  
14 carrier."

15 (oo) The legislative rules filed in the state register on the  
16 thirteenth day of August, one thousand nine hundred ninety,  
17 relating to the division of natural resources (dam safety), are  
18 authorized.

19 (pp) The legislative rules filed in the state register on the  
20 thirteenth day of August, one thousand nine hundred ninety,  
21 modified by the division of natural resources to meet the  
22 objections of the legislative rule-making review committee and  
23 refiled in the state register on the twenty-eighth day of  
24 November, one thousand nine hundred ninety, relating to the

1 division of natural resources (hazardous waste management), are  
2 authorized.

3 (qq) The legislative rules filed in the state register on the  
4 first day of July, one thousand nine hundred ninety-one, modified  
5 by the division of natural resources to meet the objections of  
6 the legislative rule-making review committee and refiled in the  
7 state register on the nineteenth day of September, one thousand  
8 nine hundred ninety-one, relating to the division of natural  
9 resources (special motorboating regulations), are authorized.

10 (rr) The legislative rules filed in the state register on the  
11 first day of May, one thousand nine hundred ninety-one, modified  
12 by the division of natural resources to meet the objections of  
13 the legislative rule-making review committee and refiled in the  
14 state register on the twenty-second day of July, one thousand  
15 nine hundred ninety-one, relating to the division of natural  
16 resources (special fishing regulations), are authorized with the  
17 amendment set forth below:

18 On page one, by striking out subsection 2.1 and inserting in  
19 lieu thereof, a new subsection 2.1, to read as follows:

20 "2.1 "Daylight hours" means the time period between sixty  
21 minutes before sunrise and sixty minutes after sunset."

22 (ss) The legislative rules filed in the state register on the  
23 first day of July, one thousand nine hundred ninety-one, modified  
24 by the division of natural resources to meet the objections of  
25 the legislative rule-making review committee and refiled in the

1 state register on the twenty-first day of November, one thousand  
2 nine hundred ninety-one, relating to the division of natural  
3 resources (boating regulations), are authorized.

4 (tt) The Legislature hereby authorizes and directs the  
5 division of natural resources to promulgate the legislative rule  
6 relating to water pollution control permit fee schedules, 47 CSR  
7 26, effective the twenty-second day of April, one thousand nine  
8 hundred ninety-one, with the amendment set forth below:

9 On page eight, subdivision 7.4.1, at the end of the  
10 subdivision by striking the period and adding the following:

11 ": Provided, That if the chief determines that a facility is  
12 in substantial compliance with its existing permit, the fee is  
13 one thousand two hundred fifty dollars (\$1,250.00)."

14 (uu) The legislative rules filed in the state register on the  
15 ninth day of September, one thousand nine hundred ninety-two,  
16 modified by the division of natural resources to meet the  
17 objections of the legislative rule-making review committee and  
18 refiled in the state register on the seventh day of December, one  
19 thousand nine hundred ninety-two, relating to the division of  
20 natural resources (special migratory bird hunting regulations),  
21 are authorized.

22

23 NOTE: The purpose of this bill is to authorize the Division  
24 of Natural Resources to promulgate legislative rules relating to  
25 special migratory bird hunting regulations.

26

27 Strike-throughs indicate language that would be stricken from  
28 the present law, and underscoring indicates new language that  
29 would be added.



KEN HECHLER  
Secretary of State

MARY P. RATLIFF  
Deputy Secretary of State

A. RENEE COE  
Deputy Secretary of State

CATHERINE FREROTTE  
Executive Assistant

Telephone: (304) 558-6000  
Corporations: (304) 558-8000

STATE OF WEST VIRGINIA

SECRETARY OF STATE

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

WILLIAM H. HARRINGTON  
Chief of Staff

JUDY COOPER  
Director, Administrative Law

DONALD R. WILKES  
Director, Corporations

(Plus the volunteer  
help we can get)

FAX: (304) 558-6000

OFFICE OF WEST VIRGINIA  
SECRETARY OF STATE

8:53 AM '93

FILED

TO: Jim Ruckle

AGENCY: Div. of Natural Resources

FROM: JUDY COOPER, DIRECTOR, ADMINISTRATIVE LAW DIVISION

DATE: July 26, 1993

THE ATTACHED RULE 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: 12A TITLE: 47 Div. of Natural Resources

\* THE ATTACHED RULE HAS BEEN REVIEWED AND IS CORRECT.

SIGNED: Jim Ruckle

TITLE OF PERSON SIGNING: Assistant Chief in Charge of Game Management

DATE: 8-5-93

\*\*\*\*\*

\* 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.