

WEST VIRGINIA
SECRETARY OF STATE
KEN HECHLER
ADMINISTRATIVE LAW DIVISION

Form #2

FILED
AUG 27 PM 1:05
OFFICE OF WEST VIRGINIA
SECRETARY OF STATE

NOTICE OF A COMMENT PERIOD ON A PROPOSED RULE

Department of Commerce, Labor
and Environmental Resources,
AGENCY: Division of Natural Resources TITLE NUMBER: 47
RULE TYPE: Legislative; CITE AUTHORITY West Virginia Code §20-1-7(30)
AMENDMENT TO AN EXISTING RULE: YES NO X
IF YES, SERIES NUMBER OF RULE BEING AMENDED: _____

TITLE OF RULE BEING AMENDED: _____

IF NO, SERIES NUMBER OF NEW RULE BEING PROPOSED: 12A

TITLE OF RULE BEING PROPOSED: Special Migratory Bird Hunting Regulations

IN LIEU OF A PUBLIC HEARING, A COMMENT PERIOD HAS BEEN ESTABLISHED DURING WHICH
ANY INTERESTED PERSON MAY SEND COMMENTS CONCERNING THESE PROPOSED RULES. THIS
COMMENT PERIOD WILL END ON September 30, 1991 AT 4:30 p.m.
ONLY WRITTEN COMMENTS WILL BE ACCEPTED AND ARE TO BE MAILED TO THE FOLLOWING
ADDRESS.

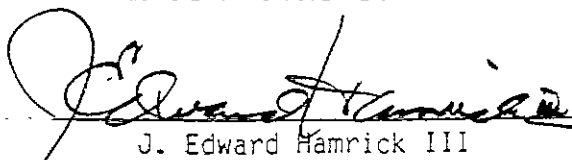
DNR Rule Comments

State Capitol Complex

Building 3 Room 712

Charleston, West Virginia 25305

THE ISSUES TO BE HEARD SHALL BE
LIMITED TO THIS PROPOSED RULE.


J. Edward Hamrick III
Director

ATTACH A **BRIEF** SUMMARY OF YOUR PROPOSAL

FISCAL NOTE FOR PROPOSED RULES

FILED

Rule Title: "Special Migratory Bird Hunting Regulations" JUN 27 PM 1:05

Type of Rule: XX Legislative Interpretive Procedural
OFFICE OF THE CLERK
LEGISLATIVE DEPARTMENT OF STATEAgency: Department of Commerce, Labor and Environmental
Resources Division of Natural Resources.Address: Building 3, State Capitol Complex, Charleston, West
Virginia 25305

1. Effect of Proposed Rule	Increase \$	ANNUAL	Current \$	FISCAL YEAR	
		Decrease \$		Next \$	Thereafter \$

Personal
ServicesCurrent
Expense

NO CHANGE

Repairs and
Alterations

Equipment

Other

2. Explanation of Above Estimates: This rule adopts provisions currently in effect under an exemption from legislative review. The Division feels it necessary for these provisions to be legislatively approved, therefore, is resubmitting these rules to be subject to Legislative review. No new administrative expenditures are anticipated.

3. Objectives of These Rules: The objectives of this rule are to provide for the safe hunting and proper management of migratory birds within the boundaries of this State.

4. Explanation of Overall Economic Impact of Proposed Rule.

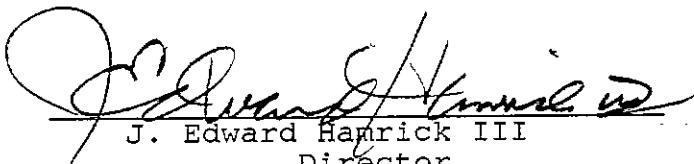
A. Economic Impact on State Government: No Impact.

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

2. Economic Impact on Specific Industries: No Impact.

3. Economic Impact on Specific Groups of Citizens: No Impact.

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



J. Edward Harrick III
Director

Date: August 21, 1991

PREAMBLE TO A PROPOSED RULE CONCERNING
SPECIAL MIGRATORY BIRD HUNTING REGULATIONS

FILED

551 AUG 27 PM 1:05

STATE AGENCY: Department of Commerce, Labor and Environmental
Resources, Division of Natural Resources. OFFICE OF WEST VIRGINIA
SECRETARY OF STATE

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

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

ACTION: Filing Notice of a Thirty-Day Comment Period on
Proposed Regulations.

SUMMARY: These regulations propose provisions currently
incorporated into exempted regulations. The Division feels it
necessary to seek legislative approval for provisions not exempted
under West Virginia Code §29A-1-3(c). The comment period will end
on September 30, 1991 at 4:30 p.m.

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

FILED

OFFICE OF NEIGHBORHOOD
RELATIONS STATE

SERIES 12A
SPECIAL MIGRATORY BIRD HUNTING REGULATIONS

§47-12A-1. General.

1.1. Scope and Purpose. -- These rule 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. --

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 these regulations.

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 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.

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. 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.

3.4. 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 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.

3.6. 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 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.