

**WEST VIRGINIA**  
**SECRETARY OF STATE**  
**KEN HECHLER**  
**ADMINISTRATIVE LAW DIVISION**

Form #5

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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**

AGENCY: West Virginia 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 \_\_\_\_\_, NO X

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

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

IF NO, SERIES NUMBER OF NEW RULE BEING ADOPTED: 13

TITLE OF RULE BEING ADOPTED: \_\_\_\_\_

Waterfowl Hunting Regulations

THE ABOVE RULE IS HEREBY ADOPTED AND FILED WITH THE SECRETARY OF STATE. THE  
EFFECTIVE DATE OF THIS RULE IS September 5, 1989

  
J. Edward Hamrick III  
Director

TITLE 47  
LEGISLATIVE RULES  
DEPARTMENT OF NATURAL RESOURCES

SERIES 13  
WATERFOWL HUNTING REGULATIONS

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SECRETARY OF STATE

§47-13-1. 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 in West Virginia.

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

1.3. Filing Date. -- September 5, 1989.

1.4. Effective Date. -- September 5, 1989.

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.

§47-13-2. Definitions.

2.1. "Aggregate" means the total bag or possession limit of similar kinds of waterfowl.

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 waterfowl 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. "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.

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

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

2.9. "Public Hunting and Fishing Area" means any public access area, public hunting area, public fishing area, public hunting and fishing area, public shooting ground, or public wildlife management area that is administered, leased, or owned by the State of West Virginia.

2.10. "Waterfowl" means members of the family *Anatidae* (ducks, geese, mergansers, and swans) and members of the family *Rallidae* (coots and gallinules) for which open seasons are prescribed in Section 4 of these regulations.

2.11. "Zone 1" means the entire state except Zone 2.

2.12. "Zone 2" means the following area:

2.12.1. 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.

2.12.2. 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.

2.12.3. 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.

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

**§47-13-3. General Waterfowl 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 Waterfowl.**

3.2.1. No person may take waterfowl 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 waterfowl 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 waterfowl 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 waterfowl 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 waterfowl 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 waterfowl 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 waterfowl by the use or aid of live birds as decoys.

3.2.6.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.

3.2.7. No person may take waterfowl by the use of records or tapes of waterfowl calls or sounds, or recorded or electrically-amplified imitations of waterfowl calls.

3.2.8. No person may take waterfowl 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 waterfowl 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 3.2 of these regulations.

3.3. Closed Season. No person may take waterfowl during the closed season.

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

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

3.6. Field Possession Limit. No person may possess more than the daily bag limit of any waterfowl 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 waterfowl 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 waterfowl 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 waterfowl belonging to another person unless such birds are properly tagged.

3.10. Possession of Live Birds. No person may at any time, or by any means, possess or transport live waterfowl 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 waterfowl 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 waterfowl 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 waterfowl 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 waterfowl 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 waterfowl s 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 waterfowl belonging to another person.

3.14. 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 or gallinules.

3.15. 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 or gallinules.

3.16. Mandatory Use of Steel Shot. Steel shot must be used in the hunting of waterfowl within the boundaries of a public hunting and fishing area.

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

#### **§47-13-4. Open Seasons.**

##### **4.1. Duck Seasons.**

###### **4.1.1. Zone 1 Duck Season.**

4.1.1.a. The first segment of this season opens on October 7, 1989 and closes on October 14, 1989.

4.1.1.b. The second segment of this season opens on December 16, 1989 and closes on January 6, 1990.

###### **4.1.2. Zone 2 Duck Season.**

4.1.2.a. The first segment of this season opens on October 7, 1989 and closes on October 14, 1989.

4.1.2.b. The second segment of this season opens on October 28, 1989 and closes on November 18, 1989.

4.1.3. There is no open season for either canvasbacks or harlequin ducks.

##### **4.2. Merganser Seasons.**

###### **4.2.1. Zone 1 Merganser Season.**

4.2.1.a. The first segment of this season opens on October 7, 1989 and closes on October 14, 1989.

4.2.1.b. The second segment of this season opens on December 16, 1989 and closes on January 6, 1990.

4.2.2. Zone 2 Merganser Season.

4.2.2.a. The first segment of this season opens on October 7, 1989 and closes on October 14, 1989.

4.2.2.b. The second segment of this season opens on October 28, 1989 and closes on November 18, 1989.

4.3. Coot Seasons.

4.3.1. Zone 1 Coot Season.

4.3.1.a. The first segment of this season opens on October 7, 1989 and closes on October 14, 1989.

4.3.1.b. The second segment of this season opens on December 16, 1989 and closes on January 6, 1990.

4.3.2. Zone 2 Coot Season.

4.3.2.a. The first segment of this season opens on October 7, 1989 and closes on October 14, 1989.

4.3.2.b. The second segment of this season opens on October 28, 1989 and closes on November 18, 1989.

4.4. Gallinule Seasons.

4.4.1. Zone 1 Gallinule Season.

4.4.1.a. The first segment of this season opens on October 7, 1989 and closes on October 14, 1989.

4.4.1.b. The second segment of this season opens on December 16, 1989 and closes on January 6, 1990.

4.4.2. Zone 2 Gallinule Season.

4.4.2.a. The first segment of this season opens on October 7, 1989 and closes on October 14, 1989.

4.4.2.b. The second segment of this season opens on October 28, 1989 and closes on November 18, 1989.

4.5. Canada Goose Seasons.

4.5.1. Zone 1 Canada Goose Season.

4.5.1.a. The first segment of this season opens on October 2, 1989 and closes on October 14, 1989.

4.5.1.b. The second segment of this season opens on November 25, 1989 and closes on January 20, 1990.

4.5.2. Zone 2 Canada Goose Season.

4.5.2.a. The first segment of this season opens on October 2, 1989 and closes on November 18, 1989.

4.5.2.b. The second segment of this season opens on December 30, 1989 and closes on January 20, 1990.

4.6. Snow Goose and Blue Goose Seasons.

4.6.1. Zone 1 Snow Goose and Blue Goose Season.

4.6.1.a. The first segment of this season opens on October 2, 1989 and closes on October 14, 1989.

4.6.1.b. The second segment of this season opens on November 25, 1989 and closes on January 20, 1990.

4.6.2. Zone 2 Snow Goose and Blue Goose Season.

4.6.2.a. The first segment of this season opens on October 2, 1989 and closes on November 18, 1989.

4.6.2.b. The second segment of this season opens on December 30, 1989 and closes on January 20, 1990.

4.7. Brant Season.

4.7.1. This season opens on December 2, 1989 and closes on January 20, 1990.

4.8. Swan Season.

4.8.1. There is no open season for swans.

**§47-13-5. Shooting Hours.**

5.1. Ducks.

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

5.2. Mergansers.

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

5.3. Coots.

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

5.4. Gallinules.

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

5.5. Canada Geese.

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

5.6. Snow Geese and Blue Geese.

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

5.7. Brant.

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

**§47-13-6. Bag and Possession Limits.**

6.1. Ducks.

6.1.1. The bag limit is three (3) ducks in aggregate per day and may include:

- 6.1.1.a. Only one (1) black duck;
- 6.1.1.b. Only one (1) fulvous tree duck;
- 6.1.1.c. Only one (1) hen mallard;
- 6.1.1.d. Only one (1) mottled duck;
- 6.1.1.e. Only one (1) pintail;
- 6.1.1.f. No more than two (2) redheads; and
- 6.1.1.g. No more than two (2) wood ducks.

6.1.2. The possession limit is six (6) ducks in aggregate and may include:

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

6.1.2.b. No more than two (2) fulvous tree ducks;

6.1.2.c. No more than two (2) hen mallards;

6.1.2.d. No more than two (2) mottled ducks;

6.1.2.e. No more than two (2) pintails;

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

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

#### 6.2. Mergansers.

6.2.1. The bag limit is five (5) mergansers in aggregate per day and may include only one (1) hooded merganser.

6.2.2. The possession limit is ten (10) mergansers in aggregate and may include no more than two (2) hooded mergansers.

#### 6.3. Coots.

6.3.1. The bag limit is fifteen (15) coots per day.

6.3.2. The possession limit is thirty (30) coots.

#### 6.4. Gallinules.

6.4.1. The bag limit is fifteen (15) gallinules per day.

6.4.2. The possession limit is fifteen (15) gallinules.

#### 6.5. Canada Geese.

6.5.1. The bag limit is three (3) Canada geese per day.

6.5.2. The possession limit is six (6) Canada geese.

#### 6.6. Snow Geese and Blue Geese.

6.6.1. The bag limit is five (5) snow and blue geese in aggregate per day.

6.6.2. The possession limit is ten (10) snow and blue geese in aggregate.

6.7. Brant.

6.7.1. The bag limit is two (2) brant per day.

6.7.2. The possession limit is four (4) brant.

**§47-13-7. 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 and 7.3 of these regulations.

7.2. Seasons for Canada geese, snow geese, and blue geese in the McClintic Public Hunting and Fishing Area are closed until October 7, 1989.

7.3. Hunting in the controlled waterfowl hunting area is restricted to waterfowl hunting from State-controlled blinds during the period commencing on October 7, 1989 and ending on October 14, 1989 even if other hunting seasons run concurrently. 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. Shooting hours in the controlled waterfowl hunting area are from thirty (30) minutes before sunrise until noon during the period commencing on October 7, 1989 and ending on October 14, 1989.

7.5. All hunting in the controlled waterfowl hunting area is by permit only during the period commencing on October 7, 1989 and ending on October 14, 1989.

7.5.1. Applications for controlled area hunting permits must be received at the DNR Point Pleasant Office, Route 1, Box 484, Point Pleasant, West Virginia 25550, by September 15, 1989.

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

7.5.3. Controlled area hunting permits are not transferable.

7.5.4. 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.

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

7.5.6. 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.

7.6. All hunters in the controlled waterfowl hunting area during the period commencing on October 7, 1989 and ending on October 14, 1989 must obey the following rules:

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

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

7.6.3. Alcoholic beverages are prohibited in the blind area.

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

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

#### **§47-13-8. Green Bottom Wildlife Management Area.**

8.1. The provisions of Sections 3 through 6 of these regulations are in effect at the Green Bottom Wildlife Management Area, except as provided in Sections 8.2 through 8.4 of these regulations.

8.2. Seasons for Canada geese, snow geese, and blue geese are closed until October 7, 1989.

8.3. Shooting hours for waterfowl are from thirty (30) minutes before sunrise until noon during the period commencing on October 7, 1989 and ending on October 14, 1989.

8.4. Waterfowl hunting is by permit only.

8.4.1. A permit shall be obtained at the Green Bottom Wildlife Management Area Headquarters prior to each day's hunt. Permits will be issued between the hours of five o'clock and seven o'clock antemeridian (5:00 a.m. through 7:00 a.m.) during the open waterfowl seasons.

KEN HECHLER  
Secretary of State

MARY P. RATLIFF  
Deputy Secretary of State

A. RENEE COE  
Deputy Secretary of State

CATHERINE FREROTTE  
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STATE OF WEST VIRGINIA

SECRETARY OF STATE

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WILLIAM H. HARRINGTON  
Chief of Staff

JUDY COOPER  
Director, Administrative Law

DONALD R. WILKES  
Director, Corporations

(Plus all the volunteer  
help we can get)

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: 13 TITLE: 47 Natural Resources

THE ATTACHED RULE HAS BEEN REVIEWED AND IS CORRECT.

SIGNED: F.B. Pelavic

TITLE OF PERSON SIGNING: Administrator, DEP Regulatory Off. in

DATE: 9/2/92

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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 will be repeated and replaced 9/4/92. Therefore, not reviewed*