

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

Form #5

Do Not Mark in this Box

**FILED**

AUG 28 2 50 PM '95

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: Bureau of Commerce, Division of Natural Resources TITLE NUMBER: 58

CITE AUTHORITY: §§20-1-17(7) and 29A-1-3(c)

RULE TYPE: PROCEDURAL \_\_\_\_\_ INTERPRETIVE \_\_\_\_\_

EXEMPT LEGISLATIVE RULE \_\_\_\_\_ X \_\_\_\_\_

CITE STATUTE(S) GRANTING EXEMPTION FROM LEGISLATIVE REVIEW

§29A-1-3(c)

AMENDMENT TO AN EXISTING RULE: YES x, NO \_\_\_\_\_

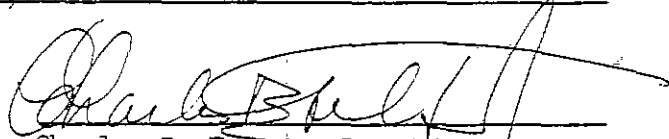
IF YES, SERIES NUMBER OF RULE BEING AMENDED: 13

TITLE OF RULE BEING AMENDED: Waterfowl 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, 1995

  
Charles B. Felton, Jr., Director,  
Division of Natural Resources

4.40

FISCAL NOTE FOR PROPOSED RULE

Rule Title: Waterfowl Hunting Regulations, 58 C.S.R. 13

Type of Rule: Exempt Legislative \_\_\_ Interpretive \_\_\_ Procedural

Agency: Division of Natural Resources

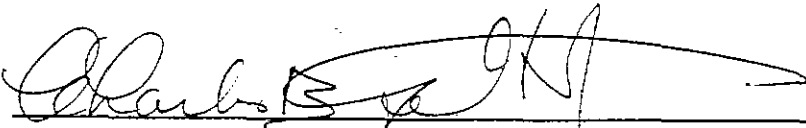
Address: Building 3, State Capitol Complex, Charleston, West Virginia

1. Effect of Proposed Rule	ANNUAL		FISCAL YEAR		Thereafter
	Increase	Decrease	Current	Next	
Estimated Total Cost	\$				
Personal Services	\$				
Current Expenses	\$				
Repairs & Alterations	\$		No Change		
Equipment	\$				
Other	\$				

2. Explanation of above estimates: There is no change anticipated to administrative expenditures as a result of this rule.
3. Objectives of this rule: This legislative exempt rule which repeals and replaces the current Waterfowl Hunting Regulations which were made effective September 1, 1994. This rule sets the open seasons and the bag, size, age, weight and sex limits with respect to the hunting of waterfowl in West Virginia. The rule will become effective upon filing.
4. Explanation of Overall Economic Impact of Proposed Rule.
  - A. Economic Impact on State Government. No impact.
  - B. Economic Impact on Political Subdivisions; Specific Industries; Specific groups of citizens. No impact
  - C. Economic Impact on Citizens/Public at Large. No impact.

Date: August 28, 1995

Signature of Agency Head or Authorized Representative

  
 Director, Division of Natural Resources

CIRCUMSTANCES FOR CHANGES IN  
WATERFOWL HUNTING REGULATIONS  
TITLE 58, SERIES 13

Regulations changes are in compliance with federal guidelines on waterfowl seasons, dates, and bag limits.

PREAMBLE TO A PROPOSED EXEMPT RULE  
CONCERNING  
WATERFOWL HUNTING REGULATIONS

**AGENCY:** Bureau of Commerce, Division of Natural Resources

**REGULATION:** Title 58, Series 13, "Waterfowl Hunting Regulations".

**ACTION:** Filing of a repealed and replaced legislative exempt rule.

**SUMMARY:** This is a legislative exempt rule which repeals and replaces the current Waterfowl Hunting Regulations which were made effective September 1, 1994. This rule sets the open season and the bag, size, age, weight and sex limits with respect to the hunting of waterfowl in West Virginia. The rule will become effective upon filing.

TITLE 58  
LEGISLATIVE RULES  
BUREAU OF COMMERCE  
DIVISION OF NATURAL RESOURCES

SERIES 13  
WATERFOWL HUNTING REGULATIONS  
(EXEMPT RULE)

§ 58-13-1. General.

1.1. Scope and Purpose. -- This regulation establishes the open seasons and the bag, size, age, weight, and sex limits for the hunting of waterfowl in West Virginia.

1.2. Authority. -- West Virginia Code §§ 29A-1-3(c) and 20-1-17(7).

1.3. Filing Date. -- August 28, 1995

1.4. Effective Date. -- September 1, 1995

1.5. Repeal of Former Rule. -- This regulation repeals and replaces 58 C.S.R. 13 "Waterfowl Hunting Regulations" which was filed on August 23, 1994 and became effective on ~~the same date~~ September 1, 1994.

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 the time periods are prevailing time unless otherwise noted in these regulations. Sunday hunting is illegal.

§ 58-13-2. Definitions.

2.1. All terms shall have the meanings prescribed in the Code of State Regulations, Title 47, Series 13A "Special Waterfowl Hunting Regulations" (47 C.S.R. 13A).

§ 58-13-3. General Provisions.

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

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

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

3.4. 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.

3.5. Wanton Waste - All waterfowl killed or crippled must be retrieved if possible and retained in the custody of the hunter in the field.

3.6. 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.

3.7. 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.

#### § 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 ~~12~~, 199~~4~~5 and closes on October ~~8~~14, 199~~4~~5.

4.1.1.b. The second segment of this season opens on December ~~24~~15, 199~~4~~5 and closes on January ~~14~~20, 199~~5~~6.

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

4.1.2.a. The first segment of this season opens on October ~~12~~, 199~~4~~5 and closes on October ~~8~~14, 199~~4~~5.

4.1.2.b. The second segment of this season opens on ~~October 22~~November 24, 19945 and closes on ~~November 12~~December 30, 19945.

4.1.3. There is no open season for 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 ~~12~~, 19945 and closes on October ~~8~~14, 19945.

4.2.1.b. The second segment of this season opens on December ~~24~~15, 19945 and closes on January ~~14~~20, 19956.

4.2.2. Zone 2 Merganser Season.

4.2.2.a. The first segment of this season opens on October ~~12~~, 19945 and closes on October ~~8~~14, 19945.

4.2.2.b. The second segment of this season opens on ~~October 22~~November 24, 19945 and closes on ~~November 12~~December 30, 19945.

4.3. Coot Seasons.

4.3.1. Zone 1 Coot Season.

4.3.1.a. The first segment of this season opens October ~~12~~, 19945 and closes on October ~~8~~14, 19945.

4.3.1.b. The second segment of this season opens on December ~~24~~15, 19945 and closes on January ~~14~~20, 19956.

4.3.2. Zone 2 Coot Season.

4.3.2.a. The first segment of this season opens on October ~~12~~, 19945 and closes on October ~~8~~14, 19945.

4.3.2.b. The second segment of this season opens on ~~October 22~~November 24, 19945 and closes ~~November 12~~December 30, 19945.

4.4. Gallinule Seasons.

4.4.1. Zone 1 Gallinule Season.

4.4.1.a. The first segment of this season opens on October ~~12~~, 19945 and closes on October ~~8~~14, 19945.

4.4.1.b. The second segment of this season opens on December ~~2~~15, 19945 and closes on January ~~1~~20, 19956.

4.4.2. Zone 2 Gallinule Season.

4.4.2.a. The first segment of this season opens on October ~~12~~, 19945 and closes on October ~~8~~14, 19945.

4.4.2.b. The second segment of this season opens on ~~October 22~~November 24, 19945 and closes ~~November 12~~December 30, 19945.

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 ~~12~~, 19945 and closes on October ~~8~~14, 19945.

4.5.1.b. The second segment of this season opens on November ~~1~~25, 19945 and closes on January ~~1~~20, 19956.

4.5.2. Zone 2 Canada Goose Season.

4.5.2.a. The first segment of this season opens on October ~~12~~, 19945 and closes on November ~~1~~21, 19945.

4.5.2.b. The second segment of this season opens on December ~~1~~23, 19945 and closes on January ~~1~~20, 19956.

4.6. Snow Goose and Blue Goose Seasons.

4.6.1. Zone 1 Snow Goose and Blue Goose Seasons.

4.6.1.a. The first segment of this season opens on October ~~12~~, 19945 and closes on October ~~8~~14, 19945.

4.6.1.b. The second segment of this season opens on November ~~1425~~, 1994~~5~~ and closes on January ~~1420~~, 1995~~6~~.

4.6.2. Zone 2 Snow Goose and Blue Goose Season.

4.6.2.a. The first segment of this season opens on October ~~12~~, 1994~~5~~ and closes on November ~~1211~~, 1994~~5~~.

4.6.2.b. The second segment of this season opens on December ~~1923~~, 1994~~5~~ and closes on January ~~1420~~, 1995~~6~~.

4.7. Brant Season.

4.7.1. This season opens on ~~November 26, 1994~~ December 2, 1995 and closes on January ~~1420~~, 1995~~6~~.

4.8. Swan Season.

4.8.1. There is no open season for swans.

#### § 58-13-5. 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.

**§ 58-13-6. Bag and Possession Limits.**

6.1. Ducks.

6.1.1. The bag limit is ~~four (4)~~five (5) 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 treewhistling duck;

6.1.1.c. ~~No more than three (3) mallards, only one (1) of which may be a hen;~~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;

6.1.1.g. No more than two (2) wood ducks; and

6.1.1.h. Only one (1) canvasback.

6.1.2. The possession limit is ~~eight (8)~~ten (10) 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 treewhistling ducks;
- 6.1.2.c. ~~No more than six (6) mallards, only two (2) of which may be hens.~~ 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;
- 6.1.2.g. No more than four (4) wood ducks; and
- 6.1.2.h. No more than two (2) canvasbacks.

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 (30) gallinules.

6.5. Canada Goose.

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.



KEN HECHLER  
Secretary of State

MARY P. RATLIFF  
Deputy Secretary of State

STEPHEN N. REED  
Deputy Secretary of State

CATHERINE FREROTTE  
Executive Assistant

Telephone: (304) 558-6000  
Corporations: (304) 558-8000  
FAX: (304) 558-0900

WILLIAM H. HARRINGTON  
Chief of Staff

JUDY COOPER  
Director, Administrative Law

PENNEY BARKER  
Supervisor, Corporations

### STATE OF WEST VIRGINIA

#### SECRETARY OF STATE

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

(Plus all the volunteer  
help we can get)

TO: Gordon Robertson  
~~Robert Miles~~

AGENCY: Natural Resources

FROM: JUDY COOPER, DIRECTOR, ADMINISTRATIVE LAW DIVISION

DATE: November 9, 1995

OFFICE OF WEST VIRGINIA  
SECRETARY OF STATE

Nov 27 2 54 PM '95

FILED

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: 13 TITLE: 58 Natural Resources

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

SIGNED: \_\_\_\_\_

TITLE OF PERSON SIGNING: \_\_\_\_\_

DATE: \_\_\_\_\_

\*\*\*\*\*

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

SIGNED: Gordon C. Robertson

TITLE OF PERSON SIGNING: Deputy Chief, Wildlife Resources - DNR

DATE: 11/17/95

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