

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

Form #3

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**FILED**

Jul 25 9 35 AM '97

OFFICE OF WEST VIRGINIA  
SECRETARY OF STATE

**NOTICE OF AGENCY APPROVAL OF A PROPOSED RULE  
AND  
FILING WITH THE LEGISLATIVE RULE-MAKING REVIEW COMMITTEE**

AGENCY: BUREAU OF COMMERCE, DIVISION OF NATURAL RESOURCES TITLE NUMBER: 58

CITE AUTHORITY: 20-1-7(30)

AMENDMENT TO AN EXISTING RULE: YES  NO

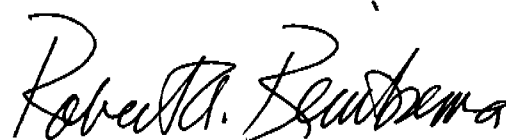
IF YES, SERIES NUMBER OF RULE BEING AMENDED: 56

TITLE OF RULE BEING AMENDED: SPECIAL MIGRATORY BIRD HUNTING REGULATIONS

IF NO, SERIES NUMBER OF NEW RULE BEING PROPOSED: \_\_\_\_\_

TITLE OF RULE BEING PROPOSED: \_\_\_\_\_

**THE ABOVE PROPOSED LEGISLATIVE RULE HAVING GONE TO A PUBLIC HEARING OR A PUBLIC COMMENT PERIOD IS HEREBY APPROVED BY THE PROMULGATING AGENCY FOR FILING WITH THE SECRETARY OF STATE AND THE LEGISLATIVE RULE MAKING REVIEW COMMITTEE FOR THEIR REVIEW.**



ROBERT A. REINTSEMA, COMMISSIONER

\$4.00

DATE: July 16, 1997

TO: LEGISLATIVE RULE-MAKING REVIEW COMMITTEE

FROM: BOC, DNR - WILDLIFE RESOURCES SECTION

LEGISLATIVE RULE TITLE: SPECIAL MIGRATORY BIRD HUNTING REGULATIONS

1. Authorizing statute(s) citation 20-1-7(30)

2. a. Date filed in State Register with Notice of Hearing May 30, 1997

b. What other notice, including advertising, did you give of the hearing

Statewide DNR News Release

c. Date of Hearing(s) N/A

d. Attach list of persons who appeared at hearing, comments received, amendments, reasons for amendments.

Attached \_\_\_\_\_ No comments received X

e. Date you filed in State Register the agency approved proposed Legislative Rule following public hearing: (be exact)

N/A

f. Name and phone number(s) of agency persons(s) to contact for additional information:

Gordon Robertson - 304-558-2771

3. If the statute under which you promulgated the submitted rules requires certain findings and determinations to be made as a condition precedent to their promulgation:

a. Give the date upon which you filed in the State Register a notice of the time and place of a hearing for the taking of evidence and a general description of the issues to be decided.

N/A

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b. Date of hearing: N/A

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c. On what date did you file in the State Register the findings and determinations required together with the reasons therefor?

N/A

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d. Attach findings and determinations and reasons:

Attached N/A

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## **CIRCUMSTANCES REQUIRING THE PROPOSED RULE**

The Division of Natural Resources, if it wishes to continue migratory bird seasons, must participate in the federally mandated Migratory Bird Harvest Information Program. The program required harvest date be asked of all migratory bird hunters within each state. This rule provides direction for compliance with that program.

## **SUMMARY OF THE RULE**

Title 58, Series 56, Special Migratory Bird Hunting Regulations establishes regulations for hunters hunting migratory birds in West Virginia. This rule is being amended to bring West Virginia in conformance with the federal harvest data collection requirements of the Migratory Bird Harvest Information Program.

## FISCAL NOTE FOR PROPOSED RULE

Rule Title: Series 56, Special Migratory Bird Hunting Regulations

Type of Rule      X      Legislative                  Interpretive                  Procedural

Agency    Division of Natural Resources, Wildlife Resources Section

Address    Capitol Complex

Building 3, Room 842

Charleston, WV 25305

**1. Effect of Proposed Rule**

	ANNUAL			FISCAL YEAR	
	INCREASE	DECREASE	CURRENT	NEXT	THEREAFTER
ESTIMATED TOTAL COST	8500	0	0	0	8500
PERSONAL SERVICES					
CURRENT EXPENSE					
REPAIRS & ALTERATIONS					
EQUIPMENT					
OTHER					

**2. Explanation of above estimates:** Estimates include the cost of printing and distributing forms. No new staff is required.

**3. Objectives of these rules:** To meet federal requirement for gathering harvest information on migratory birds.

**4. Explanation of overall Economic Impact of Proposed Rule.**

**A. Economic Impact on State Government:** The U.S. Fish and Wildlife Service will provide start-up cost for the first year and partial cost for the next two years.

Rule Title: Series 56, Special Migratory Bird Hunting Regulations

**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: 5/27/97

**Signature of Agency or  
Authorized Representative:**



ROBERT A. REINTSEMA, COMMISSIONER

TITLE 58  
LEGISLATIVE RULE  
BUREAU OF COMMERCE  
DIVISION OF NATURAL RESOURCES

FILED

JUL 25 9 35 AM '97

OFFICE OF WEST VIRGINIA  
SECRETARY OF STATE

SERIES 56  
SPECIAL MIGRATORY BIRD HUNTING REGULATIONS

**§58-56-1. General.**

1.1. Scope. -- These rule establishes regulations when hunting migratory game birds in West Virginia.

1.2. Authority. -- W. Va. 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.

**§58-56-2. 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 (58 C.S.R 55).

2.9. "Prevailing Time" means either Eastern Standard Time or Eastern Daylight Time as

established by the United States Congress.

**§58-56-3. 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.

3.8. Migratory Bird Harvest Information Program. No person, except those legally exempt from purchasing a hunting license, may take or attempt to take migratory game birds in West Virginia after July 1, 1998, unless they are enrolled annually in the Federal Migratory Bird Harvest Information Program as required by Federal Regulations (50 C.F.R.20.20).

3.8.1. Current proof of annual enrollment must be carried on the hunter's person while hunting migratory game birds.