

**WEST VIRGINIA
SECRETARY OF STATE
BETTY IRELAND
ADMINISTRATIVE LAW DIVISION**

Form #5

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FILED

2005 AUG 26 P 2:02

OFFICE WEST VIRGINIA
SECRETARY OF STATE

**NOTICE OF AGENCY ADOPTION OF A PROCEDURAL OR INTERPRETIVE RULE
OR A LEGISLATIVE RULE EXEMPT FROM LEGISLATIVE REVIEW**

AGENCY: Natural Resources BOC DNR Wildlife Resources Section 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: 57

TITLE OF RULE BEING AMENDED: Waterfowl Hunting Rule

IF NO, SERIES NUMBER OF RULE BEING PROPOSED: _____

TITLE OF RULE BEING PROPOSED: _____

THE ABOVE RULE IS HEREBY ADOPTED AND FILED WITH THE SECRETARY OF STATE. THE
EFFECTIVE DATE OF THIS RULE IS September 1, 2005

Brian Helms

Authorized Signature

**TITLE 58
LEGISLATIVE RULE
DIVISION OF NATURAL RESOURCES**

**SERIES 57
WATERFOWL HUNTING RULE
(EXEMPT RULE)**

CIRCUMSTANCE AND SUMMARY

SUMMARY: Series 57 revises the current Waterfowl Hunting Rule. This rule prescribes the open seasons and the bag, size, age, weight and sex limits with respect to the hunting waterfowl in West Virginia. The rule became effective on September 1, 2004. Revisions to this rule changes the bag limit and opening and closing dates for 2005.

CIRCUMSTANCE: This rule establishes the opening and closing dates for waterfowl hunting as directed by the U.S. Fish and Wildlife Service.

APPENDIX B
FISCAL NOTE FOR PROPOSED RULES

Rule Title: Series 57, Waterfowl Hunting Rule

Type of Rule: Legislative Interpretive Procedural

Agency: Division of Natural Resources, Wildlife Resources Section

Address: 1900 Kanawha Blvd., E. Capitol Complex, Bldg. 3, Room 842, Charleston, WV
25305

Phone Number: 304-558-2771 Email: _____

Fiscal Note Summary

Summarize in a clear and concise manner what impact this measure will have on costs and revenues of state government.

There is no change anticipated to the administrative expenditures as a result of this rule.

Fiscal Note Detail

Show over-all effect in Item 1 and 2 and, in Item 3, give an explanation of Breakdown by fiscal year, including long-range effect.

FISCAL YEAR			
Effect of Proposal	2005 Increase/Decrease (use "-")	2006 Increase/Decrease (use "-")	Fiscal Year (Upon Full Implementation)
1. Estimated Total Cost	0.00	0.00	0.00
Personal Services			
Current Expenses			
Repairs & Alterations			
Assets			
Equipment			
Other			
2. Estimated Total Revenues	0.00	0.00	0.00

Rule Title: Series 57, Waterfowl Hunting Rule

3. **Explanation of above estimates (including long-range effect):**
Please include any increase or decrease in fees in your estimated total revenues.

No impact.

MEMORANDUM

Please identify any areas of vagueness, technical defects, reasons the proposed rule would not have a fiscal impact, and/or any special issues not captured elsewhere on this form.

This rule makes minor changes to the waterfowl hunting season dates and bag limits for 2005.

Date: August 25, 2005

Signature of Agency Head or Authorized Representative

Brian Helmick

**TITLE 58
LEGISLATIVE RULE
DIVISION OF NATURAL RESOURCES**

**SERIES 57
WATERFOWL HUNTING RULE
(EXEMPT RULE)**

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OFFICE WEST VIRGINIA
SECRETARY OF STATE

§58-57-1. General.

1.1. Scope. -- 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. -- W. Va. Code §§29A-1-3(c) and 20-1- 17(7).

1.3. Filing Date. -- August 26, 2005

1.4. Effective Date. -- September 1, 2005

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 the time periods are prevailing time unless otherwise noted in these regulations. Sunday hunting is legal under the provisions of West Virginia Code §20-2-5.

§58-57-2. Definitions.

2.1. All terms shall have the meanings prescribed in the Code of State Regulations, Title 58, Series 58 "Special Waterfowl Hunting Regulations" (58 CSR. 58).

§58-57-3. General Provisions.

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

3.2. Shooting or Falconry Hours - No person may take waterfowl except during the hours open to shooting or falconry 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/her 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.

§58-57-4. Open Shooting and Falconry Seasons.

4.1. Duck Seasons.

4.1.1. Zone 1 Duck Season.

4.1.1.a. Except as provided in 4.1.3 and 4.1.4 the first segment of this season opens on October 1, ~~2004~~ 2005 and closes on October ~~16~~5, ~~2004~~ 2005.

4.1.1.b. Except as provided in 4.1.3 and 4.1.4 the second segment of this season opens on December ~~4~~8, ~~2004~~ 2005 and closes on January ~~20~~1, ~~2005~~6.

4.1.2. Zone 2 Duck Season.

4.1.2.a. Except as provided in 4.1.3 and 4.1.4 the first segment of this season opens on October 1, ~~2004~~ 2005 and closes on October ~~16~~5, ~~2004~~ 2005.

4.1.2.b. Except as provided in 4.1.3 and 4.1.4 the second segment of this season opens on November ~~26~~4, ~~2004~~ 2005 and closes on January ~~8~~7, ~~2005~~6.

4.1.3. There is no open season for harlequin ducks, eiders, whistling ducks, or mottled ducks.

4.1.4. The season for ~~pintail~~ and canvasback ducks is open only during the last thirty (30) days of the second segment of the regular duck season in each zone.

4.2. Merganser Seasons.

4.2.1. Zone 1 Merganser Season.

4.2.1.a. The first segment of this season opens on October 1, ~~2004~~ 2005 and closes on October ~~16~~5, ~~2004~~ 2005.

4.2.1.b. The second segment of this season opens on December ~~4~~8, ~~2004~~ 2005 and closes on January ~~20~~1, ~~2005~~6.

4.2.2. Zone 2 Merganser Season.

4.2.2.a. The first segment of this season opens on October 1, ~~2004~~ 2005 and closes on October ~~16~~5, ~~2004~~ 2005.

4.2.2.b. The second segment of this season opens on November ~~26~~4, ~~2004~~ 2005 and closes on January ~~8~~7, ~~2005~~6.

4.3. Coot Seasons.

4.3.1. Zone 1 Coot Season.

4.3.1.a. The first segment of this season opens October 1, 2004 2005 and closes on October 165, 2004 2005.

4.3.1.b. The second segment of this season opens on December 408, 2004 2005 and closes on January 221, 20056.

4.3.2. Zone 2 Coot Season.

4.3.2.a. The first segment of this season opens on October 1, 2004 2005 and closes on October 165, 2004 2005.

4.3.2.b. The second segment of this season opens on November 264, 2004 2005 and closes January 87, 20056.

4.4. Gallinule Seasons.

4.4.1. Zone 1 Gallinule Season.

4.4.1.a. The first segment of this season opens on October 1, 2004 2005 and closes on October 165, 2004 2005.

4.4.1.b. The second segment of this season opens on December 408, 2004 2005 and closes on January 221, 20056.

4.4.2. Zone 2 Gallinule Season.

4.4.2.a. The first segment of this season opens on October 1, 2004 2005 and closes on October 165, 2004 2005.

4.4.2.b. The second segment of this season opens on November 264, 2004 2005 and closes January 87, 20056.

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 1, 2004 2005 and closes on October 165, 2004 2005.

4.5.1.b. The second segment of this season opens on December 98, 2004 2005 and closes on January 31, 20056.

4.5.2. Zone 2 Canada Goose Season.

4.5.2.a. The first segment of this season opens on October 1, 2004 2005 and closes on October 3029, 2004 2005.

4.5.2.b. The second segment of this season opens on December 232, 2004 2005 and closes on January 31, 20056.

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 1, ~~2004~~ 2005 and closes on October ~~16~~5, ~~2004~~ 2005.

4.6.1.b. The second segment of this season opens on December ~~9~~8, ~~2004~~ 2005 and closes on January 31, ~~2005~~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 1, ~~2004~~ 2005 and closes on October ~~30~~29, ~~2004~~ 2005.

4.6.2.b. The second segment of this season opens on December ~~23~~22, ~~2004~~ 2005 and closes on January 31, ~~2005~~6.

4.7. Brant Season.

4.7.1. Zone 1 Brant Season.

4.7.1.a. The first segment of this season opens on December ~~10~~23, ~~2004~~ 2005 and closes on January ~~22~~1, ~~2005~~6.

4.7.2. Zone 2 Brant Season.

4.7.2.a. The first segment of this season opens ~~November 26~~December 9, ~~2004~~ 2005 and closes on January ~~8~~7, ~~2005~~6.

4.8. Swan Season.

4.8.1. There is no open season for swans.

§58-57-5. Shooting and Falconry Hours.

5.1. Ducks.

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

5.2. Mergansers.

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

5.3. Coots.

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

5.4. Gallinules.

5.4.1. Shooting and falconry hours are from thirty (30) minutes before sunrise

until sunset.

5.5. Canada Geese.

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

5.6. Snow Geese and Blue Geese.

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

5.7. Brant.

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

§58-57-6. Shooting Bag and Possession Limits.

6.1. Ducks.

6.1.1. The bag limit is six (6) ducks in aggregate per day and may include:

6.1.1.a. Only one (1) black duck;

6.1.1.b. No more than four (4) long tailed duck (old squaw);

6.1.1.c. No more than four (4) mallards only two (2) of which may be hens;

6.1.1.d. No more than ~~three (3)~~ two (2) scaup;

6.1.1.e. ~~Only one (1) pintail during the last thirty (30) days of the second segment of the regular duck season in each zone~~ No more than one (1) pintail;

6.1.1.f. No more than two (2) redheads;

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

6.1.1.h. No more than four (4) scoters; and

6.1.1.i. Only one (1) canvasback during the last thirty (30) days of the second segment of the regular duck season in each zone.

6.1.2. The possession limit is twelve (12) ducks in aggregate and may include:

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

6.1.2.b. No more than eight (8) long tailed duck (old squaw);

6.1.2.c. No more than eight (8) mallards only four (4) of which may be hen mallards;

6.1.2.d. No more than ~~six (6)~~ four (4) scaup;

6.1.2.e. No more than two (2) pintails ~~during the last thirty (30) days of the second segment of the regular duck season in each zone;~~

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

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

6.1.2.h. No more than eight (8) scoters; and

6.1.2.i. No more than two (2) canvasbacks during the last thirty (30) days of the second segment of the regular duck season in each zone.

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 thirty (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.

§58-57-7. Falconry Bag and Possession Limits.

7.1. The bag limit for falconry hunting is three (3) migratory game birds in the aggregate per day.

7.2. The possession limit for falconry hunting is six (6) migratory game birds in the aggregate.

§58-57-8. Youth Waterfowl Hunting Season.

8.1. The youth waterfowl hunting season for taking ducks, geese, coots, mergansers and gallinules opens September ~~25~~4, ~~2004~~ 2005 and closes September ~~25~~4, ~~2004~~ 2005.

8.2. The bag and possession limit for the youth waterfowl season is the same as the regular season daily bag limits listed in §58-57-6.