

WEST VIRGINIA  
SECRETARY OF STATE  
KEN HECHLER  
ADMINISTRATIVE LAW DIVISION

Form #2

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JUN 29 4 06 PM '93

OFFICE OF WEST VIRGINIA  
SECRETARY OF STATE

NOTICE OF A COMMENT PERIOD ON A PROPOSED RULE

AGENCY: DCL&ER, Division of Natural Resources TITLE NUMBER: 47

RULE TYPE: Legislative; CITE AUTHORITY §§20-1-7(30) & 20-1-17(7)

AMENDMENT TO AN EXISTING RULE: YES X NO     

IF YES, SERIES NUMBER OF RULE BEING AMENDED: 21

TITLE OF RULE BEING AMENDED: Special Fishing Regulations

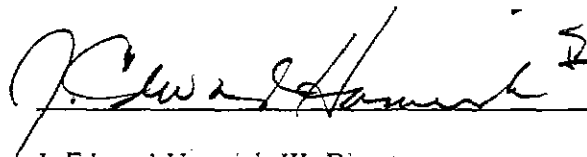
IF NO, SERIES NUMBER OF RULE BEING PROPOSED:                     

TITLE OF RULE BEING PROPOSED:                                             

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 July 30, 1993 AT 8:00 am

ONLY WRITTEN COMMENTS WILL BE ACCEPTED AND ARE TO BE MAILED TO THE FOLLOWING  
ADDRESS Division of Natural Resources, Wildlife Resources Section, Capitol Complex, Bldg. 3,  
Room 812, Charleston, West Virginia 25305

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



J. Edward Hamrick III, Director  
Division of Natural Resources

4.00  
ATTACH A BRIEF SUMMARY OF YOUR PROPOSAL



DEPARTMENT OF COMMERCE, LABOR & ENVIRONMENTAL RESOURCES  
OFFICE OF THE SECRETARY

State Capitol, Room M-146  
Charleston, West Virginia 25305-0310  
Telephone: (304) 558-0400  
Fax No.: (304) 558-4983

GASTON CAPERTON  
Governor

JOHN M. RANSON  
Cabinet Secretary

June 29, 1993

J. Edward Hamrick III  
Director  
Division of Natural Resources  
Building 3, Room 812  
State Capitol Complex  
Charleston, West Virginia 25305-0664

OFFICE OF WEST VIRGINIA  
SECRETARY OF STATE

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Re: Proposed Rule - Title 47, Series 21 - Special Fishing  
Regulations

Dear Director Hamrick:

Pursuant to West Virginia Code Section 5F-2-2(a)(12), I hereby  
consent to the proposal of the rule specified above.

You may attach a copy of this letter to your filing with the  
Secretary of State as evidence of my consent.

Sincerely yours,

*John M. Ranson*  
John M. Ranson  
Cabinet Secretary

JMR:ro

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STATE OF WEST VIRGINIA  
DEPARTMENT OF COMMERCE, LABOR AND ENVIRONMENTAL RESOURCES  
DIVISION OF NATURAL RESOURCES

State Capitol Complex  
Building 3, Room 812  
1900 Kanawha Boulevard, East  
Charleston, West Virginia 25305-0664  
TDD 558-1439 TDD 1-800-354-6087  
Telephone (304) 558-2771 Fax (304) 558-3147

GASTON CAPERTON  
Governor

JOHN M. RANSON  
Cabinet Secretary

J. EDWARD HAMRICK III  
Director


M E M O R A N D U M

TO: John M. Ranson, Secretary  
Department of Commerce, Labor  
and Environmental Resources

DATE: June 29, 1993

SUBJECT: Division Approval of Proposed Rules and Request for  
Department Consent to File

The proposed rule(s) listed on the enclosed "MEMORANDUM OF  
CONSENT" have my approval to be proposed pursuant to the West  
Virginia Administrative Procedures Act. Your approval is requested.

  
J. Edward Hamrick III, Director  
Division of Natural Resources

JEH/mds

Enclosure

OFFICE OF WEST VIRGINIA  
SECRETARY OF STATE

JUN 29 4 06 PM '93

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STATE OF WEST VIRGINIA  
DEPARTMENT OF COMMERCE, LABOR AND ENVIRONMENTAL RESOURCES  
DIVISION OF NATURAL RESOURCES

State Capitol Complex  
Building 3, Room 812  
1900 Kanawha Boulevard, East  
Charleston, West Virginia 25305-0664  
TDD 558-1439 TDD 1-800-354-6087  
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J. EDWARD HAMRICK III  
Director

GASTON CAPERTON  
Governor

JOHN M. RANSON  
Cabinet Secretary

M E M O R A N D U M

TO: Bob Miles, Chief  
Wildlife Resources Section

FROM:  Bernard F. Dowler, Assistant Chief  
Wildlife Resources Section

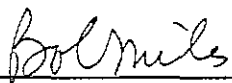
DATE: June 23, 1993

SUBJECT: Approval of Proposed Legislative Rules

Enclosed for your approval are proposed modifications to the following legislative rule.

Series 11B

If these changes are acceptable, please sign below and return.

  
Bob Miles \_\_\_\_\_ 6/24/93  
Date

BFD/trs

Enclosure

# FISCAL NOTE FOR PROPOSED RULE

Rule Title: Special Fishing Regulations

47 C.S.R. 21

Type of Rule: ☒ Legislative ☐ Interpretive ☐ Procedural

Agency: Division of Natural Resources

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

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

2. Explanation of above estimates: Only two substantive additions and one correction are being made to the rule, none of which will change the cost of implementating the rule.

3. Objectives of this rule: This rule provides the legislative portion of the provisions for the taking of fish and other aquatic species. The additions allow for the use of thrownets and add an additional pond to the special fishing areas for class Q license holders.

4. Explanation of Overall Economic Impact of Proposed Rule.

A. Economic Impact on State Government. None.

B. Economic Impact on Political Subdivisions; Specific Industries; Specific groups of citizens. None.

C. Economic Impact on Citizens/ Public at Large. None.

Date:

Signature of Agency Head or Authorized Representative

  
Director, Division of Natural Resources

OFFICE OF WEST VIRGINIA  
SECRETARY OF STATE

JUN 29 4 06 PM '93

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PREAMBLE TO A PROPOSED RULE  
CONCERNING  
SPECIAL FISHING REGULATIONS

AGENCY: Department of Commerce, Labor, and Environmental  
Resources; Division of Natural Resources.

REGULATION: Title 47, Series 21, "Special Fishing Regulations."

ACTION: Amendment of an existig rule, and notice of a thirty  
day public comment period.

SUMMARY: The proposed amendments (1)allow for use of  
thrownets when taking minnows and (2) add one more  
pond to the special fishing areas for Class Q  
License holders.

Written comments received prior to 8:00 am Monday,  
July 26,1993 will be accepted. Written comments  
should be sent to:

Robert L. Miles, Chief  
DNR-Wildlife Resources Section  
Capital Complex, Building 3, Room 812  
Charleston, West Virginia 25305

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JUN 29 4 06 PM '93

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

OFFICE OF WEST VIRGINIA  
SECRETARY OF STATE

SERIES 21  
SPECIAL FISHING REGULATIONS

**§47-21-1. General.**

1.1. Scope and Purpose. -- These regulations establish special fishing seasons and prohibitions with respect to the taking of fish and other aquatic species in West Virginia.

1.2. Authority. -- W. Va. Code §§20-1-7(30) and 20-1-17(7).

1.3. Filing Date. -- ~~April 20, 1992.~~

1.4. Effective Date. -- ~~May 10, 1992~~

1.5. For the purposes of these regulations concerning the open seasons, bag limits, possession limits, creel limits, size, age, weight, and sex limits of any game or nongame fish and other aquatic species of West Virginia, refer to Title 47, Series 20, of the Code of State Regulations (47 C.S.R. 20) (~~47 U.S.C. §20~~), "Fishing Regulations".

**§47-21-2. Definitions.**

2.1. "Daylight hours" means the time period between sixty (60) minutes before sunrise and sixty (60) minutes after sunset.

2.2. All other terms shall have the meaning prescribed in W. Va. Code §20-1-2.

**§47-21-3. Prohibitions.**

3.1. Protected Species -- To keep or kill or attempt to keep or kill paddlefish (*Polyodon spathula*) at any time by any means shall be prohibited. If caught or taken, the paddlefish shall be immediately returned to the water.

3.2. Fishing on Catch-and-Release Trout Waters -- Fishing on catch-and-release trout waters is permitted during daylight hours only.

3.2.1. Only artificial flies and lures made of metal, wood, feathers, hair, or synthetic material may be used or in one's possession on catch-and-release trout waters.

3.2.1.a. Multiple-hook lures must have barbless hooks.

3.2.1.b. Single-hooked lures may have barbed hooks.

3.2.2. All fish caught on catch-and-release trout waters must be returned to the water at once. To release a deeply hooked or gill-hooked fish, the leader should be cut.

3.3. Fishing on Fly-Fishing-Only Waters -- Fishing on fly-fishing-only-waters is permitted during daylight hours only.

3.3.1. Only artificial flies and streamers may be used or in one's possession on fly-fishing-only waters.

3.3.2. Only conventional fly fishing tackle may be used on fly-fishing-only waters (i.e., open-faced and closed-faced spinning or spin cast reels are prohibited).

3.3.3. All fish caught on fly-fishing-only waters must be returned to the water at once. To release a deeply hooked or gill-hooked fish, the leader should be cut.

#### 3.4. Fishing Methods.

3.4.1. Dipping -- A dip net may not exceed thirty-six square feet (36 sq. ft.) in overall area and its mesh may not be smaller than one-quarter inch (1/4").

3.4.2. Bow Fishing -- It shall be illegal to:

3.4.2.a. Use an arrow having an explosive head or shaft while bow fishing;

3.4.2.b. Use an arrow dipped in or smeared with poison or other chemicals while bow fishing; and

3.4.2.c. Use a crossbow while bow fishing.

3.4.3. Gigging, Snagging, and Snaring -- It is illegal to take any game fish by gigging, snagging, or snaring.

3.4.4. Trotlines and Droplines -- The following requirements must be complied with when using trotlines and droplines.

3.4.4.a. Trotlines and droplines must be attached to the bank, or tree thereon.

3.4.4.b. Trotlines and droplines must bear an identification tag that is legible and waterproof.

3.4.4.c. Trotlines and droplines must be attended at least once every twenty-four (24) hours.

3.4.4.d. Wire or cable lines and hooks with more than one point are prohibited.

3.4.4.e. It is illegal to attach a trotline to public piers and docks or within fifty (50) feet of dam appurtenances.

3.4.4.f. Trotlines and droplines are prohibited on impoundments designated by the director and published annually.

3.4.5. Seining for Minnows and Minnow Traps -- The following requirements must be complied with when seining for minnows and using minnow traps.

3.4.5.a. Game fish may not be seined or trapped.

3.4.5.b. A seine may be used to obtain minnows for use as bait provided the seine is not larger than six (6) feet nor deeper than four (4) feet.

3.4.5.c. Minnow traps may be used provided the openings are not larger than one inch (1") in diameter.

3.4.5.d. A thrownet may be used provided the diameter is no larger than six (6) feet and mesh size no larger than 3/8 inch.

3.4.6. Underwater Spearfishing -- The following requirements must be complied with when spearfishing.

3.4.6.a. Spearguns shall be discharged only beneath the surface of the water.

3.4.6.b. It is illegal to use a bolt having an explosive head or shaft while spearfishing.

3.4.6.c. It is illegal to use a bolt dipped in or smeared with poison or other chemicals while spearfishing.

3.4.6.d. A diver may not spearfish in such a manner as to interfere with other fishermen.

3.4.6.e. A diver may not spearfish in heavily-travelled boat lanes, marked swimming areas, or marked waterskiing areas.

3.4.6.f. Fish taken by spearfishing may not be returned to the water or left on the bank.

**§47-21-4. Special Fishing Season for Children and Persons Possessing a Valid Class Q License.**

4.1. The special fishing season for children and persons possessing a valid Class Q license is from March 1 through May 31 and is open only in the following areas:

4.1.1. Handley Pond -- A 5-acre pond in Pocahontas County.

4.1.2. Wood Pond -- A 1/2-acre impoundment on the Bear Rock Wildlife Management Area in Ohio County.

4.1.3. Coonskin Park Pond -- A 2.7-acre pond on Coonskin Park in Kanawha County.

4.1.4. Westover Park Pond -- A 1.0 acre pond in Monongalia County.

4.2. The season shall be open to:

4.2.1. All children ten (10) years of age or under that may be accompanied by another person(s) to assist with baiting hooks and removing fish.

4.2.2. All persons that possess a valid Class Q license in accordance with W. Va. Code §20-2-46e.

4.3. Fishing is restricted to daylight hours only.

4.4. The creel limit is four (4) trout.