

WEST VIRGINIA  
SECRETARY OF STATE  
KEN HECHLER  
ADMINISTRATIVE LAW DIVISION

Form #2

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1991 MAR 22 AM 9:47  
OFFICE OF WEST VIRGINIA  
SECRETARY OF STATE

NOTICE OF A COMMENT PERIOD ON A PROPOSED RULE

Department of Commerce, Labor  
and Environmental Resources,  
Division of Natural Resources

AGENCY: \_\_\_\_\_ TITLE NUMBER: 47

RULE TYPE: Legislative; CITE AUTHORITY W. Va. Code §§20-1-7(30)

AMENDMENT TO AN EXISTING RULE: YES \_\_\_\_\_ NO X  
20-1-17(7)

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

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

IF NO, SERIES NUMBER OF NEW RULE BEING PROPOSED: 21

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

"Special Fishing Regulations"

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 April 22, 1991 AT 5:00 p.m.

ONLY WRITTEN COMMENTS WILL BE ACCEPTED AND ARE TO BE MAILED TO THE FOLLOWING ADDRESS.

DNR Rule Comments  
State Capitol Complex  
Building 3, Room 712  
Charleston, WV 25305

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



J. Edward Hamrick III  
Director

ATTACH A **BRIEF** SUMMARY OF YOUR PROPOSAL

2.50

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FISCAL NOTE FOR PROPOSED RULES

1981 MAR 22 AM 9:47

Rule Title: "Special Fishing Regulations"

OFFICE OF WEST VIRGINIA  
SECRETARY OF STATE

Type of Rule:  Legislative  Interpretive  Procedural

Agency: Department of Commerce, Labor and Environmental  
Resources Division of Natural Resources

Address: Building 3, State Capitol Complex, Charleston, West  
Virginia 25305

1. Effect of Proposed Rule	Increase \$	ANNUAL		FISCAL YEAR	
		Decrease \$	Current \$	Next \$	Thereafter \$
Personal Services					
Current Expense			NO CHANGE		
Repairs and Alterations					
Equipment					
Other					

2. Explanation of Above Estimates:

This rule provides for the adoption of special fishing seasons and prohibitions as they relate to fishing the waters of this State.

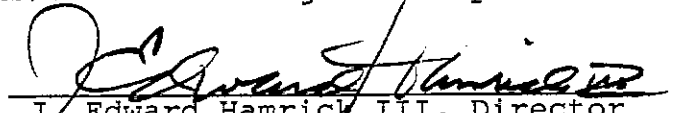
3. Objectives of These Rules:

This rule proposes a special fishing seasons for children and the handicapped. This rule also proposes provisions prohibiting the taking of specific species of fish which are currently in very low numbers within this State and prohibits various methods of fishing.

4. Explanation of Overall Economic Impact of Proposed Rule.

- A. Economic Impact on State Government: No impact
- B. Economic Impact on Political Subdivisions: No impact  
Economic Impact on Specific Industries: No impact  
Economic Impact on Specific Groups of Citizens: No impact
- C. Economic Impact on Citizens/Public at Large: No impact

Date: March 22, 1991

  
J. Edward Hamrick III, Director

PREAMBLE TO A NEW LEGISLATIVE  
RULE CONCERNING FISHING THE  
WATERS OF THIS STATE

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1991 MAR 22 AM 9:47

OFFICE OF WEST VIRGINIA  
SECRETARY OF STATE

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

**REGULATIONS:** Title 47, Series 21, "Special Fishing Regulations".

**ACTION:** Notice of a Public Comment Period on a new Legislative Rule.

**ADDRESS:** Comments can be sent to the following address: DNR Rule Comments, State Capitol Complex, Building 3, Room 712, Charleston, West Virginia, 25305. The Comment period will end Monday at 5:00 p.m. on April 22, 1991. All written comments must be received by the Division on or before the end of the comment period.

**SUMMARY:** Today's filing proposes a new Legislative Rule that implements a new fishing season for children under 10 years of age and for the handicapped that possess a valid Class Q license. This rule also prohibits fishing for paddlefish, a species of fish considered extremely low in numbers throughout the State waters. This rule also gives specific guidelines when using legal methods of fishing.

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

1991 MAR 22 AM 9:47

OFFICE OF THE 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. -- March 22, 1991.

1.4. Effective Date. -- March 22, 1991.

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 U.S.C §20), "Fishing Regulations".

**§47-21-2. Definitions.**

2.1. "Daylight hours" means the time period between thirty (30) minutes before sunrise and thirty (30) 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. Giggling, Snagging, and Snaring. It is illegal to take any game fish by giggling, 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.

3.4.6. 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 the Handicapped.**

4.1. The special fishing season for children and the handicapped 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 Pochahontas 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.

4.2. 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.