

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

Form #4

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1991 JUL 22 PM 3:05

OFFICE OF WEST VIRGINIA  
SECRETARY OF STATE

**NOTICE OF RULE MODIFICATION OF A PROPOSED RULE**

Department of Commerce, Labor  
and Environmental Resources

AGENCY: Division of Natural Resources TITLE NUMBER: 47

CITE AUTHORITY West Virginia Code §§20-1-7(30) and 20-1-17(7)

AMENDMENT TO AN EXISTING RULE: YES  NO  \*

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"

\* this rule does exist as an emergency rule

THE ABOVE PROPOSED LEGISLATIVE RULE, FOLLOWING REVIEW BY THE LEGISLATIVE RULE MAKING REVIEW COMMITTEE IS HEREBY MODIFIED AS A RESULT OF REVIEW AND COMMENT BY THE LEGISLATIVE RULE-MAKING REVIEW COMMITTEE. THE ATTACHED MODIFICATIONS ARE FILED WITH THE SECRETARY OF STATE.



J. Edward Hamrick III  
Director

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

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JUL 22 1981 3:06

SERIES 21  
SPECIAL FISHING REGULATIONS

OFFICE OF WEST VIRGINIA  
SECRETARY OF STATE

§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. --

1.4. Effective Date. --

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 Persons Possessing a Valid Class Q License.**

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

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1991 DEC 20 AM 11:35

**MEMORANDUM OF CONSENT**  
DEPARTMENT OF COMMERCE, LABOR, AND ENVIRONMENTAL RESOURCES  
SECRETARY OF STATE

**MEMORANDUM TO:** J. Edward Hamrick III, Director  
Division of Natural Resources

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

**SUBJECT:** Consent to File Agency Proposed Regulations

The following regulations concerning hunting, trapping, and fishing have my approval to be proposed pursuant to the Administrative Procedures Act set forth under Chapter 29A of the West Virginia Code [W. Va. Code §29A et seq.].

<u>Title</u>	<u>Series</u>	<u>Name</u>
47	11A	Terms To Be Used Concerning All Hunting and Trapping Regulations.
47	11B	Prohibitions When Hunting and Trapping.
47	11C	Special Bear Hunting Regulations.
47	11D	General Hunting Regulations.
47	11E	Deer Hunting Regulations.
47	11F	Wild Turkey Hunting Regulations.
47	11G	Wild Boar Hunting Regulations.
47	11H	General Trapping Regulations.
47	11I	Dog Training Regulations.
47	12A	Special Migratory Bird Hunting Regulations.
47	13A	Special Waterfowl Hunting Regulations.
47	14A	Special Regulations for Waterfowl Hunting Areas.
47	21	Special Fishing Regulations.

  
John M. Ranson  
Secretary

12/3/91  
Date

**RECEIVED**

DEC - 4 1991

DEPT. OF NATURAL RESOURCES  
OFFICE OF THE DIRECTOR



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1991 JUL 19 AM 11:45

WEST VIRGINIA LEGISLATURE  
LEGISLATIVE RULE-MAKING REVIEW COMMITTEE

OFFICE OF WEST VIRGINIA  
SECRETARY OF STATE

Room X-152, State Capitol  
Charleston, West Virginia 25305  
(304) 340-3226

Senator William R. Wooten, Co-Chairman  
Delegate David Grubb, Co-Chairman

Debra A. Graham, Counsel  
Michael McThomas, Associate Counsel  
Marie Wickerson, Admr. Assistant

NOTICE OF ACTION TAKEN BY LEGISLATIVE RULE-MAKING REVIEW COMMITTEE

July 16, 1991

TO: Ken Hechler, Secretary of State, State Register

TO: Mr. J. Edward Hamrick, III, Director  
Division of Natural Resources  
Building 3, State Capitol Complex  
Charleston, WV 25305

FROM: Legislative Rule-Making Review Committee

PROPOSED RULE: Special Fishing Regulations

The Legislative Rule-Making Review Committee recommends that the West Virginia Legislature:

1. Authorize the agency to promulgate the Legislative Rule
  - (a) as originally filed \_\_\_\_\_
  - (b) as modified by the agency     X
2. Authorize the agency to promulgate part of the Legislative rule; a statement of reasons for such recommendation is attached. \_\_\_\_\_
3. Authorize the agency to promulgate the Legislative rule with certain amendments; amendments and a statement of reasons for such recommendation is attached. \_\_\_\_\_
4. Authorize the agency to promulgate the Legislative rule as modified with certain amendments; amendments and a statement of reasons for such recommendation is attached. \_\_\_\_\_
5. Recommends that the rule be withdrawn; a statement of reasons for such recommendation is attached. \_\_\_\_\_

Pursuant to Code 29A-3-11(c), this notice has been filed in the State Register and with the agency proposing the rule.

cc: Michael E. Comer  
Regulatory Analyst