

**WEST VIRGINIA
SECRETARY OF STATE**

KEN HECHLER

ADMINISTRATIVE LAW DIVISION

Form #6

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1992 APR 20 AM 10:42

OFFICE OF WEST VIRGINIA
SECRETARY OF STATE

**NOTICE OF FINAL FILING AND ADOPTION OF A LEGISLATIVE RULE AUTHORIZED
BY THE WEST VIRGINIA LEGISLATURE.**

Department of Commerce
Labor and Environmental Resources
Division of Natural Resources

AGENCY: _____ TITLE NUMBER: 47

AMENDMENT TO AN EXISTING RULE: YES____, NO X

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"

THE ABOVE RULE HAS BEEN AUTHORIZED BY THE WEST VIRGINIA LEGISLATURE.

AUTHORIZATION IS CITED IN (house or senate bill number) SB1

SECTION 64-3-8(rr), PASSED ON April 1, 1992

THIS RULE IS FILED WITH THE SECRETARY OF STATE. THIS RULE BECOMES EFFECTIVE ON
THE FOLLOWING DATE: May 10, 1992


J. Edward Hamrick, III
Director

2-50

FILED

TITLE 47 1992 APR 20 AM 10:42
LEGISLATIVE RULES
DEPARTMENT OF COMMERCE, LABOR, AND ENVIRONMENTAL RESOURCES
DIVISION OF NATURAL RESOURCES 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. --

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 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.

3.4.6. 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 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.

Bill DNR Special Fishing Regs 47-21

H. B. 4310

(By Delegate Grubb)

(Introduced January 27, 1992; referred to the
Committee on Agriculture & Natural Resources
then the Judiciary)

10 A BILL to amend and reenact section eight, article three, chapter
11 sixty-four of the code of West Virginia, one thousand nine
12 hundred thirty-one, as amended, relating to authorizing the
13 division of natural resources to promulgate legislative rules
14 relating to special fishing regulations.

15 Be it enacted by the Legislature of West Virginia:

16 That section eight, article three, chapter sixty-four of the
17 code of West Virginia, one thousand nine hundred thirty-one, as
18 amended, be amended and reenacted, to read as follows:

19 ARTICLE 3. AUTHORIZATION FOR DEPARTMENT OF COMMERCE, LABOR AND
20 ENVIRONMENTAL RESOURCES TO PROMULGATE LEGISLATIVE RULES.

21 §64-3-8. Division of natural resources.

22 (a) The legislative rules filed in the state register on the
23 eighth day of December, one thousand nine hundred eighty-three,

4310

1 relating to the department of natural resources (surface mining),
2 are authorized with the amendments set forth below:

3 Page 3-4, §3E.01 by adding after the word "engineer" the
4 words "or licensed land surveyor."

5 Page 3-5, §3E.02, subsection (a), by adding after the word
6 "mining" the words "or civil."

7 Page 3-5, §3E.02, subsection (b), by adding after the first
8 sentence -- "Those persons who have been approved to date need
9 not make said demonstration."

10 (b) The legislative rules filed in the state register on the
11 twentieth day of January, one thousand nine hundred eighty-four,
12 relating to the department of natural resources (solid waste
13 management), are authorized with the amendments set forth below:

14 Page 9, section 4.04, line five, add the following paragraph:

15 "Upon request of any applicant, the division shall meet with
16 the applicant for prefiling review of the application. The
17 division, with the cooperation of the solid waste authority,
18 shall assist the applicant in preparing a complete and proper
19 application which would not be rejected as incomplete."

20 On page 15, section 6.03 (c)(1) in the first full sentence,
21 after the word "cease", strike the remainder of the sentence and
22 insert in lieu thereof the words "within fifteen (15) days of
23 receipt of an order of suspension" and in the second sentence
24 strike the word "recommence" and insert the words "continue
25 beyond fifteen (15) days"; (c)(2) in the first full sentence,

1 after the word "cease" by striking out the remainder of the
2 sentence and insert in lieu thereof the words "immediately upon
3 receipt of an order of revocation."

4 (c) The legislative rules filed in the state register on the
5 twenty-sixth day of September, one thousand nine hundred
6 eighty-four, relating to the department of natural resources
7 (public use of state parks, forests, hunting and fishing areas),
8 are authorized.

9 (d) The legislative rules filed in the state register on the
10 seventh day of November, one thousand nine hundred eighty-four,
11 relating to the department of natural resources (surface mining
12 reclamation), are authorized.

13 (e) The legislative rules filed in the state register on the
14 seventh day of November, one thousand nine hundred eighty-four,
15 relating to the department of natural resources (coal refuse
16 disposal), are authorized.

17 (f) The legislative rules filed in the state register on the
18 ninth day of November, one thousand nine hundred eighty-four,
19 relating to the department of natural resources (transfer of the
20 state national pollutant discharge elimination system program),
21 are authorized with the amendments set forth below:

22 Page 10-5, by striking §10B.19 and inserting in lieu thereof
23 a new §10B.19, to read as follows: "'Effluent limitations
24 guidelines' means a regulation published by the Administrator
25 under Section 304(b) or Section 301(b)(1)(B) of the CWA to adopt

1 or revise effluent limitations or levels of effluent quality
2 attainable through the application of secondary or equivalent
3 treatment. For the coal industry these regulations are published
4 at 40 C.F.R. Parts 434 and 133. (See: Appendix G and H)."

5 (g) The legislative rules filed in the state register on the
6 twenty-eighth day of August, one thousand nine hundred
7 eighty-four, relating to the department of natural resources
8 (small arms hunting), are authorized.

9 (h) The legislative rules filed in the state register on the
10 sixth day of January, one thousand nine hundred eighty-four,
11 relating to the department of natural resources (hazardous waste
12 management), are authorized.

13 (i) The legislative rules filed in the state register on the
14 third day of December, one thousand nine hundred eighty-four,
15 modified by the department of natural resources to meet the
16 objections of the legislative rule-making review committee and
17 refiled in the state register on the thirteenth day of February,
18 one thousand nine hundred eighty-five, relating to the department
19 of natural resources (hazardous waste management), are
20 authorized.

21 (j) The legislative rules filed in the state register on the
22 tenth day of October, one thousand nine hundred eighty-five,
23 relating to the department of natural resources (hazardous waste
24 management: small quantity generators and waste minimization

1 certification), are authorized with the amendments set forth
2 below:

3 On page 1, §3.1.4b, delete the word "or" in the reference to
4 "paragraph (g) or (j)" and insert in lieu thereof the words "and,
5 if applicable."

6 (k) The legislative rules filed in the state register on the
7 ninth day of September, one thousand nine hundred eighty-five,
8 relating to the department of natural resources (WV/NPDES
9 regulations for the coal mining point source category and related
10 sewage facilities), are authorized.

11 (l) The legislative rules filed in the state register on the
12 eleventh day of December, one thousand nine hundred eighty-five,
13 modified by the department of natural resources to meet the
14 objections of the legislative rule-making review committee and
15 refiled in the state register on the twentieth day of February,
16 one thousand nine hundred eighty-six, relating to the department
17 of natural resources (hazardous waste management), are
18 authorized.

19 (m) The legislative rules filed in the state register on the
20 twenty-sixth day of September, one thousand nine hundred
21 eighty-six, modified by the department of natural resources to
22 meet the objections of the legislative rule-making review
23 committee and refiled in the state register on the ninth day of
24 December, one thousand nine hundred eighty-six, relating to the

1 department of natural resources (hazardous waste management
2 regulations), are authorized.

3 (n) The legislative rules filed in the state register on the
4 seventh day of August, one thousand nine hundred eighty-six,
5 relating to the director of the department of natural resources
6 (procedures for transporting and dealing in furbearing animals),
7 are authorized.

8 (o) The legislative rules filed in the state register on the
9 thirtieth day of December, one thousand nine hundred eighty-six,
10 relating to the department of natural resources (WV/NPDES program
11 for coal mines and preparation plants, and the refuse and waste
12 therefrom), are authorized with the amendments set forth below:

13 On page four, §1.9.1.a by inserting the words "five thousand
14 dollars or" after the words "'significant portion of income'
15 means."

16 And,

17 On page four, §1.9.1.a by inserting the words "whichever is
18 less," after the words "ten percent or more of gross personal
19 income for a calendar year."

20 (p) The legislative rules filed in the state register on the
21 fifth day of March, one thousand nine hundred eighty-six,
22 relating to the department of natural resources (hazardous waste
23 management), are authorized.

24 (q) The legislative rules filed in the state register on the
25 twelfth day of August, one thousand nine hundred eighty-seven,

1 relating to the department of natural resources (WV/NPDES
2 regulations for coal mining facilities), are authorized.

3 (r) The legislative rules filed in the state register on the
4 tenth day of June, one thousand nine hundred eighty-seven,
5 relating to the director of the department of natural resources
6 (outfitters and guides), are authorized.

7 (s) The legislative rules filed in the state register on the
8 ninth day of January, one thousand nine hundred eighty-seven,
9 relating to the department of natural resources (hazardous waste
10 management regulations), are authorized.

11 (t) The legislative rules filed in the state register on the
12 fifth day of March, one thousand nine hundred eighty-seven,
13 relating to the department of natural resources (hazardous waste
14 management regulations, series 35), are authorized.

15 (u) The legislative rules filed in the state register on the
16 seventh day of December, one thousand nine hundred eighty-seven,
17 relating to the department of natural resources (hazardous waste
18 management regulations, series 35), are authorized.

19 (v) The legislative rules filed in the state register on the
20 sixteenth day of December, one thousand nine hundred
21 eighty-seven, modified by the department of natural resources to
22 meet the objections of the legislative rule-making review
23 committee and refiled in the state register on the fourteenth day
24 of January, one thousand nine hundred eighty-eight, relating to

1 the department of natural resources (solid waste management), are
2 authorized.

3 (w) The legislative rules filed in the state register on the
4 twenty-eighth day of July, one thousand nine hundred
5 eighty-seven, modified by the director of the department of
6 natural resources to meet the objections of the legislative
7 rule-making review committee and refiled in the state register on
8 the seventh day of August, one thousand nine hundred
9 eighty-seven, relating to the director of the department of
10 natural resources (boating regulations), are authorized with the
11 amendment set forth below:

12 On page 16, section 6.2, line 3 by inserting following the
13 period "This regulation does not apply to licensed outfitters
14 and guides." These rules were proposed by the director of the
15 department of natural resources pursuant to section seven,
16 article one and section twenty-two, article seven, chapter twenty
17 of this code.

18 (x) The legislative rules filed in the state register on the
19 second day of September, one thousand nine hundred eighty-eight,
20 modified by the department of natural resources to meet the
21 objections of the legislative rule-making review committee and
22 refiled in the state register on the seventeenth day of October,
23 one thousand nine hundred eighty-eight, relating to the
24 department of natural resources (hazardous waste management), are
25 authorized.

1 (y) The legislative rules filed in the state register on the
2 thirty-first day of August, one thousand nine hundred
3 eighty-eight, relating to the director of the department of
4 natural resources (boating), are authorized.

5 (z) The legislative rules filed in the state register on the
6 eighth day of March, one thousand nine hundred eighty-eight,
7 modified by director of the department of natural resources to
8 meet the objections of the legislative rule-making review
9 committee and refiled in the state register on the thirtieth day
10 of August, one thousand nine hundred eighty-eight, relating to
11 the director of the department of natural resources (commercial
12 sale of wildlife), are authorized.

13 (aa) The legislative rules filed in the state register on the
14 twenty-seventh day of January, one thousand nine hundred
15 eighty-eight, relating to the director of the department of
16 natural resources (catching and selling bait fish), are
17 authorized.

18 (bb) The legislative rules filed in the state register on the
19 twenty-fifth day of March, one thousand nine hundred
20 eighty-eight, relating to the director of the department of
21 natural resources (West Virginia public hunting and fishing
22 areas), are authorized with the following amendment:

23 On page three, section 3.8.4, by inserting after the word
24 "vehicle" the following: ", all terrain vehicle (ATV)."

1 (cc) The legislative rules filed in the state register on the
2 seventeenth day of March, one thousand nine hundred eighty-nine,
3 modified by the division of natural resources to meet the
4 objections of the legislative rule-making review committee and
5 refiled in the state register on the sixteenth day of January,
6 one thousand nine hundred ninety, relating to the division of
7 natural resources (solid waste management), are authorized with
8 the amendments set forth below:

9 On page 13, Section 3.2.6, by deleting the current language
10 and inserting in lieu thereof the following:

11 "3.2.6. Within two hundred (200) feet of faults that have
12 had displacement in Holocene time (i.e., during the last eleven
13 thousand years);"

14 On page 64, Section 3.14.25, by deleting the current language
15 and inserting in lieu thereof the following language:

16 "3.14.25. **Environmental Compliance History.** The chief or
17 the director may refuse to grant any permit if he has reasonable
18 cause to believe, as indicated by documented evidence, that the
19 applicant, or any officer, director or manager, thereof, or
20 shareholder owning twenty percent (20%) or more of its capital
21 stock, beneficial or otherwise, or other person conducting or
22 managing the affairs of the applicant or of the proposed
23 permitted premises, in whole or part, has exhibited a pattern of
24 violation of the environmental statutes or regulations of this
25 State, any other state, or the federal government."

1 On page 104, section 4.5.4.a, by inserting after the words
2 "at that landfill" the following:

3 "Nothing within these regulations shall be construed to allow
4 the installations of any liner or system on areas not lined as of
5 November 30, 1989, that is not in conformance with section
6 4.5.4.a.E or 4.5.4.a.G of these regulations. Landfills that do
7 have an article 5f permit and a liner installed as of November
8 30, 1989, may install a liner as approved by the chief."

9 And,

10 On pages 147 through 151, sections 4.11.5 and 4.11.6, by
11 deleting the current language and inserting in lieu thereof the
12 following:

13 "4.11.5. Corrective Action Program.

14 Whenever a statistically significant increase is found in a
15 Phase II or Phase III monitoring parameter, or when groundwater
16 contamination is otherwise identified by the Chief at sites
17 without monitoring programs, which is determined by the Chief to
18 have resulted in a significant adverse effect on an aquifer, and
19 which is attributable to a solid waste facility, the Chief may
20 require appropriate corrective or remedial action pursuant to
21 West Virginia Code Chapter 20, Article 5A, and Chapter 20,
22 Article 5F to abate, remediate or correct such pollution. Any
23 such corrective or remedial action order shall take into account
24 any applicable groundwater quality protection standards, the
25 existing use of such waters, the reasonable uses of such waters,

1 background water quality, and the protection of human health and
2 the environment."

3 (dd) The legislative rules filed in the state register on the
4 seventeenth day of February, one thousand nine hundred
5 eighty-nine, relating to the director of the department of
6 natural resources (underground storage tanks), are authorized.

7 (ee) The legislative rules filed in the state register on the
8 twenty-seventh day of January, one thousand nine hundred
9 eighty-nine, relating to the director of the department of
10 natural resources (transporting and selling wildlife pelts), are
11 authorized.

12 (ff) The legislative rules filed in the state register on the
13 seventeenth day of February, one thousand nine hundred
14 eighty-nine, modified by the director of the department of
15 natural resources to meet the objections of the legislative
16 rule-making review committee and refiled in the state register on
17 the ninth day of August, one thousand nine hundred eighty-nine,
18 relating to the director of the department of natural resources
19 (underground storage tank fee assessments), are authorized.

20 (gg) The legislative rules filed in the state register on the
21 twenty-fourth day of April, one thousand nine hundred
22 eighty-nine, modified by the director of the department of
23 natural resources to meet the objections of the legislative
24 rule-making review committee and refiled in the state register on
25 the twenty-second day of May, one thousand nine hundred

1 eighty-nine, relating to the director of the department of
2 natural resources (public hunting and fishing areas), are
3 authorized.

4 (hh) The legislative rules filed in the state register on the
5 first day of December, one thousand nine hundred eighty-nine,
6 relating to the department of natural resources (water pollution
7 control permit fee schedules), are authorized with the amendment
8 set forth below:

9 On page five, section 3.3, by deleting the following:
10 "Submitted fees are not refundable."

11 On page two, after section 2.6, by inserting the following:

12 "customer" means any person that purchases waste disposal
13 services from a facility permitted under article five-a, chapter
14 twenty, of the code of West Virginia, one thousand nine hundred
15 thirty-one, as amended. For the purposes of these regulations,
16 commercial and other non-single family dwelling customers shall
17 be translated into customer equivalents by dividing the total
18 daily estimated volume of waste water by three hundred and fifty
19 gallons per day." and renumbering the remaining subsections.

20 On page nine, section 7.2, by striking out the words "seven
21 hundred fifty dollars (\$750)." and inserting in lieu thereof the
22 following:

23 "determined using Table D, but in no case shall be less than
24 two hundred fifty dollars (\$250)."

25 And,

1 On page thirteen, by striking out all of Table D, Schedule of
2 Annual Permit Fees, and inserting in lieu thereof a new Table D,
3 designated "Schedule of Annual Permit Fees", to read as follows:

4 "TABLE D

5 SCHEDULE OF ANNUAL PERMIT FEES

6 SEWAGE FACILITIES

7 Number of Customers	Annual Permit Fee
8 less than 1000	\$ 250
9 1000 to 1499	\$ 500
10 1500 to 1999	\$ 750
11 2000 to 2499	\$ 1000
12 2500 to 2999	\$ 1250
13 3000 to 3499	\$ 1500
14 3500 to 3999	\$ 1750
15 4000 to 4499	\$ 2000
16 4500 to 4999	\$ 2250
17 greater than 5000	\$ 2500

18 INDUSTRIAL OR OTHER WASTE FACILITIES

19 Average Discharge Volume	Annual Permit Fee
20 (gallons per day)	
21 less than 1,000	\$ 50
22 1,001 to 10,000	\$ 500
23 10,001 to 50,000	\$ 1000
24 greater than 50,000	\$ 2500"

1 (ii) The legislative rules filed in the state register on the
2 twenty-fifth day of July, one thousand nine hundred eighty-nine,
3 modified by the director of the department of natural resources
4 to meet the objections of the legislative rule-making review
5 committee and refiled in the state register on the fifteenth day
6 of September, one thousand nine hundred eighty-nine, relating to
7 the director of the department of natural resources (revocation
8 of hunting and fishing licenses), are authorized.

9 (jj) The legislative rules filed in the state register on the
10 twentieth day of December, one thousand nine hundred eighty-nine,
11 modified by the division of natural resources to meet the
12 objections of the legislative rule-making review committee and
13 refiled in the state register on the twenty-fourth day of
14 January, one thousand nine hundred ninety, relating to the
15 division of natural resources (state water pollution control
16 revolving fund program), are authorized.

17 (kk) The legislative rules filed in the state register on the
18 twenty-ninth day of March, one thousand nine hundred ninety,
19 modified by the division of natural resources to meet the
20 objections of the legislative rule-making review committee and
21 refiled in the state register on the thirtieth day of August, one
22 thousand nine hundred ninety, relating to the division of natural
23 resources (assessment of civil administrative penalties), are
24 authorized.

1 (ll) The legislative rules filed in the state register on the
2 sixth day of August, one thousand nine hundred ninety, relating
3 to the division of natural resources (water pollution control
4 permit fee schedules), are authorized.

5 (mm) The legislative rules filed in the state register on the
6 fifteenth day of June, one thousand nine hundred ninety, modified
7 by the division of natural resources to meet the objections of
8 the legislative rule-making review committee and refiled in the
9 state register on the twenty-second day of August, one thousand
10 nine hundred ninety, relating to the division of natural
11 resources (underground storage tank insurance trust fund), are
12 authorized with the amendments set forth below:

13 On page four, after subsection 5.1, by inserting a new
14 subdivision 5.1.1 to read as follows:

15 "5.1.1 The fee shall be one hundred dollars per tank per
16 year (\$100/tank/year) for a period of not less than one (1) year
17 and not more than three (3) years. Second and third year
18 capitalization fees may be levied if there is an inadequate
19 surplus of funds, as determined by the Board of Risk and
20 Insurance Management, the Division of Natural Resources and the
21 Underground Storage Tank Advisory Committee pursuant to W. Va.
22 Code, §20-5H-7."

23 (nn) The legislative rules filed in the state register on the
24 thirteenth day of August, one thousand nine hundred ninety,
25 modified by the division of natural resources to meet the

1 objections of the legislative rule-making review committee and
2 refiled in the state register on the second day of October, one
3 thousand nine hundred ninety, relating to the division of natural
4 resources (underground storage tanks), are authorized with the
5 amendment set forth below:

6 On page four, section five, subsection 5.1, after the word
7 "requirements" by striking out the remainder of the subsection
8 and inserting in lieu thereof, the following:

9 "of Title 47, Series 37 (Underground Storage Tank Fee
10 Assessments); Title 47, Series 36, Section 4 (Notification
11 Requirements); and Title 47, Series 37A, Section 5
12 (Capitalization Fees) of the Code of State Regulations and the
13 owner or operator presents proof of the certification to the
14 carrier."

15 (oo) The legislative rules filed in the state register on the
16 thirteenth day of August, one thousand nine hundred ninety,
17 relating to the division of natural resources (dam safety), are
18 authorized.

19 (pp) The legislative rules filed in the state register on the
20 thirteenth day of August, one thousand nine hundred ninety,
21 modified by the division of natural resources to meet the
22 objections of the legislative rule-making review committee and
23 refiled in the state register on the twenty-eighth day of
24 November, one thousand nine hundred ninety, relating to the

1 division of natural resources (hazardous waste management), are
2 authorized.

3 (gg) The legislative rules filed in the state register on the
4 first day of May, one thousand nine hundred ninety-one, modified
5 by the division of natural resources to meet the objections of
6 the legislative rule-making review committee and refiled in the
7 state register on the twenty-second day of July, one thousand
8 nine hundred ninety-one, relating to the division of natural
9 resources (special fishing regulations) are authorized.

10

11 NOTE: The purpose of this bill is to authorize the Division
12 of Natural Resources to promulgate legislative rules relating to
13 special fishing regulations.

14

15 Strike-throughs indicate language that would be stricken from
16 the present law, and underscoring indicates new language that
17 would be added.