

**WEST VIRGINIA
SECRETARY OF STATE**

KEN HECHLER

ADMINISTRATIVE LAW DIVISION

Form #3

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Aug 17 4 33 PM '93

OFFICE OF WEST VIRGINIA
SECRETARY OF STATE

**NOTICE OF AGENCY APPROVAL OF A PROPOSED RULE
AND
FILING WITH THE LEGISLATIVE RULE-MAKING REVIEW COMMITTEE**

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

CITE AUTHORITY §20-1-7(30)

AMENDMENT TO AN EXISTING RULE: YES NO

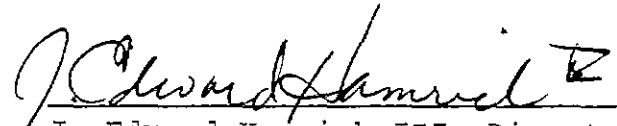
IF YES, SERIES NUMBER OF RULE BEING AMENDED: 21

TITLE OF RULE BEING AMENDED: Special Fishing Regulations

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

TITLE OF RULE BEING PROPOSED: _____

THE ABOVE PROPOSED LEGISLATIVE RULE HAVING GONE TO A PUBLIC HEARING OR A PUBLIC COMMENT PERIOD IS HEREBY APPROVED BY THE PROMULGATING AGENCY FOR FILING WITH THE SECRETARY OF STATE AND THE LEGISLATIVE RULE MAKING REVIEW COMMITTEE FOR THEIR REVIEW.


J. Edward Hamrick III, Director
Division of Natural Resources

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

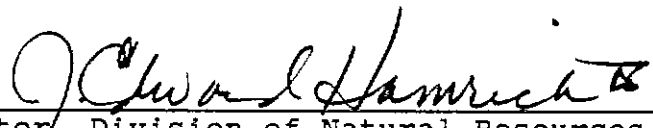
Address: Building 3, State Capitol Complex, Charleston, West Virginia

	ANNUAL		FISCAL YEAR		
	Increase	Decrease	Current	Next	Thereafter
Estimated Total Cost	\$				
Personal Services	\$				
Current Expenses	\$				
Repairs & Alterations	\$	No Change			
Equipment	\$				
Other	\$				

2. Explanation of above estimates: There is no change anticipated to administrative expenses as a result of this rule.
3. Objectives of this rule: The proposed rule establishes the general provisions applicable to special fishing regulations.
4. Explanation of Overall Economic Impact of Proposed Rule.
 - A. Economic Impact on State Government. No impact.
 - B. Economic Impact on Political Subdivisions; Specific Industries; Specific groups of citizens. No impact.
 - C. Economic Impact on Citizens/Public at Large. No impact.

Date: August 16, 1993

Signature of Agency Head or Authorized Representative



 Director, Division of Natural Resources

DATE:

TO: Legislative Rule-Making Review Committee

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

LEGISLATIVE RULE TITLE: Special Fishing Regulations

1. Authorizing statute(s) citation 20-1-7(30)
- 2.a. Date filed in State Register with Notice of Hearing:
June 29, 1993 (Written Comments Only).
- 2.b. What other notice, including advertizing, did you give the hearing? None
- 2.c. Date of hearing (s): N/A
- 2.d. Attach list of persons who appeared at hearing, comments received, amendments, reasons for amendments:
Attached: _____ No comments received: X
- 2.e. Date agency approved proposed Legislative Rule filed in State Register following public hearing:
- 2.f. Name and telephone number of agency contact: Bernard Dowler
558-2771
3. If the statute under which the rule was promulgated and submitted requires certain finding and determinations to be made as a condition precedent to their promulgation:
 - 3.a. Date of which a notice of the time and place of hearing for the taking of evidence and a general description of the issues to be decided was filed in the State Register: N/A
 - 3.b. Date of hearing: N/A
 - 3.c. Date the required findings and determinations together with reasons therefor were filed in the State Register: N/A
 - 3.d. Findings and determinations, and reasons (attached).

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: Filing of a thirty day Public Comment Notice for the proposed rule.

SUMMARY: The proposed rule received no written comments prior to 8:00 a.m., July 30, 1993.

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SPECIAL FISHING REGULATIONS
47 C.S.R. 21

Background Of Project Rule Currently in Effect

The existing 47 C.S.R. 21 is a legislative rule which was last placed into effect May 10, 1992. This rule contains the agency's special fishing regulations.

Agency To Add To The Current Prohibitions And Special Fishing Season For Children And Persons Possessing A Valid Class Q License.

The use of small thrownets will permit anglers to catch minnows for bait without threatening sport fish.

The special fishing regulation at Westover Park Pond will improve fishing opportunity for children and handicapped anglers.

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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.

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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.

3.4.5.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.