



STATE OF WEST VIRGINIA
DEPARTMENT OF NATURAL RESOURCES
CHARLESTON 25305

ARCH A. MOORE, JR.
Governor

November 21, 1986

RONALD R. POTESTA
Director

MICHAEL A. FOTOS
Deputy Director

NOTICE OF AGENCY ADOPTION

RULE TITLE: Gun Repair Shop Exemptions

RULE TYPE: Interpretive

The attached rule constitutes the official rule adopted by the West Virginia Department of Natural Resources on the 21st day of November 1986 and filed with the West Virginia Secretary of State.

A handwritten signature in cursive script, appearing to read "R. Potesta", written over a horizontal line.

Ronald R. Potesta
Director

1986 NOV 21 11 2 16
SECRETARY OF STATE

FILED



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The Honorable Ken Hechler
Secretary of State
Capitol Complex, Suite 157-K
Charleston, West Virginia 25305

Re: Filing of Adopted Rules
(Gun Repair Shop Exemptions,
Series 47B) by the Department
of Natural Resources

Dear Mr. Hechler:

Enclosed please find for your filing a copy of adopted interpretive rules of the Department of Natural Resources. Please note that these rules were originally proposed as Series IV-H. Title 47, the compilation of Department regulations, has since been renumbered; Series IV-H became 47B and has been so renumbered in this filing.

If you have any questions, please contact Mr. Jeffrey E. Herrold, Director's Office of Regulatory Affairs, at 348-2761.

Sincerely,

Ronald R. Potesta
Director

FILED
1986 NOV 21 11 14 AM
RRP/jhb
Enclosures

FISCAL NOTE FOR PROPOSED RULES

FILED

Rule Title: Procedures for Granting Gun Repair Shop Exemptions

Type of Rule: Legislative X Interpretive

1986 OCT 16 PM 2:17
X Procedural
OFFICE OF THE SECRETARY OF STATE

Agency: Department of Natural Resources

Address: 1800 Washington Street East, Charleston, West Virginia 25305

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

2. Explanation of Above Estimates:

Work will be accomplished by conservation officers as part of their regular duties; costs would be negligible and within normal budgets.

3. Objectives of These Rules:

The proposed rules provide for the granting of exemptions to exempt gun shop operators from the law prohibiting the discharging of a firearm within 500 feet of a residence and 400 feet of a school or church.

4. Explanation of Overall Economic Impact of Proposed Rule.

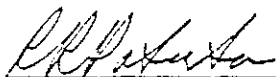
A. Economic Impact on State Government: No impact

B. Economic Impact on Political Subdivisions; Specific Industries; Specific Groups of Citizens: No impact

C. Economic Impact on Citizens/Public at Large:

Gun shop operators will pay a minimal cost to notify people living within the 500 feet and churches and schools within 400 feet of the test firing site.

Date: October 16, 1986



Ronald R. Potesta
Director

PREAMBLE FOR PROCEDURAL AND INTERPRETIVE RULES
RELATING TO GUN REPAIR SHOP EXEMPTIONS

PROGRAM: Law Enforcement

REGULATIONS: Gun Repair Shop Exemptions, Series 47A (Procedural)
and Series 47B (Interpretive).

AUTHORITY: West Virginia Code, Chapter 20, Article 2, Section 58;
Chapter 61, Article 7, Section 12; and Chapter 29A, Article 3.

ACTION: Adopted Rules

TOPIC: Series 47A establishes procedures for granting gun repair shop operators exemptions from the law prohibiting the discharge of a firearm within five hundred feet of any dwelling house or within four hundred feet of any schoolhouse or church. Series 47B provides guidance to gun repair shop operators concerning safe test firing sites.

SUMMARY: Under Sections 20-2-58 and 61-7-12 of the West Virginia Code, the Director is authorized to grant exemptions to the operators of gun repair shops which allows the test firing of a firearm under certain circumstances. The Director may grant such exemptions provided that he "shall ensure that any person residing in any dwelling home within five hundred feet of such gun repair shop be given an opportunity to protest the granting of such exemption."

Under the procedural rules (Series 47A), the operator of a gun repair shop may be granted an exemption to allow the test firing of firearms (1) within five hundred feet of any dwelling house and (2) within four hundred feet of any school or church. Series 47A establishes the procedures to be followed and the form to be used in applying for this exemption and also sets forth the manner in which objections to a grant of exemption will be addressed. The interpretive rules (Series 47B) provide guidance concerning safety requirements to be followed by gun repair shops under a grant of exemption.

A public hearing was held on Monday, November 17, 1986 in Charleston. Comments were received until the close of business on Wednesday, November 19, 1986. No one except Department staff attended the public hearing and no substantive or other comment on the proposed rules was received during the comment period. Therefore, the Department is today adopting these rules as they

were proposed on October 17, 1986 with one change. Since the time of proposal, the compilation of Department regulations (Title 47) has been renumbered. Under the new numbering format, proposed Series IV-G and IV-H became Series 47A and 47B and have been so renumbered in this rule adoption.

Title 47
Interpretive Rule

~~WEST VIRGINIA ADMINISTRATIVE REGULATIONS~~
Department of Natural Resources
Series 47B
Gun Repair Shop Exemptions
~~Interpretive Rules~~

47-47B-1 General

Section 1. Scope and Authority

- 1.1 Scope and Purpose. The purpose of these rules is to provide guidance concerning safety requirements to be followed by gun repair shops under a grant of exemption.
- 1.2 Authority. These rules are promulgated under the authority of the West Virginia Code, Chapter 20, Article 2, Section 58; Chapter 61, Article 7, Section 12; and Chapter 29A, Article 3.
- 1.3 Effective Date. These rules will be effective on December 22, 1986.
- 1.4 Filing Date. These rules were filed on November 21, 1986.

Section 2. Definitions

- 2.1 Applicant means the operator of a gun repair shop duly licensed under applicable federal and state laws.
- 2.2 Exemption means an exemption from the law prohibiting the discharge of a firearm within five hundred feet of a dwelling house or within four hundred feet of a schoolhouse or church.
- 2.3 Person means also the plural "persons" and includes individuals, partnerships, corporations, or other legal entities.

Section 3. Nontransferability

- 3.1 A grant of exemption may not be transferred to another person.
- 3.2 A grant of exemption is void upon the bankruptcy, sale, or cessation of the applicant's gun repair business.

Section 4. Safety Requirements

- 4.1 All test firing done under a grant of exemption will be by the gun repair shop operator, his paid employee, or the owner of the firearm being repaired.
- 4.2 All test firing will be done into a safe backstop or bullet trap.

Section 5. Revocation of Exemption

5.1 Failure to maintain a safe test firing area may result in the revocation of the grant of exemption.

5.2 Revocation of a grant of exemption may result in the imposition of criminal penalties as prescribed in Chapter 20, Article 7, Section 9 of the West Virginia Code.

Title 47
Procedural Rule

~~WEST VIRGINIA ADMINISTRATIVE REGULATIONS~~
Department of Natural Resources
Series 47A
Gun Repair Shop Exemptions
~~Procedural Rules~~

Section 1. Scope and Authority

- 1.1 **Scope and Purpose.** The purpose of these rules is to establish the procedures for obtaining a gun repair shop exemption to the law prohibiting the discharge of a firearm within five hundred feet of any dwelling house or within four hundred feet of any schoolhouse or church.
- 1.2 **Authority.** These rules are promulgated under the authority of the West Virginia Code, Chapter 20, Article 2, Section 58; Chapter 61, Article 7, Section 12; and Chapter 29A, Article 3.
- 1.3 **Effective Date.** These rules will be effective on December 22, 1986.
- 1.4 **Filing Date.** These rules were filed on November 21, 1986.

Section 2. Definitions

- 2.1 **Applicant** means the operator of a gun repair shop duly licensed under applicable federal and state laws.
- 2.2 **Application** means an Application for a Gun Repair Shop Exemption in the form prescribed in Appendix A of these rules.
- 2.3 **Church** means a place of worship other than a dwelling house.
- 2.4 **Church Representative** means the minister, pastor, priest, rabbi, elder, or other individual duly authorized to represent a church congregation.
- 2.5 **Department** means the West Virginia Department of Natural Resources.
- 2.6 **Director** means the Director of the West Virginia Department of Natural Resources.
- 2.7 **Division** means the Division of Law Enforcement of the West Virginia Department of Natural Resources.
- 2.8 **Exemption** means an exemption from the law prohibiting the discharge of a firearm within five hundred feet of a dwelling house or within four hundred feet of a schoolhouse or church.
- 2.9 **Legal Advertisement** means a Class I legal advertisement as defined in Chapter 59, Article 3 of the West Virginia Code.

2.10 Public Notice means an announcement, in the form prescribed in Appendix B of these rules, stating that the operator of a gun repair shop is seeking a grant of exemption from the Department to allow the discharge of firearms on or near the repair shop premises.

Section 3. Application Procedures

3.1 The operator of a gun repair shop seeking an exemption will complete and submit an application to the Division of Law Enforcement, Department of Natural Resources, Room 840, 1800 Washington Street, East, Charleston, West Virginia 25305.

Section 4. Notice Requirements

4.1 The applicant will send a public notice by certified mail to:

4.1.1 Each head of a household residing within five hundred feet of the test firing site.

4.1.2 The principal of any schoolhouse located within four hundred feet of the test firing site.

4.1.3 The church representative of any church located within four hundred feet of the test firing site.

4.2 Certified mail receipts will be kept by the applicant for inspection by Division personnel until the grant of exemption has been either approved or disapproved by the Department.

4.3 The applicant will also publish a legal advertisement in a newspaper of general circulation in the community in which the applicant's business is located. The advertisement will contain the information provided in the public notice. A copy of the advertisement showing the name of the newspaper and the date of publication will be sent with the application submitted to the Department.

Section 5. Objections to a Grant of Exemption

5.1 The following individuals may protest the granting of an exemption to an applicant:

5.1.1 Any individual who resides within five hundred feet of the test firing site.

5.1.2 The principal, school personnel, and the parents of students of any schoolhouse located within four hundred feet of a test firing site.

5.1.3 Any member of a church located within four hundred feet of a test firing site.

5.2 Division personnel will investigate in a timely manner all substantive written objections to the granting of an exemption that are received by the Department within thirty days after the receipt of an application.

Section 6. Inspections

6.1 Test firing facilities will be inspected by Division personnel prior to the granting of an exemption and at any time thereafter when deemed necessary.