



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

Do not mark in this box
Filing Date

FILED

Dec 30 10 34 AM '93

OFFICE OF WEST VIRGINIA
SECRETARY OF STATE

Form #7

Effective Date

NOTICE OF AN EMERGENCY RULE

DEPARTMENT OF COMMERCE, LABOR AND
ENVIRONMENTAL RESOURCES,

AGENCY: DIVISION OF NATURAL RESOURCES TITLE NUMBER: 47

CITE AUTHORITY : §61-7-4(a)(8)

EMERGENCY AMENDMENT TO AN EXISTING RULE: YES NO

IF YES, SERIES NUMBER OF RULE BEING AMENDED: 46

TITLE OF RULE BEING AMENDED: REGULATIONS FOR HANDLING AND FIRING OF FIREARMS

NEW TITLE: MINIMUM REQUIREMENTS FOR HANDLING AND FIRING OF HANDGUNS

IF NO, SERIES NUMBER OF RULE BEING FILED AS AN EMERGENCY: _____

TITLE OF RULE BEING FILED AS AN EMERGENCY: _____

THE ABOVE RULE IS BEING FILED AS AN EMERGENCY RULE TO BECOME EFFECTIVE AFTER APPROVAL BY SECRETARY OF STATE OR 35TH DAY AFTER FILING, WHICHEVER OCCURS FIRST.

THE FACTS AND CIRCUMSTANCES CONSTITUTING THE EMERGENCY ARE AS FOLLOWS:
SEE ATTACHED

4.80

CHARLES B. FELTON, JR.

Signature

Use additional sheets if necessary



DEPARTMENT OF COMMERCE, LABOR & ENVIRONMENTAL RESOURCES

OFFICE OF THE SECRETARY

State Capitol, Room M-146
Charleston, West Virginia 25305-0310
Telephone: (304) 558-0400
Fax No.: (304) 558-4983

GASTON CAPERTON
Governor

JOHN M. RANSON
Cabinet Secretary

December 17, 1993

OFFICE OF WEST VIRGINIA
SECRETARY OF STATE

DEC 30 10 34 AM '93

FILED

Mr. Charles B. Felton, Jr.
Director
Division of Natural Resources
Building 3, Room 812
Charleston, West Virginia 25305-0664

Re: Title 47, Series 46 - Regulations Concerning
Minimum Requirements for Handling and Firing of
Handguns

Dear Mr. Felton:

Pursuant to West Virginia Code Section 5F-2-2(a)(12), I
hereby consent to the proposal of the rule specified above.

You may attach a copy of this letter to your filing with
the Secretary of State as evidence of my consent.

Sincerely yours,

John M. Ranson
Cabinet Secretary

JMR/ec

T:\FIRE-46.RUL

CIRCUMSTANCES CONSTITUTING EMERGENCY
CONCERNING
MINIMUM REQUIREMENTS FOR HANDLING AND FIRING OF HANDGUNS

AGENCY: Department of Commerce, Labor, and Environmental Resources; Division of Natural Resources

REGULATION: Title 47, Series 46, "Minimum Requirements For Handling and Firing of Handguns".

ACTION: Filing of an emergency rule.

CIRCUMSTANCES: West Virginia Code mandates a requirement that citizens need a special permit to carry a concealed dangerous and deadly weapon. Old rules did not adequately address all the needs since a constitutional amendment was passed November 4, 1986, and the supreme Court of Appeals of West Virginia struck down the old concealed weapon provisions. This rule is needed to begin issuing certificates of training to the citizens of West Virginia so they may again start applying for the necessary permit to carry concealed weapons.



STATE OF WEST VIRGINIA
DEPARTMENT OF COMMERCE, LABOR AND ENVIRONMENTAL RESOURCES
DIVISION OF NATURAL RESOURCES

State Capitol Complex
Building 3, Room 669
1900 Kanawha Boulevard, East
Charleston, West Virginia 25305-0660
TDD 558-1439 TDD 1-800-354-6087
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GASTON CAPERTON
Governor

CHARLES B. FELTON, JR.
Director

JOHN M. RANSON
Cabinet Secretary

Memorandum


December 14, 1993

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

From: Charles B. Felton, Jr., Director
Division of Natural Resources

Subject: Division Approval of Proposed Rules and Request
for Department Consent to File.

The proposed rule(s) listed on the enclosed "MEMORANDUM OF CONSENT" have my approval to be proposed pursuant to the West Virginia Administrative Procedures Act. Your approval is requested.


Charles B. Felton, Jr., Director
Division of Natural Resources

PREAMBLE TO A LEGISLATIVE RULE
CONCERNING
MINIMUM REQUIREMENTS FOR HANDLING AND FIRING OF HANDGUNS

AGENCY: Department of Commerce, Labor, and Environmental Resources; Division of Natural Resources

REGULATION: Title 47, Series 46, "Minimum Requirements For Handling and Firing of Handguns".

ACTION: Filing of an emergency rule.

SUMMARY: This is an emergency rule which repeals and replaces the current Regulations for Handling and Firing of Firearms. This rule establishes the procedures to be followed to obtain a certificate of compliance required by 61-7-4(a)(8). The rule will become effective upon filing.

DATE: DECEMBER 17, 1993

TO: LEGISLATIVE RULE-MAKING REVIEW COMMITTEE

FROM: DEPARTMENT OF COMMERCE, LABOR AND ENVIRONMENTAL RESOURCES
DIVISION OF NATURAL RESOURCES

EMERGENCY RULE TITLE: MINIMUM REQUIREMENTS FOR HANDLING AND FIRING OF HANDGUNS

1. Date of Filing December 30, 1993
2. Statutory authority for promulgating emergency rule:
61-7-4(a)(8)
3. Date of filing of proposed legislative rule: December 30, 1993

4. Does the emergency rule adopt new language or does it amend or appeal a current legislative rule?

This rule repeals a current Legislative Rule, Series 46.

5. Has the same or similar emergency rule previously been filed and expired?

No.

6. State, with particularity, those facts and circumstances which make the emergency rule necessary for the immediate preservation of public peace, health, safety or welfare.

West Virginia Code mandates a requirement that citizens need a special permit to carry a concealed dangerous and deadly weapon. Old rules did not adequately address all the needs since a constitutional amendment was passed November 4, 1986, and the Supreme Court of Appeals of West Virginia struck down the old concealed weapon provisions. This rule is needed to begin issuing certificates of training to the citizens of West Virginia so they may again start applying for the necessary permit to carry concealed weapons.

7. If the emergency rule was promulgated in order to comply with a time limit established by the Code or federal statute or regulation, cite the Code provision, federal statute or regulation and time limit established therein.

N/A

8. State, with particularity, those facts and circumstances which make the emergency rule necessary to prevent substantial harm to the public interest.

The constitution guarantees the right of citizens of West Virginia to carry firearms for the defense of self, family, home and state. The Division of Natural Resources suspended issuing certificates under the old rules in order to update the rules and thereby come into compliance with 61-7-4(a)(8).

APPENDIX B

FISCAL NOTE FOR PROPOSED RULES

Rule Title: MINIMUM REQUIREMENTS FOR HANDLING AND FIRING OF HANDGUNS

Type of Rule: Legislative Interpretive Procedural

Agency: DEPARTMENT OF COMMERCE, LABOR AND ENVIRONMENTAL RESOURCES
DIVISION OF NATURAL RESOURCES

Address: CAPITOL COMPLEX, BUILDING 3
1900 KANAWHA BOULEVARD, EAST
CHARLESTON, WEST VIRGINIA 25305-0668

1. Effect of Proposed Rule

	ANNUAL FISCAL YEAR				
	INCREASE	DECREASE	CURRENT	NEXT	THEREAFTER
<u>ESTIMATED TOTAL COST</u>	\$	\$	\$ 0	\$	\$
PERSONAL SERVICES					
CURRENT EXPENSE					
REPAIRS & ALTERNATIONS					
EQUIPMENT					
OTHER					

2. Explanation of above estimates:

It is estimated that fees established by these rules will produce \$63,000 in income each fiscal year based on an average of 630 permits issued each year.

$$(630 \text{ permits} \times \$100.00 \text{ fee} = \$63,000.00)$$

3. Objectives of these rules:

These rules will set forth the minimum requirements to obtain a certificate of compliance in accordance with 61-7-4(a)(8).

Rule Title: MINIMUM REQUIREMENTS FOR HANDLING AND FIRING OF HANDGUNS

4. Explanation of Overall Economic Impact of Proposed Rule.

A. Economic Impact on State Government.

The income produced by the fees on this rule will help to offset money spent out of dedicated funds under 20-2-34.

B. Economic Impact on Political Subdivisions; Specific Industries; Specific groups of Citizens.

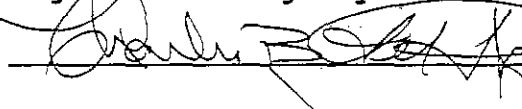
None.

C. Economic Impact on Citizens/Public at Large.

None.

Date: December 14, 1993

Signature of Agency Head or Authorized Representative


CHARLES B. FELTON, JR.

FILED

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

Dec 30 10 34 AM '93

OFFICE OF WEST VIRGINIA
SECRETARY OF STATE

SERIES 46
MINIMUM REQUIREMENTS FOR HANDLING AND FIRING OF HANDGUNS
(EMERGENCY RULE)

§47-46-1. General.

1.1. Scope. --This legislative rule establishes the regulations that govern the minimum requirements for handling and firing of handguns in order to secure a license to carry a concealed weapon from the circuit court.

1.2. Authority. --West Virginia Code §61-7-4(a)(8).

1.3. Filing Date. -- December 30, 1993

1.4. Effective Date. --

1.5. Repeal of Former Rules. --This rule repeals and replaces 47 C.S.R. 46 "Regulations for Handling and Firing of Firearms" which was filed on December 30, 1982 and became effective on January 1, 1983.

§47-46-2. Definitions.

2.1. "Director" means the Director of the Division of Natural Resources.

2.2. "Division" means the Division of Natural Resources.

§47-46-3. General Regulations.

3.1. Application. Any person desiring to complete the course of handguns instruction provided by the Division will submit an application for training in writing on forms provided by the Director.

3.2. Fee. Applicants will be required to pay a \$100.00 fee at the time of application.

3.3. Handguns. Applicants will be required to bring the handgun they intend to carry with them to the classroom. The instructor will inspect each handgun that is to be used in the training. Any handgun that is found to be in an unsafe condition will be prohibited from use in live firing exercises. However, the applicant will be given an opportunity to procure another handgun to use in the live firing exercises.

3.4. Course Availability. At least one (1) handgun course will be offered each month in each of the Division's six (6) districts. Other classes will be offered on an as needed basis.

3.5. Certification. Conservation officers who are certified as handgun instructors by the Division are hereby vested with the authority to certify applicants as having met the minimum requirements established by these rules. Certification of completion will be on forms prescribed by the Director.

§47-46-4. Minimum Course Requirements.

4.1. Length of Course. The length of the handgun training course offered by the Division will be a minimum of six (6) hours and will include, but not be limited to, the following:

1. Classroom
 - a. Type of handgun actions
 - b. Nomenclature of parts
 - c. Ammunition types and sizes
 - d. Basic handgun safety rules
 - e. Basics of handgun marksmanship
2. Range
 - a. Dry firing exercises
 - b. Practice loading
 - c. Live firing skills
 - d. Unloading and servicing the firearm

4.2. Range Demonstration.

1. Each applicant will be required to demonstrate that he or she is capable of handling, loading, unloading and firing their handgun safely.

2. No person will be authorized on the range without eye and ear protection. Each applicant will be required to provide their own eye and ear protection for use on the range.

3. Each applicant will be required to fire a minimum of 20 rounds at a stationary target.

4.3. Minimum Requirements For Completion. Upon completion of the classroom instruction, applicants will be administered a written examination. Applicants with reading or learning disorders may be given an oral exam. Applicants must also satisfactorily demonstrate to the instructor that they are proficient in the safe handling, loading, unloading and firing of the handgun that will be carried.

§47-46-5. Disqualification and Retraining.

5.1. Any applicant who does not attend the entire course, including classroom instruction and range activities, will be disqualified.

5.2. Any applicant who acts in an unsafe manner while handling, loading, unloading or firing the handgun will be disqualified.

5.3. Any applicant who fails the written (oral) examination will not be certified.

5.4. Any applicant who is disqualified or is not certified, may not reapply for certification for a period of 90 days from the date of disqualification.

§ 47-46-6. Evidence of Qualification.

6.1. Those persons successfully completing the course outlined by these regulations will be issued a letter of certification listing their name, address, social security number and the make, model and serial number of the handgun used in the range demonstration.

(TO BE REPEALED)

TITLE 47
LEGISLATIVE RULES
DEPARTMENT OF NATURAL RESOURCES

SERIES 46
REGULATIONS FOR HANDLING AND FIRING OF FIREARMS

§47-46-1. General.

1.1. Scope. -- Legislative rules and regulations relating to the minimum requirements for handling and firing of firearms.

1.2. Authority. -- W. Va. Code §61-7-2(e).

1.3. Filing Date. -- December 30, 1982.

1.4. Effective Date. -- January 1, 1983.

§47-46-2. General Regulations.

2.1. Certification. In order for applicant to meet the minimum requirements as prescribed in these regulations, conservation officers are hereby vested with the power and duties to certify those applicants as having met the minimum requirements as prescribed by regulation.

2.2. Forms. Certification of all applicants shall be on such forms as prescribed by director.

2.3. Validity. Certification of all applicants that they have met the minimum requirements shall be valid for the same period of time that the license has been granted.

2.4. Renewal. A person must be re-certified as having met the minimum requirements each time a license is renewed.

2.5. Failure to Meet Requirements. Any applicant who fails to meet those requirements as prescribed in each Section 4 or 5 of this regulation shall not be certified.

§47-46-3. Minimum Requirements.

3.1. Training. Each applicant must complete the basic pistol or revolver firearms training course as prescribed in Section 4 or Section 5 of this regulation.

3.2. Completion. The prescribed course must have been completed prior to the date of issuance of license.

(TO BE REPEALED)

§47-46-4. Minimum Requirements for Those Persons Who Have Not Had Previous Firearms Training with a Pistol or Revolver.

4.1. Must be able by written examination and practical demonstration to satisfy the certifying officer of the applicant's proficiency in the handling and firing of the weapon for which a license is requested. Passing grade on the written examination shall not be less than seventy percent (70%) of total possible score.

§47-46-5. Minimum Requirements for Those Persons Who Have Had Previous Firearms Training with a Pistol or Revolver.

5.1. Any person who has received previous training in the handling and firing of any pistol or revolver, such as law enforcement officers, military personnel or members of civilian pistol teams, may be certified by completing a questionnaire form as prescribed by the director.

Late Summer -
Verbal Order from Judges in
Morgan + Berkeley Counties -
Could no longer use old
rules, must promulgate ~~new~~
new ones.

Judges Names:

Dave Saunders 23rd Dist
Berkeley Sp 92

Donald Cookman
Romney



STATE OF WEST VIRGINIA
DEPARTMENT OF COMMERCE, LABOR AND ENVIRONMENTAL RESOURCES
DIVISION OF NATURAL RESOURCES

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GASTON CAPERTON
Governor

CHARLES B. FELTON, JR.
Director

JOHN M. RANSON
Cabinet Secretary

January 27, 1994

Ms. Judy Cooper, Director
Administrative Law Division
Building #3, Suite 157-K
1900 Kanawha Boulevard East
Charleston, WV 25305-0771

Dear Ms. Cooper:

I wish to withdraw Emergency Rules, Title 47, Series 46 that were filed on December 30, 1993.

If you need any additional information, please let me know.

BY DIRECTION OF THE CHIEF
COLONEL RICHARD M. HALL

Sincerely,

Major William B. Daniel
Assistant Chief
DNR Law Enforcement Section

WBD/lch

OFFICE OF WEST VIRGINIA
SECRETARY OF STATE

JAN 27 1 54 PM '94

FILED