

WISCONSIN LEGISLATIVE COUNCIL STAFF

LCRC
FORM 2

RULES CLEARINGHOUSE

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CLEARINGHOUSE REPORT TO AGENCY

[THIS REPORT HAS BEEN PREPARED PURSUANT TO S. 227.15, STATS. THIS IS A REPORT ON A RULE AS ORIGINALLY PROPOSED BY THE AGENCY; THE REPORT MAY NOT REFLECT THE FINAL CONTENT OF THE RULE IN FINAL DRAFT FORM AS IT WILL BE SUBMITTED TO THE LEGISLATURE. THIS REPORT CONSTITUTES A REVIEW OF, BUT NOT APPROVAL OR DISAPPROVAL OF, THE SUBSTANTIVE CONTENT AND TECHNICAL ACCURACY OF THE RULE.]

CLEARINGHOUSE RULE 99-096

AN ORDER to amend NR 20.12 (1) (c) and (d), relating to the marking and tagging of set or bank poles in inland waters.

Submitted by **DEPARTMENT OF NATURAL RESOURCES**

06-14-99 RECEIVED BY LEGISLATIVE COUNCIL.

07-06-99 REPORT SENT TO AGENCY.

RNS:GAA:jal

LEGISLATIVE COUNCIL RULES CLEARINGHOUSE REPORT

This rule has been reviewed by the Rules Clearinghouse. Based on that review, comments are reported as noted below:

1. STATUTORY AUTHORITY [s. 227.15 (2) (a)]

Comment Attached YES NO

2. FORM, STYLE AND PLACEMENT IN ADMINISTRATIVE CODE [s. 227.15 (2) (c)]

Comment Attached YES NO

3. CONFLICT WITH OR DUPLICATION OF EXISTING RULES [s. 227.15 (2) (d)]

Comment Attached YES NO

4. ADEQUACY OF REFERENCES TO RELATED STATUTES, RULES AND FORMS [s. 227.15 (2) (e)]

Comment Attached YES NO

5. CLARITY, GRAMMAR, PUNCTUATION AND USE OF PLAIN LANGUAGE [s. 227.15 (2) (f)]

Comment Attached YES NO

6. POTENTIAL CONFLICTS WITH, AND COMPARABILITY TO, RELATED FEDERAL REGULATIONS [s. 227.15 (2) (g)]

Comment Attached YES NO

7. COMPLIANCE WITH PERMIT ACTION DEADLINE REQUIREMENTS [s. 227.15 (2) (h)]

Comment Attached YES NO

**ORDER OF THE STATE OF WISCONSIN
NATURAL RESOURCES BOARD
AMENDING RULES**

The Wisconsin Natural Resources Board proposes an order to amend NR 20.12(1)(c) and (d) relating to the marking and tagging of set or bank poles in inland waters

LE-22-99

Analysis Prepared by Department of Natural Resources

Statutory authority: ss. 29.014(1) and 227.11(2)(a), Stats.

Statutes interpreted: ss. 29.011(1) and 29.014(1), Stats.

The rule requires that set or bank poles used in inland waters be marked with a flag in a manner similar to setlines. A 10-inch square or larger white flag, bearing the license number of the set or bank pole and mounted on a flag shaft, must be attached to the set or bank pole by a cord and be placed no farther than 2' from the set or bank pole.

SECTION 1. NR 20.12(1)(c) and (d) as created by Clearinghouse Rule 98-148 are amended to read:

NR 20.12(1)(c) A white ~~setline~~ flag at least 10 inches square bearing the number of the license authorizing its use in black figures at least 3 inches high and attached to the top of a flag staff that extends at least 3 feet above the surface of the water or bank is placed and maintained at one end of the setline or within 2 feet of the set or bank pole with a cord attached from the flag staff to the set or bank pole. The flag staff may not exceed 2 ½ inches in diameter and shall be marked with 2 inch to 6 inch wide alternating horizontal black and white bands. When a buoy is used to hold a setline's flag staff the buoy shall be cylindrical in shape, 15 inches or less in diameter and marked with 2 inch to 6 inch wide alternating horizontal black and white bands. No person may place a setline flag, flag staff or pole in the main channel of any navigable waterway.

(d) A metal tag stamped with the number of the license authorizing its use is securely attached directly to ~~each set or bank pole and to~~ the flag staff or pole of each setline or set or bank pole.

The foregoing rule was approved and adopted by the State of Wisconsin Natural Resources Board on _____.

The rule shall take effect on the first day of the month following publication in the Wisconsin administrative register as provided in s. 227.22(2)(intro.), Stats.

Dated at Madison, Wisconsin _____.

STATE OF WISCONSIN
DEPARTMENT OF NATURAL RESOURCES

By _____
George E. Meyer, Secretary

(SEAL)

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State of Wisconsin
Department of Natural Resources

**NOTICE TO PRESIDING OFFICERS
OF PROPOSED RULEMAKING**

Pursuant to s. 227.19, Stats., notice is hereby given that final draft rules are being submitted to the presiding officer of each house of the legislature. The rules being submitted are:

Natural Resources Board Order No. LE-22-99

Legislative Council Rules Clearinghouse Number 99-096

Subject of Rules Marking and tagging of set or bank poles in inland waters

Date of Transmittal to Presiding Officers November 9, 1999

Send a copy of any correspondence or notices pertaining to this rule to:

**Carol Turner, Rules Coordinator
DNR Bureau of Legal Services
LC/5, 101 South Webster**

266-1959

REPORT TO LEGISLATURE

NR 20.12, Wis. Adm. Code
Marking and tagging of set or bank poles in inland waters

Board Order No. LE-22-99
Clearinghouse Rule No. 99-096

Statement of Need

Current law does not require the markings of any inland set or bank pole. There are existing rules governing hook size, bait, lifting requirements, size and bag limits for fish caught on set and bank poles along with the concern of taking illegal fish, sturgeon within the Wolf river system as an example. Conservation wardens need to identify and locate these set and bank poles for enforcement purposes. The proposed rule would continue the use of conventional set and bank pole fishing gear but would require each set and bank pole to be marked with a marker staff banded horizontally with alternating black and white markings identical to the way setlines currently must be marked. The lower Wisconsin river set and bank pole regulations will remain unchanged.

Modifications as a Result of Public Hearing

The rules governing the lower Wisconsin river are not changed, pending further study. The current rules for set and bank poles for the lower Wisconsin river will appear in a new, separate sub. (1m).

Appearances at the Public Hearings and Their Position

August 12, 1999 – New London

In support:

Todd Close, E9417 County Road T, New London, WI 54961
Stephen Thompson, 314 East Pike Street, New London, WI 54961
Paul Vance, P.O. Box 125, Hortonville, WI
Earl Conradt, Box 92, Shiocton, WI
Ken Skwitski, 416 W. York, Oshkosh, WI 54901
Floyd Gorr, 5406 E. Reighmoor Road, Omro, WI 54963
Dennis Johnson, 601 Oak, Winneconne, WI 54986
Nick Knuth, E8374 Weyauwega Road, New London, WI 54961
Norman E. Blohm, N8661 Lawn Road, Seymour, WI 51165
Thomas F. Linberg, E9350 Oakwood Street, New London, WI 54961
Jamie Gore, E7714 Cutoff Road, New London, WI 54961
Jamie Duciaume, E7761 Cutoff Road, New London, WI 54961
Ed Danke, N2484 Meartz Road, New London, WI 54961
John Faucher, E9350 Box 38 Oakwood Lane, New London, WI 54961
Edgar Algiers, E8324 Shaw Road, New London, WI 54961
Donald W. Goers, 407 S. Washington Street, Shawano, WI 54166
Keith Beckman, 8961 Riverview Lane, Fremont, WI 54940

In opposition – none

As interest may appear:

Jeff Gabriel, 1602 Oriole Street, New London, WI
Tom Kir, 1916 Pershing Road, New London, WI
Bob Knorr, N9239 Highway 45, Clintonville, WI
Ron Buchmann, W2715 Culbertson, Seymour, WI 54165
Tim Schoppenhorst, W3293 County E, Berlin, WI 54923
Wilford Schoppenhorst, N9251 32nd Drive, Berlin, WI 54923
Jerry Wick, P.O. Box 187, Berlin, WI 54923
Larry Vanderhoef, W10513 County Road P, Plainfield, WI 54966
Mary Cassidy, W10513 County Road P, Plainfield, WI 54966
Dave Jogoditsch, N4084 Thompson Road, Weyauwega, WI 54983
D. L. Van Alstine, E8338 Shaw Road, New London, WI
Lee Meyer, 521 S. Pearl Street, New London, WI 54961
Brian Hansen, 420½ E. Pine Street, New London, WI 54961

August 13, 1999 – Fennimore

In support – none

In opposition:

Carl G. Thompson, 503 E. Main Street, Wauzeka, WI 53826

As interest may appear – none

Response to Legislative Council Rules Clearinghouse Report

The recommendations were accepted.

Final Regulatory Flexibility Analysis

The proposed rules do not regulate small business; therefore, a final regulatory flexibility analysis is not required.

**ORDER OF THE STATE OF WISCONSIN
NATURAL RESOURCES BOARD
AMENDING AND CREATING RULES**

The Wisconsin Natural Resources Board proposes an order to amend NR 20.12(1) (intro.), (c) and (d) and to create NR 20.12(1m) relating to the marking and tagging of set or bank poles in inland waters

LE-22-99

Analysis Prepared by Department of Natural Resources

Statutory authority: ss. 29.014(1) and 227.11(2)(a), Stats.

Statutes interpreted: ss. 29.011(1) and 29.014(1), Stats.

The rule requires that set or bank poles used in inland waters except the lower Wisconsin river be marked with a flag in a manner similar to setlines. A 10-inch square or larger white flag, bearing the license number of the set or bank pole and mounted on a flag shaft, must be attached to the set or bank pole by a cord and be placed no farther than 2' from the set or bank pole. Rules governing the lower Wisconsin river are unchanged, pending further study, but will now appear in a new, separate subsection (1m).

SECTION 1. NR 20.12(1) (intro.), (c) and (d) are amended to read:

NR 20.12(1) GENERAL RESTRICTIONS. (intro.) No person may use, set, lift, attend or possess any set or bank pole or setline on any water except the lower Wisconsin river, unless:

(c) A white ~~setline~~ flag at least 10 inches square bearing the number of the license authorizing its use in black figures at least 3 inches high and attached to the top of a flag staff that extends at least 3 feet above the surface of the water or bank is placed and maintained at one end of the setline or within 2 feet of the set or bank pole with a cord attached from the flag staff to the set or bank pole. The flag staff may not exceed 2½ inches in diameter and shall be marked with 2 inch to 6 inch wide alternating horizontal black and white bands. When a buoy is used to hold a setline's flag staff the buoy shall be cylindrical in shape, 15 inches or less in diameter and

marked with 2 inch to 6 inch wide alternating horizontal black and white bands. No person may place a setline flag, flag staff or pole in the main channel of any navigable waterway.

(d) A metal tag stamped with the number of the license authorizing its use is securely attached directly to ~~each set or bank pole and to the flag staff or pole of each setline or set or~~ bank pole.

SECTION 2. NR 20.12(1m) is created to read:

NR 20.12(1m) LOWER WISCONSIN RIVER RESTRICTIONS. No person may use, set, lift, attend or possess any set or bank pole or setline on the lower Wisconsin river unless:

(a) Its use is specifically authorized by a set or bank pole license issued under s. 29.531 (1), Stats., or a setline license issued under s. 29.533 (1), Stats. No person may use, set, lift, attend or possess set or bank pole or setline licensed to another person.

(b) Its use in that water is specifically authorized in s. NR 20.20.

(c) A white setline flag at least 10 inches square bearing the number of the license authorizing its use in figures at least 3 inches high and attached to a flag staff that extends at least 3 feet above the surface of the water or bank is placed and maintained at one end of the setline.

The flag staff may not exceed 2½ inches in diameter and shall be marked with 2 inch to 6 inch wide alternating horizontal black and white bands. When a buoy is used to hold the setline's flag staff, the buoy shall be cylindrical in shape, 15 inches or less in diameter and marked with 2 inch to 6 inch wide alternating horizontal black and white bands. No person may place a setline flag, flag staff or pole in the main channel of any navigable waterway.

(d) A metal tag stamped with the number of the license authorizing its use is securely attached directly to each set or bank pole and to the flag staff of each setline.

The foregoing rule was approved and adopted by the State of Wisconsin Natural Resources Board on October 27, 1999.

The rule shall take effect on the first day of the month following publication in the Wisconsin administrative register as provided in s. 227.22(2)(intro.), Stats.

Dated at Madison, Wisconsin _____.

STATE OF WISCONSIN
DEPARTMENT OF NATURAL RESOURCES

By _____
George E. Meyer, Secretary

(SEAL)