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**Joint Committee for
Review of
Administrative Rules**

**Report to the Legislature
CR 99-023, NR 20.15
The Joint Committee for Review of Administrative Rules**

Produced pursuant to s. 227.26(2)(g)

The amendment to NR 20.15 as proposed in Clearinghouse Rule 99-023, established by the Department of Natural Resources, implements the requirements of s. 29.014(1), Stats., relating to fishing regulations for inland, outlying and boundary waters.

Description of the Problem

On June 10, 1999 CR 99-023 was referred to the Assembly Committee on Natural Resources. The rule in part prohibits the use or possession of barbed hooks during the early catch and release season for trout. One of the modifications requested by the committee on August 4 was to delete the words "or possessed" from the proposed amendment to NR 20.15. Although anglers are not allowed to use barbed hooks during the early catch and release season for trout, the requested modification would allow anglers to continue to have barbed hooks in their possession. The Department of Natural Resources chose not to make this change. Therefore, on September 1, 1999 the Assembly Committee on Natural Resources unanimously passed a motion that "or possessed" in the proposed amendment to s. NR 20.15 in Clearinghouse Rule 99-023 be recommended for objection. The Assembly Committee's belief was that it is unreasonable for anglers to be required to flatten all of their barbed hooks, especially given that the anglers often do not know what tackle they will be using on a given day. On September 7, 1999 the objection to the phrase "or possessed" was referred to the Joint Committee for Review of Administrative Rules.

Arguments in Favor of Suspension

- *It is unreasonable to expect anglers to smooth down all their hooks. Because of the wide variety of flies and lures, it is unlikely to know which one they would use on a given day.*
- *The statewide vote being used to justify the prohibition of the possession of barbed fish hooks during the early catch and release trout season has been mischaracterized. Voters were not given adequate options to deal with the use and possession of barbed hooks separately. Instead, the survey addressed both the use of barbed hooks and the possession of barbed hooks in a single question.*
- *The spring hearing questionnaire did not offer the option of voting for no change to the rule.*
- *Every legislative committee vote taken to object to or suspend "or possessed" from the amendment to NR 20.15 was unanimous.*
- *A summary of nation-wide studies has not shown that barbless hooks reduce hooking mortality.*
- *Deleting the proposed prohibition is consistent with other agency rules, since possession of bait hooks is legal on streams where it is not legal to fish with bait.*

Arguments Against Suspension

- *The Department of Natural Resources staff felt the barbed hook restriction is difficult to enforce as long as anglers could possess barbed hooks among the tackle they carried on the stream.*
- *The statewide vote taken was 2800 to 1493 against allowing the use and possession of barbed hooks.*

Joint Committee for Review of Administrative Rules Action

The Joint Committee for Review of Administrative Rules concurred with the Assembly Committee on Natural Resources objection with the following motion at their September 22, 1999 committee hearing:

1. The Joint Committee for the Review of Administrative Rule (JCRAR), pursuant to s. 227.19 (5) (b) 2., Stats., requests the Department of Natural Resources to modify Clearinghouse Rule 99-23 by deleting the phrase "or possessed" from the Department's amendment to s. NR 20.15.
2. If the Department of Natural Resources, prior to 5:00 p.m. on October 8, 1999, agrees in writing to make the modification requested in item 1., JCRAR nonconcurrs in the objection of the Assembly Committee on Natural Resources to Clearinghouse Rule 99-23.
3. If the Department of Natural Resources, prior to 5:00 p.m. on October 8, 1999, does not agree in writing to make the modification requested in item 1., JCRAR, pursuant to s. 227.19 (4) (d) 6., Stats., objects to the phrase "or possessed" in the Department's amendment to s. NR 20.15 on the grounds that the rule is arbitrary and capricious and imposes an undue hardship.

Since the Department of Natural Resources chose not honor JCRAR's request to modify this rule, the phrase "or possessed" was suspended at 5:00 PM on October 8, 1999.