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(FORM UPDATED: 08/11/2010)

WISCONSIN STATE LEGISLATURE ... PUBLIC HEARING - COMMITTEE RECORDS

2009-10

(session year)

Joint

(Assembly, Senate or Joint)

Committee for Review of Administrative Rules ...

COMMITTEE NOTICES ...

- Committee Reports ... **CR**
- Executive Sessions ... **ES**
- Public Hearings ... **PH**

INFORMATION COLLECTED BY COMMITTEE FOR AND AGAINST PROPOSAL

- Appointments ... **Appt** (w/Record of Comm. Proceedings)
- Clearinghouse Rules ... **CRule** (w/Record of Comm. Proceedings)
- Hearing Records ... bills and resolutions (w/Record of Comm. Proceedings)
(**ab** = Assembly Bill) (**ar** = Assembly Resolution) (**ajr** = Assembly Joint Resolution)
(**sb** = Senate Bill) (**sr** = Senate Resolution) (**sjr** = Senate Joint Resolution)
- Miscellaneous ... **Misc**

* Contents organized for archiving by: Stefanie Rose (LRB) (June 2012)

**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:

| | |
|----------------------|--|
| Board Order No.: | FH-03-10 |
| Clearinghouse Number | CR 10-025 |
| Subject of Rules: | Fishing regulation changes proposed and supported at the 2010 Spring Fish and Wildlife Rules Hearings. |
| Date of Transmittal: | June 7, 2010 |

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

**Linda Haddix
Department Rules Coordinator
101 South Webster, LS/8
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Madison, WI 53707-7921**

**An electronic copy of the proposed rules submittal may be obtained by
contacting: Linda.haddix@wisconsin.gov**

REPORT TO LEGISLATURE

NR 20, Wis. Adm. Code
The 2009 Annual Spring Hearing Rule relating to fishing and
clamming in inland and outlying waters.
Board Order No. FH-03-10
Clearinghouse Rule No. 10-025

Basis and Purpose of the Proposed Rule

Annually, the department submits rule change proposals relating to recreational fishing and recreational and commercial clamming in inland, outlying, and boundary waters. The statewide Spring Fish and Wildlife hearings are the vehicle for citizen input. The origins of these rule change proposals are either from department staff or Conservation Congress advisory questions from the previous year that were forwarded by the Congress' executive council. The proposed rules will:

1. permit motor trolling county-wide in Price and Ashland Counties;
2. modify fishing regulations on the Chippewa Flowage (Sawyer County). The new rules would allow fishing from the first Saturday in May to the first Sunday in March for all gamefish species except muskellunge, walleye, and lake sturgeon and change the panfish daily bag limit to 25 for all panfish while creating a year-round open season for all panfish on the Chippewa Flowage.

Currently, fishing for all gamefish is prohibited between November 30 and the first Saturday in May, and panfish daily bag limits are 25 with no more than 15 crappie from the first Saturday in May until November 30, and 15 panfish but no crappie from December 1 to the first Sunday in March;

3. create a catch-and-release season for Lake Sturgeon on the St. Croix River from October 1 to 15. This section of the St. Croix River is Wisconsin-Minnesota boundary water, and this change would make Wisconsin rules consistent with Minnesota rules;
4. extend the open fishing season for largemouth and smallmouth bass on Wisconsin-Michigan boundary waters from November 30 to December 31. This would make Wisconsin boundary bass harvest rules consistent with Michigan boundary rules;
5. modify walleye and/ or bass harvest regulations on 20 lakes in northwest Wisconsin, with the intent of restoration of walleye populations in waters primarily managed for that species. Twenty lakes in Barron, Bayfield, Burnett, Polk, Rusk, Sawyer, and Washburn counties are waters in which restoration of natural walleye reproduction is the primary management objective. Each had a walleye population sustained by natural reproduction within the past twenty years, but for unknown reasons reproduction significantly declined in recent years and stocking is now needed to maintain their fisheries. Naturally reproducing walleye populations generally have an adult population 3-5 times greater than stocked walleye populations. To address this walleye population decline, the department is proposing a three component experimental restoration program, two parts of which involve changes to angling regulations: the department proposes increasing the minimum length restriction for walleye to 18 inches and reducing the daily bag limit from 5 to 3 on these lakes, while eliminating the minimum length restriction for largemouth and smallmouth bass (bag limits will remain at 5 fish/ day). The department will also focus on stocking large fingerling walleye in many of these lakes as a short-term bolster for the population.

The lakes included in the proposal are: Bear, Horseshoe (T36N, R14E, S3, 115 ac.), Lower Turtle, and Upper Turtle (Barron County), Owen (Bayfield County), Big McKenzie and Middle McKenzie (Burnett/ Washburn Counties), Big Butternut, Half Moon, Pipe, and Ward (Polk County), Chain, Clear, Island, and McCann (Island Chain, Rusk County), Nelson, Whitefish, and Sissabagama (Sawyer County) and Long and Nancy (Washburn County);

6. increase the minimum size restriction for Walleye in Lake Metonga (Forest County) from 15 to 18 inches and decrease the bag limit from 5 to 3;
7. eliminate the following fish refuges: on the Chippewa Flowage for 500 feet below Moose Lake (Sawyer County), on Spider Creek between Spider Lake and State highway 77 (Sawyer County), on Island Creek between Island and Black Dan Lakes (Sawyer County), on Malviney Creek (Sawyer County), on the unnamed tributary of Lake Chetac from Lake Chetac to 1000 feet upstream (Sawyer County), on the Brunet River from Lake Winter to 500 feet downstream (Sawyer County), on the Couderay River from the Grimh (Radisson) Dam to 500 feet downstream (Sawyer County) and on the Little Turtle River and Turtle-Flambeau Flowage from 200 feet upstream of Popko's Circle Road to 200 feet downstream of Popko's Circle Road (Iron Co.);
8. prohibit night fishing from September 15 to the first Saturday in May in the section of the Oconto river from the upstream side of the US 141 Bridge to the Stiles dam (Oconto County);
9. replace the current no minimum length limit and 14 to 18 inch protected slot with no minimum length limit but only 1 fish over 14" and increase the daily bag limit from 3 to 5 for walleye on the Three Lakes chain, Oneida County;
10. replace the no minimum length limit but only 1 fish over 14" with a 15" minimum length limit for walleye on Sevenmile lake, Oneida County;
11. make permanent the 45 inch minimum size restriction for muskellunge in Little St. Germain Lake (Vilas County). This regulation was scheduled to expire November 30, 2011;
12. increase the minimum size restriction for northern pike on Big Muskego Lake including Bass Bay (Waukesha County) from 26 inches to 40 inches and reduce the daily bag limit from 2 to 1 fish;
13. increase the minimum size restriction for bass in Marion Pond (Waupaca County) from 14 inches to 18 inches and reduce the daily angler bag limit from 5 to 1 and increase the minimum size restriction for northern pike in Marion Pond from no minimum to 26 inches and reduce the daily angler bag limit from 5 to 2. This rule would expire on April 1, 2016;
14. and to decrease the minimum length restriction on trout in the Waupaca River downstream of River Road to the Waupaca County line (Waupaca County) to 7 inches for all trout from 12 inches for brown trout and rainbow trout, and 8 inches for brook trout. It also increases the daily angler bag from 3 to 5 for trout.

Summary of Public Comments

On Monday April 12, 2010 a public hearing was conducted in each county of the state. Statewide attendance was 4,360. Hearing attendees had the opportunity to register support or opposition by voting on individual proposals in this package of rules. The following two pages summarize voting activity.

Summary of April 12, 2010 Spring Hearing Voting- Fisheries

2010 Attendance: 4,360

| Question Description | Yes Votes | No Votes | Statewide Vote | County Vote (Yes/No/Tie) | Local Vote (Yes / No) | Department Recommendation |
|--|-----------|----------|----------------|--------------------------|-----------------------|--|
| Statewide Department Questions | | | | | | |
| Motor Trolling in Ashland County | 1,834 | 1,136 | Yes | 62/10/0 | 34/37 | yes, on advice of Conservation Congress |
| Motor Trolling in Price County | 1,809 | 1,165 | Yes | 59/12/1 | 30/10 | Advance |
| St. Croix River catch & release sturgeon season | 1,948 | 900 | Yes | 63/6/3 | | Advance |
| Chippewa Flowage ice fishing & panfish regulations – game fish | 1,988 | 802 | Yes | 68/3/1 | 78/42 | Advance |
| Chippewa Flowage ice fishing & panfish regulations – panfish | 1,991 | 923 | Yes | 63/9/0 | 52/71 | Advance, with adjustment to 25 fish/day rather than 10 |
| Bass harvest regulations in Wisconsin-Michigan boundary waters | 1,962 | 849 | Yes | 68/2/2 | | Advance |
| Walleye & Bass Regulations, Bear Lake, Barron County | 1,591 | 948 | Yes | 54/13/5 | 40/6 | Advance |
| Walleye & Bass Regulations, Horseshoe Lake, Barron County | 1,567 | 944 | Yes | 53/18/0 | 39/6 | Advance |
| Walleye & Bass Regulations, Lower Turtle Lake, Barron County | 1,571 | 954 | Yes | 55/16/0 | 39/8 | Advance |
| Walleye & Bass Regulations, Upper Turtle Lake, Barron County | 1,547 | 950 | Yes | 53/16/2 | 38/9 | Advance |
| Walleye & Bass Regulations, Lake Owen, Bayfield County | 1,585 | 956 | Yes | 52/16/3 | 29/9 | Advance |
| Walleye & Bass Regulations, Big Mackenzie Lake, Burnett County | 1,466 | 922 | Yes | 49/18/4 | 11/4 | Advance |
| Walleye & Bass Regulations, Big Butternut Lake, Polk County | 1,442 | 907 | Yes | 45/21/5 | 36/8 | Advance |
| Walleye & Bass Regulations, Half Moon Lake, Polk County | 1,432 | 917 | Yes | 49/18/4 | 38/8 | Advance |

| Question Description | Yes Votes | No Votes | Statewide Vote | County Vote (Yes/No/Tie) | Local Vote (Yes / No) | Department Recommendation |
|---|-----------|----------|----------------|--------------------------|----------------------------------|---|
| Walleye & Bass Regulations, Pipe Lake, Polk County | 1,419 | 920 | Yes | 46/20/5 | 38/8 | Advance |
| Walleye & Bass Regulations, Ward Lake, Polk County | 1,432 | 916 | Yes | 50/15/6 | 38/8 | Advance |
| Walleye & Bass Regulations, Island Chain, Rusk County | 1,429 | 912 | Yes | 49/17/5 | 13/15 | Advance |
| Walleye & Bass Regulations, Nelson Lake, Sawyer County | 1,428 | 955 | Yes | 47/18/6 | 37/72 | yes, on advice of Conservation Congress |
| Walleye & Bass Regulations, Sissabagama Lake, Sawyer County | 1,421 | 968 | Yes | 47/20/4 | 33/75 | yes, on advice of Conservation Congress |
| Walleye & Bass Regulations, Whitetfish Lake, Sawyer County | 1,402 | 968 | Yes | 46/20/5 | 32/74 | yes, on advice of Conservation Congress |
| Walleye & Bass Regulations, Middle McKenzie Lake, Washburn County | 1,401 | 916 | Yes | 49/20/2 | 23/5 | Advance |
| Walleye & Bass Regulations, Long Lake, Washburn County | 1,395 | 920 | Yes | 49/21/1 | 23/6 | Advance |
| Walleye & Bass Regulations, Nancy Lake, Washburn County | 1,387 | 919 | Yes | 48/21/2 | 23/3 | Advance |
| Lake Metonga walleye regulations | 1,485 | 846 | Yes | 57/12/2 | 37/32 (Forest) | Advance |
| Sevenmile Lake walleye regulations | 1,636 | 673 | Yes | 63/5/3 | 38/9 (Forest), 72/30 (Oneida) | Advance |
| Wolf River trout regulations | 1,432 | 802 | Yes | 54/14/4 | 29/14 (Langlade) | Advance |
| Eliminating Fish Refuge in Iron County | 1,380 | 665 | Yes | 63/6/2 | 22/14 (Iron) | Advance |
| Oconto River night fishing prohibition | 1,412 | 769 | Yes | 55/11/5 | 27/22 (Oconto) | Advance |
| Three Lakes Chain walleye regulations | 1,567 | 600 | Yes | 64/5/2 | 82/20 (Oneida) | Advance |

| Question Number | Question Description | Yes Votes | No Votes | Statewide Vote | County Vote (Yes/No/Tie) | Local Vote (Yes / No) | Department Recommendation |
|-----------------|--|-----------|----------|----------------|--------------------------|-----------------------|---|
| 56 | Eliminating Four Fish Refuges in Sawyer County | 1,382 | 747 | Yes | 62/7/3 | 55/65 (Sawyer) | Advance. There Is No Biological Or Social Reason To Retain These Refuge Designations. |
| 57 | Little St Germain Lake musky regulation | 1,808 | 461 | Yes | 69/1/2 | 62/21 (Vilas) | Advance |
| 58 | Big Muskego Lake pike regulations | 1,214 | 783 | Yes | 48/19/5 | 87/32 (Waukesha) | Advance |
| 59 | Waupaca River trout regulations | 1,315 | 757 | Yes | 58/6/8 | 72/20 (Waupaca) | Advance |
| 60 | Marion Pond bass & pike regulations | 1,386 | 595 | Yes | 55/11/6 | 73/12 (Waupaca) | Advance |

Modifications Made

The department initially recommended withdrawing 4 Sawyer County lakes (Chippewa Flowage, Nelson, Sissabagama, and Whitefish) from its walleye recruitment restoration project because of significant opposition among Sawyer County hearing attendees. However, after discussion with the Sawyer County Conservation Congress delegation and with support from the Congress as a whole, the department recommends advancing the proposed rule changes on Nelson, Sissabagama, and Whitefish lakes, but not the Chippewa Flowage. It was the feeling on Sawyer County representative that proposed rule changes in these 3 lakes were not supported only because of significant opposition to the proposed changes in Chippewa Flowage walleye harvest regulations.

The Conservation Congress- Ashland County delegation and the Congress as a whole recommended advancing a rule to open all Ashland County waters to motor trolling despite a 34-37 hearing result against the measure in Ashland County. Statewide support for the elimination of the restriction was strong.

Several proposals presented at public hearing are not recommended for adoption because of lack of public support. The department is not advancing its proposals:

1. to allow motor trolling county-wide in Iron and Sawyer counties. Motor trolling remains a divisive issue in northern Wisconsin. Contrary to the concerns expressed in editorials and letters received by the department regarding this proposal, motor trolling poses absolutely no threats to the health or sustainability of muskellunge or walleye populations, and in the counties where it is permitted causes little conflict between user groups. However, the department recommends leaving the restrictions in place in these counties based on significant public hearing responses opposed to the change in those counties; and
2. to consolidate trout regulations in the Wolf River, Langlade County despite support for the proposal in Langlade County. Opposition to the change was strong in surrounding counties, and the Conservation Congress as a whole recommended against advancing these changes at this time. The department recommends deferring this proposal to allow time for DNR Northern Region staff to develop a better consensus on appropriate rules for these waters as part of its planned trout regulation review (2010-11).

The department modified its initial proposal to allow a continuous open season for all panfish with a 10 fish aggregate daily bag limit on the Chippewa Flowage to allow a continuous open season for all panfish with a 25 fish aggregate daily bag limit, based on comments received at public hearing,

Several letters were received expressing concern about the proposed 40-inch minimum size restriction/ 1 fish daily bag limit for northern pike in Big Muskego Lake (Waukesha County), but the proposal was supported at hearing in Waukesha and surrounding counties and the department maintains that a 40-inch minimum is appropriate in situations where biological control of other species (e.g. carp) is desired. Consultation with the Waukesha County Conservation Congress delegation affirmed wide support for the proposed change. However, the Natural Resources Board amended the rule to include a sunset date of April 1, 2018 to address public concern.

Appearances at the Public Hearing

Statewide attendance at public hearings held April 12, 2010 was 4,360.

Several letters were received expressing concern about the proposed 40-inch minimum size restriction/ 1 fish daily bag limit for northern pike in Big Muskego Lake (Waukesha County), and in response, the Natural resources Board amended this proposal to include a sunset clause.

Several letters were also received opposing a rule to permit motor trolling in Sawyer County, a rule which has not been advanced for adoption. Some letters were also received in support of this rule.

Changes to Rule Analysis and Fiscal Estimate

The rule analysis was revised to reflect modifications made to the rule. There were no changes made to the fiscal estimate.

Response to Legislative Council Rules Clearinghouse Report

All recommendations made in the attached Legislative Clearinghouse report have been incorporated in the final version of the rule.

Final Regulatory Flexibility Analysis

These rules are applicable to individual sportspersons and do not impose any compliance or reporting requirements on small businesses nor are any design or operational standards contained in the rule. Therefore, under s. 227.19(3m), Stats., a final regulatory flexibility analysis is not required.

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

The Wisconsin Natural Resources Board proposes an order to repeal 20.20(57)(b), 26.01(57)(a) and (b), 26.05(26), 26.06(57)(b), (d) and (g) and 26.09(57)(a) and (b); to amend 20.20(2)(a), (3)(f)1., (7)(c)2., (21)(h)1., (44)(g), (49)(am), (49)(f)2., (51)(a), (57)(d), (f)1., and (i)4., (64)(d)1m., (66)(g)3., (69)(f)3. and (73)(a)3., 21.04(7)(a) and 23.05(5)(d)1.; and to create NR 20.20(3)(am)2., (4)(c)3. and (i)4., (7)(h), (57)(b)2. and (e)3., (57)(i)5., (66)(bm), (68)(cm) and (69)(c)3. and (d)3., relating to fishing on the inland, outlying, and boundary waters of Wisconsin.

FH-03-10

Analysis Prepared by the Department of Natural Resources

1. Statutes Interpreted: In promulgating this rule, ss. 29.014(1), 29.039, 29.041, 29.053, 29.531 and 29.533, Stats., which authorize fishing, have been interpreted as giving the department the authority to make changes to fishing regulations on inland and boundary waters of Wisconsin.

2. Statutory Authority: Sections 29.014(1), 29.039, 29.041, 29.053 and 227.11(2)(a), Stats.

3. Explanation of Agency Authority to Promulgate the Proposed Rules Under the Statutory Authority: Sections 29.014(1), 29.039, 29.041, 29.053 and 29.531, Stats., grant rule making authority to the department to establish and maintain open and closed seasons for fish and any bag limits, size limits, rest days and conditions governing the taking of fish that will conserve the fish supply and ensure the citizens of this state continued opportunities for good fishing; grant that the department may establish limitations relating to taking, possession, transportation, processing, and sale or offer for sale, of nongame species; and provide that the department may regulate fishing on and in all interstate boundary waters, and outlying waters. Section 227.11(2)(a), Stats., expressly confers rulemaking authority on the department to promulgate rules interpreting any statute enforced or administered by it, if the agency considers it necessary to effectuate the purpose of the statute.

4. Related Rule or Statute: None.

5. Plain Language Rule Analysis:

Section 1 permits motor trolling in Ashland county.

Section 2 of the Order eliminates the minimum size restriction for largemouth and smallmouth bass in Bear, Horseshoe, and Upper and Lower Turtle lakes (Barron county).

Section 3 increases the minimum size restriction for walleye in Bear, Horseshoe (T36N, R14E, S3, 115 ac.), and Upper and Lower Turtle lakes (Barron county) from 15 to 18 inches and decreases the daily bag limit for walleye from 5 fish to 3 fish.

Section 4 eliminates the minimum size restriction for largemouth and smallmouth bass in Lake Owen (Bayfield county).

Section 5 increases the minimum size restriction for walleye in Lake Owen (Bayfield county) from 15 to 18 inches and decreases the daily bag limit for walleye from 5 fish to 3 fish.

Section 6 eliminates the minimum size restriction for largemouth and smallmouth bass in Big McKenzie lake (Burnett/ Washburn counties).

Section 7 increases the minimum size restriction for walleye in Big McKenzie lake (Burnett/ Washburn counties) from 15 to 18 inches and decreases the daily bag limit for walleye from 5 fish to 3 fish.

Section 8 increases the minimum size restriction for walleye in Metonga lake (Forest county) from 15 to 18 inches and decreases the daily bag limit for walleye from 5 fish to 3 fish. This rule would take effect on the first day of the month following publication.

Section 9 replaces the current no minimum size restriction and 14 to 18 inch protected slot with no minimum size restriction but only one fish over 14 inches in length and increases the daily bag limit from 3 to 5 for walleye in the Three Lakes chain and replaces the no minimum size restriction but only one fish over 14 inches in length with a 15 inch minimum size restriction on Sevenmile lake, Oneida county.

Section 10 eliminates the minimum size restriction for largemouth and smallmouth bass in Half Moon, Pipe, and Ward lakes (Polk county), and increases the bag limit for bass from 3 fish to 5 fish/day in Pipe lake.

Section 11 increases the minimum size restriction for walleye in Big Butternut, Half Moon, Pipe, and Ward lakes (Polk county) from 15 to 18 inches and reduces the daily bag limit for walleye from 5 fish to 3 fish.

Section 12 permits motor trolling in Price county.

Section 13 eliminates the minimum size restriction for largemouth and smallmouth bass in Chain, Clear, Island, and McCann lakes (Island chain of lakes, Rusk county).

Section 14 increases the minimum size restriction for walleye in Chain, Clear, Island, and McCann lakes (Island chain of lakes, Rusk county) from 15 to 18 inches and reduces the daily bag limit for walleye from 5 fish to 3 fish.

Sections 15 and 19 extend the season on Chippewa flowage (Sawyer county) from the first Saturday in May to the first Sunday in March for all species except muskellunge, walleye, and lake sturgeon.

Section 16 eliminates the minimum size restriction for largemouth and smallmouth bass in Whitefish and Sissabagama lakes (Sawyer county).

Section 17 changes the panfish daily bag limit to a 25-fish daily bag limit for all panfish all year on the Chippewa flowage, and creates a continuous open season for panfish. The previous panfish bag limits were 25 with no more than 15 crappie from the first Saturday in May until November 30 but no crappie from December 1 to the first Sunday in March, with fishing for panfish prohibited between the first Sunday in March and the first Saturday in May.

Section 18 increases the minimum size restriction for walleye in Nelson, Sissabagama and Whitefish lakes from 15 to 18 inches and reduces the daily bag limit for walleye from 5 fish to 3 fish.

Section 20 makes permanent the 45 inch minimum size restriction for muskellunge in Little St. Germain lake (Vilas county). The current 45-inch minimum regulation is scheduled to expire November 30, 2011.

Section 21 eliminates the minimum size restriction for largemouth and smallmouth bass in Middle McKenzie (Washburn/ Burnett counties), Nancy and Long lakes (Washburn county). The daily bag limit is unchanged at 5 fish/day, aggregate.

Section 22 increases the minimum size restriction for walleye in Middle McKenzie (Washburn/ Burnett counties), Nancy and Long lakes (Washburn county) from 15 to 18 inches and reduces the daily bag limit for walleye from 5 fish to 3 fish.

Section 23 increases the minimum size restriction for northern pike on Big Muskego lake including Bass bay (Waukesha county) from 26 inches to 40 inches and reduces the daily bag limit from 2 to 1 fish. This rule will expire April 1, 2018

Section 24 increases the minimum size restriction for bass in Marion Pond (Waupaca county) from 14 to 18 inches and reduces the daily angler bag limit from 5 to 1. This rule will expire on April 1, 2016.

Section 25 increases the minimum size restriction for northern pike in Marion pond (Waupaca county) from no minimum to 26 inches and reduces the daily angler bag limit from 5 to 2. This rule will expire April 1, 2016.

Section 26 decreases the minimum length restriction to 7 inches for all trout in the Waupaca river downstream of River road. Current regulations are 12 inches for brown trout and rainbow trout, and 8 inches for brook trout. It also increases the daily angler bag from 3 trout to 5 trout.

Section 27 prohibits night fishing from September 15 to the first Saturday in May in the section of the Oconto river from the upstream side of the US 141 Bridge to the Stiles dam (Oconto county).

Section 28 adds a catch-and-release season for Lake Sturgeon on the St. Croix river from October 1 to 15. This section of the St. Croix river is a Wisconsin-Minnesota boundary water, and this section will make Wisconsin rules consistent with Minnesota rules.

Section 29 extends the largemouth and smallmouth bass fishing season on Wisconsin-Michigan boundary waters from November 30 to December 31. This will make Wisconsin and Michigan rules consistent.

Sections 30, 31, 32, and 33 eliminate the following fish refuges: on the Chippewa flowage for 500 feet below Moose lake (Sawyer county), on Spider creek between Spider lake and State highway 77 (Sawyer county), on Island creek between Island and Black Dan lakes (Sawyer county), on Malviney creek (Sawyer county), on the unnamed tributary of Lake Chetac from Lake Chetac to 1000 feet upstream (Sawyer county), on the Brunet River from Lake Winter to 500 feet downstream (Sawyer county), on the Couderay river from the Grimh (Radisson) dam to 500 feet downstream (Sawyer county) and on the Little Turtle river and Turtle-Flambeau flowage 200 feet upstream of Popko's Circle road until 200 feet downstream of Popko's Circle road (Iron county).

6. Summary of and Comparison with Existing or Proposed Federal Regulations: None known.

7. Comparison of Similar Rules in Adjacent States: Fisheries management rules are generally similar in the states surrounding Wisconsin. Each bordering state regulates fishing by the use of seasons, bag limits and size limits. Specific seasons, bag and size limits may differ for species across the surrounding states, but the general principles are similar. Michigan, Minnesota, Iowa and Illinois all have statewide seasons, bag and size limits for fish species, along with special or experimental regulations on individual waters.

8. Summary of Factual Data and Analytical Methodologies Used in Support of the Rule: Rule proposals were developed by fisheries and law enforcement staff to address management and enforcement concerns. Proposals were reviewed for need and adequacy, and approved by a fish team or law enforcement team supervisor and forwarded to a regional director for approval. Proposals approved by the regions were forwarded to the Fisheries Management Bureau Director, who conducted a review with the Fisheries Management Board, law enforcement, legal services, the Wisconsin Conservation Congress, and the Great Lakes Indian Fish and Wildlife Commission. Only proposals approved by the Fisheries Management Bureau Director are included.

9. Analysis and Documentation Used in Support of the Agency's Determination Under s. 227.114, Stats., (Small Business Impact): The proposed rules do not apply directly to businesses, but to sport anglers.

10. Effect on Small Business, Including How the Rule Will Be Enforced: The proposed rules do not impose any compliance or reporting requirements on small businesses nor are any design or operational standards contained in the rule. The rules will be enforced by Conservation Wardens who have arrest powers and may use citations.

11. Agency contact person: Joseph Hennessy, FM/4 , 101 South Webster Street, Madison, WI 53707-7921; email: Joseph.Hennessy@wisconsin.gov; phone: 608.267.9427.

Section 1. NR 20.20(2)(a) is amended to read:

(2) ASHLAND (for species or waters not listed, including Lake Superior, see sub. (73))

| | | | | | |
|-----------------|---|--------------------------------|--|--|--|
| (a) All species | 1. Kakagon river and sloughs <u>All waters</u> | a. Motor trolling is permitted | As specified in this subsection or sub. (73) | As specified in this subsection or sub. (73) | As specified in this subsection or sub. (73) |
|-----------------|---|--------------------------------|--|--|--|

Section 2. NR 20.20(3)(am)2. is created to read:

(3) BARRON (for species or waters not listed, see sub. (73))

| | | | | | |
|-------------------------------------|---|-------------------|--|---|------|
| (am) Largemouth and smallmouth bass | 2. Bear, Horseshoe (T36N, R14E, S3, 115 ac.), Lower Turtle and Upper Turtle lakes | a. Hook and line. | First Saturday in May to the first Sunday in March | 5 | None |
|-------------------------------------|---|-------------------|--|---|------|

Section 3. NR 20.20(3)(f) is amended to read:

(3) BARRON (for species or waters not listed, see sub. (73))

| | | | | | |
|---------------------------------|---|------------------|--|------------|----|
| (f) Walleye, sauger and hybrids | 1. Red Cedar lake, Hemlock lake, Beaver Dam-lake, <u>Bear, Horseshoe, (T36N, R14E, S3, 115 ac.), Lower Turtle, and Upper Turtle lakes</u> | a. Hook and line | First Saturday in May to the first Sunday in March | 3 in total | 18 |
|---------------------------------|---|------------------|--|------------|----|

Section 4. NR 20.20(4)(c)3. is created to read:

(4) BAYFIELD (for species or waters not listed, including Lake Superior, see sub. (73))

| | | | | | |
|------------------------------------|--------------|-------------------|--|---|------|
| (c) Largemouth and smallmouth bass | 3. Lake Owen | a. Hook and line. | First Saturday in May to Friday preceding third Saturday in June | 0 | -- |
| | | | Third Saturday in June to the first Sunday in March | 5 | None |

Section 5. NR 20.20(4)(i)4. is created to read:

(4) BAYFIELD (for species or waters not listed, including Lake Superior, see sub. (73))

| | | | | | |
|---------------------------------|--------------|-------------------|--|------------|----|
| (i) Walleye, sauger and hybrids | 4. Lake Owen | a. Hook and line. | First Saturday in May to the first Sunday in March | 3 in total | 18 |
|---------------------------------|--------------|-------------------|--|------------|----|

Section 6. NR 20.20(7)(c)2. is amended to read:

(7) BURNETT (for species or waters not listed, see sub. (73))

| | | | | | |
|------------------------------------|--|-------------------|--|------------|------|
| (c) Largemouth and smallmouth bass | 2. Twenty-Six lake, and Big <u>McKenzie lakes</u> | a. Hook and line. | First Saturday in May to the first Sunday in March | 5 in total | None |
|------------------------------------|--|-------------------|--|------------|------|

Section 7. NR 20.20(7)(h) is created to read:

(7) BURNETT (for species or waters not listed, see sub. (73))

| | | | | | |
|----------------------------------|----------------------|-------------------|--|------------|----|
| (h) Walleye, sauger, and hybrids | 1. Big McKenzie lake | a. Hook and line. | First Saturday in May to the first Sunday in March | 3 in total | 18 |
|----------------------------------|----------------------|-------------------|--|------------|----|

Section 8. NR 20.20(21)(h)1. is amended to read:

(21) FOREST (for species or waters not listed, including Lake Superior, see sub. (73))

| | | | | | |
|---------------------------------|--|-------------------|--|------------|----|
| (h) Walleye, sauger and hybrids | 1. Crane, Lucerne, <u>Metonga</u> and Pickerel lakes | a. Hook and line. | First Saturday in May to the first Sunday in March | 3 in total | 18 |
|---------------------------------|--|-------------------|--|------------|----|

Section 9. NR 20.20(44)(g) is amended to read:

(44) ONEIDA (for species or waters not listed, see sub. (73))

| | | | | | |
|---------------------------------|---|-------------------|--|--|--|
| (g) Walleye, sauger and hybrids | 1. Three lakes chain (includes Big, Big Fork, Big Stone, Crystal, Deer, Dog, Fourmile, Island, Laurel, Little Fork, Long, Medicine, Moccasin, Planting Ground, Rangeline, Round, Spirit, Townline, Virgin and Whitefish lakes, all connecting waters and Eagle river downstream to Vilas county line), <u>Alva, Bearskin, Buckskin, Buffalo, Crescent, Diamond, George, Hasbrook, Katherine, Lost (T38N</u> | a. Hook and line. | First Saturday in May to the first Sunday in March | 3 in total but only 1 may be longer than 18- <u>5 in total but only 1 may be longer than 14 inches</u> | None except the possession of fish from 14" through 18" is prohibited |
|---------------------------------|---|-------------------|--|--|--|

R9E S24), Mercer, Moen chain including Moen, Second, Third, Fourth, Fifth lakes and connecting waters, Muskellunge, Oneida, Pine (T37N R9E S4), Soo, Squash and Squirrel lakes and Sugar Camp chain including Dam, Sand, Echo, Chain and Stone (T39N R9E S32) lakes and connecting waters

| | | | | |
|--|--------------------------|---|--|---|
| <p>2. Alva, Bearskin, Buckskin, Buffalo, Crescent, Diamond, George, Hasbrook, Katherine, Lost (T38N R9E S24), Mercer, Moen chain including Moen, Second, Third, Fourth, Fifth lakes and connecting waters, Muskellunge, Oneida, Pine (T37N R9E S4), Sevenmile, Soo, Squash and Squirrel lakes and Sugar Camp chain including Dam, Sand, Echo, Chain and Stone (T39N R9E S32) lakes and connecting waters</p> | <p>a. Hook and line.</p> | <p>First Saturday in May to the first Sunday in March</p> | <p>5 in total but only 1 may be longer than 14 inches</p> | <p>None</p> |
| <p>3 2. Maple lake, Stella lake, Thunder lake</p> | <p>a. Hook and line.</p> | <p>First Saturday in May to the first Sunday in March</p> | <p>3 in total</p> | <p>18</p> |
| <p>4 3. Shishebogama lake</p> | <p>a. Hook and line.</p> | <p>First Saturday in May to the first Sunday in March</p> | <p>3 in total posted at public boat landings pursuant to s. NR 20.37</p> | <p>18 unless otherwise posted at public boat landings pursuant to s. NR 20.37</p> |

Section 10. NR 20.20(49)(am) is amended to read:

(49) POLK (for species or waters not listed, see sub. (73))

(am) Largemouth and smallmouth bass 1. Big Round lake, Balsam lake a. Hook and line. First Saturday in May to the first Sunday in March 5 in total but only 1 may be less than 14 until March 1, 2012, when it becomes 14 None until March 1, 2012, when it becomes 14

2012

| | | | | |
|---|-----------------------------|---|--|--|
| 2. Big Butternut, Half Moon, Pipe, and Ward lakes | a. Hook and line | First Saturday in May to the first Sunday in March | 5 | None |
| 3. Pipe lake | a. Hook and line | First Saturday in May to the first Sunday in March | 3 in total but only 1 may be larger than 18 | None except the possession of fish from 14 through 18 is prohibited |

Section 11. NR 20.20(49)(f)2. is amended to read:

(49) POLK (for species or waters not listed, see sub. (73))

| | | | | | |
|---------------------------------|---|------------------|--|---|----|
| (f) Walleye, sauger and hybrids | 2. Big Round lake, Big Butternut, Half Moon, Pipe, and Ward lakes | a. Hook and line | First Saturday in May to the first Sunday in March | 3 | 18 |
|---------------------------------|---|------------------|--|---|----|

Section 12. NR 20.20(51)(a) is amended to read:

(51) PRICE (for species or waters not listed, see sub. (73))

| | | | | | |
|-----------------|---|--------------------------------|--|--|--|
| (a) All species | 1. Pike lake, Round lake <u>All waters</u> | a. Motor trolling is permitted | As specified in this subsection or sub. (73) | As specified in this subsection or sub. (73) | As specified in this subsection or sub. (73) |
|-----------------|---|--------------------------------|--|--|--|

Section 13. NR 20.20(55)(b)2. is created to read:

(55) RUSK (for species or waters not listed, see sub. (73))

| | | | | | |
|------------------------------------|--|-------------------|--|---|------|
| (b) Largemouth and smallmouth bass | 2. Chain, Clear, Island, McCann lakes (Island chain of lakes), and connecting waters | a. Hook and line. | First Saturday in May to the first Sunday in March | 5 | None |
|------------------------------------|--|-------------------|--|---|------|

Section 14. NR 20.20(55)(e)3. is created to read:

(55) RUSK (for species or waters not listed, see sub. (73))

| | | | | | |
|----------------------------------|--|-------------------|--|---|----|
| (e) walleye, sauger, and hybrids | 3. Chain, Clear, Island, McCann lakes (Island chain of lakes), and connecting waters | a. Hook and line. | First Saturday in May to the first Sunday in March | 3 | 18 |
|----------------------------------|--|-------------------|--|---|----|

Section 15. NR 20.20(57)(b) is repealed.

Section 16. NR 20.20(57)(d) is amended to read:

(57) SAWYER (for species or waters not listed, see sub. (73))

| | | | | |
|------------------------------------|---------------------------------------|-------------------|---|-----------------|
| (d) Largemouth and smallmouth bass | 1. Black lake, Christner lake | a. Hook and line. | First Saturday in 0 | -- |
| | | | May to Friday preceding third Saturday in June | |
| | | | Third Saturday in June to the first Sunday in March | 1 in total 18 |
| | 2. <u>Nelson and Whitefish lakes,</u> | a. Hook and line | First Saturday in 0 | -- |
| | | | May to Friday preceding third Saturday in June | |
| | | | Third Saturday in June to the first Sunday in March | 5 in total None |
| | 3. <u>Sissabagama lake</u> | a. Hook and line. | First Saturday in 5 in total | None |
| | | | <u>May to the first Sunday in March</u> | |

Section 17. NR 20.20(57)(f)1. is amended to read:

(57) SAWYER (for species or waters not listed, see sub. (73))

| | | | | |
|-------------|--|-------------------|--|-------------------------|
| (f) Panfish | 1. <u>Chippewa flowage and all connected waters within T39N R6, T39N R7, T39N R8, T40N R6, T40N R7 and T40N R8 except the Chippewa river downstream from the Chippewa flowage (Winter) dam</u> | a. Hook and line. | First Saturday in 25 in total | None |
| | | | May to November 30 but no more than 15 may be crappie | |
| | | | 15 in total | None |
| | | | December 1 to the first Sunday in March | but none may be crappie |

Section 18. NR 20.20(57)(i)4. is amended to read:

| | | | | |
|---------------------|-------------------------|-------------|------------------------------|----|
| (i) Walleye, sauger | 4. Sand lake, including | a. Hook and | First Saturday in 3 in total | 18 |
|---------------------|-------------------------|-------------|------------------------------|----|

| | | | |
|-------------|---|-------|--|
| and hybrids | Sissabagama creek upstream to Sand lake road, <u>Nelson, Sissabagama, and Whitefish lakes</u> | line. | May to the first Sunday in March |
|-------------|---|-------|--|

Section 19. 20.20(57)(i)5. is created to read:

(57) SAWYER (for species or waters not listed, see sub. (73))

| | | | | | |
|-------------------------------------|---|-------------------|--|------------|------|
| (i) Walleye, sauger, and hybrids | 5. Chippewa flowage and all connected waters within T39N R6, T39N R7, T39N R8, T40N R6, T40N R7 and T40N R8 except the Chippewa river downstream from the Chippewa flowage (Winter) dam | a. Hook and line. | First Saturday in May to November 30 | 5 in total | None |
|-------------------------------------|---|-------------------|--|------------|------|

Section 20. NR 20.20(64)(d)1m. is amended to read:

(64) VILAS (for species or waters not listed, see sub. (73))

| | | | | | |
|-----------------|-----------------------------|----------------------|--|---|--|
| (d) Muskellunge | 1m. Little St. Germain lake | a. Hook and line. | Saturday nearest Memorial day to November 30 | 1 | 45 until November 30, 2011 when it becomes 34 |
|-----------------|-----------------------------|----------------------|--|---|--|

Section 21. NR 20.20(66)(bm) is created to read:

(66) WASHBURN (for species or waters not listed, see sub. (73))

| | | | | | |
|--|--------------------------------------|----------------------|--|------------|------|
| (bm) Largemouth and smallmouth bass | 1. Nancy lake | a. Hook and line. | First Saturday in May to Friday preceding third Saturday in June | 0 | -- |
| | | | Third Saturday in June to the first Sunday in March | 5 in total | None |
| | 2. Long and Middle McKenzie lakes | a. Hook and line. | First Saturday in May first Sunday in March | 5 in total | None |

Section 22. NR 20.20(66)(g)3. is amended to read:

(66) WASHBURN (for species or waters not listed, see sub. (73))

| | | | | | |
|---------------------------------|--|-------------------|--|---|----|
| (g) Walleye, sauger and hybrids | 3. Balsam lake, Red Cedar lake, Long, Middle McKenzie and Nancy lakes | a. Hook and line. | First Saturday in May to the first Sunday in March | 3 | 18 |
|---------------------------------|--|-------------------|--|---|----|

Section 23. NR 20.20(68)(cm) is created to read:

(68) WAUKESHA (for species or waters not listed, see sub. (73))

| | | | | | |
|--------------------|--|-------------------|--|--|--|
| (cm) Northern Pike | 1. Big Muskego lake including Bass bay | a. Hook and line. | First Saturday in May to first Sunday in March | 1 until April 1, 2018, when it becomes 2 | 40 until April 1, 2018, when it becomes 26 |
|--------------------|--|-------------------|--|--|--|

Section 24. NR 20.20(69)(c)3. is created to read:

(69) WAUPACA (for species or waters not listed, see sub. (73))

| | | | | | |
|------------------------------------|----------------|-------------------|--|---|---|
| (c) Largemouth and smallmouth bass | 3. Marion pond | a. Hook and line. | First Saturday in May to first Sunday in March | 1 until April 1, 2016 when it becomes 5 | 18 until April 1, 2016 when it becomes 14 |
|------------------------------------|----------------|-------------------|--|---|---|

Section 25. NR 20.20(69)(d)3. is created to read:

(69) WAUPACA (for species or waters not listed, see sub. (73))

| | | | | | |
|-------------------|----------------|-------------------|--|---|---|
| (d) Northern pike | 3. Marion pond | a. Hook and line. | First Saturday in May to first Sunday in March | 2 until April 1, 2016 when it becomes 5 | 26 until April 1, 2016 when it becomes None |
|-------------------|----------------|-------------------|--|---|---|

Section 26. NR 20.20(69)(f)3. is amended to read:

(69) WAUPACA (for species or waters not listed, see sub. (73))

| | | | | | |
|----------------------|--|-------------------|--|------------|-------------------------|
| (f) Trout and salmon | 3. Comet creek, Little Wolf river (north branch) except portion described above; Waupaca river except | a. Hook and line. | First Saturday in May at 5:00 a.m. to September 30 | 3 in total | Brown and rainbow trout |
|----------------------|--|-------------------|--|------------|-------------------------|

~~portion described above~~

12,
brook
trout 8

Section 27. NR 20.20(73)(a)3. is amended to read:

(73)

| | | | | | |
|-----------------|---|---|---------------------------------|---------------------------------|---------------------------------|
| (a) All species | 3. Lake Michigan tributaries; Peshtigo river upstream from the first railroad bridge to the first dam, Marinette county; Little river downstream from highway 141, Oconto county; <u>Oconto river upstream from the upstream side of the highway 141 bridge to the first dam, Oconto county;</u> and all other tributary streams, rivers and ditches to Green Bay upstream to the first dam or lake | a. In addition to the restrictions under pars. (b) to (o), all of the following restrictions apply: Motor trolling is permitted in Lake Michigan tributaries of Racine county. From September 15 to the first Saturday in May only hooks with a one-half inch gap or less may be used and hook and line fishing is prohibited from one-half hour after sunset to one-half hour before sunrise. From September 15 to December 31, fishing by any method is prohibited from one-half hour after sunset to one-half hour before sunrise. | As specified in this subsection | As specified in this subsection | As specified in this subsection |
|-----------------|---|---|---------------------------------|---------------------------------|---------------------------------|

Section 28. NR 21.04(7)(a) is amended to read:

NR 21.04 Sport fishing; seasons and limits. All regulations applicable to sport fishing are as follows unless expressly provided elsewhere in this chapter or the law. (23.11, 29.041)

| Kind of fish and locality | Open season (both dates inclusive) | Daily bag limit | Minimum length (inches) |
|---------------------------|---|-----------------------------------|-------------------------|
| 7) LAKE STURGEON | | | |
| (a) St. Croix river | First Saturday in September to September 30 | 1 per season | 60 inches |
| | <u>October 1 to October 15</u> | <u>0 (Catch-and-release only)</u> | = |

Section 29. NR 23.05(5)(d)1. is amended to read:

NR 23.05(5)

(5) The seasons, size limits and bag and possession limits for hook and line fishing in the Wisconsin-Michigan boundary waters for the species listed in this subsection, except as provided in s. NR 23.06, are as follows:

| Kind of fish and locality | Open season (both dates inclusive) | Possession and daily bag limit | Minimum length (in.) |
|---------------------------|------------------------------------|--------------------------------|----------------------|
|---------------------------|------------------------------------|--------------------------------|----------------------|

(d) Largemouth bass and



WISCONSIN LEGISLATIVE COUNCIL 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 10-025

AN ORDER to repeal 20.20 (34) (d) 2. and (57) (b), 26.01 (57) (a) and (b), 26.05 (26), 26.06 (57) (b), (d), and (g), and 26.09 (57) (a) and (b); to amend NR 20.20 (2) (a), (3) (f) 1., (21) (h) 1., (34) (d) 1., (44) (g), (49) (am), (51) (a), (57) (a), (d), (f), 1., and (i) 4., (64) (d) 1m., (66) (g) 3., (69) (f) 3., and (73) (a) 3., 21.04 (7) (a), and 23.05 (5) (d) 1.; to repeal and recreate NR 20.20 (26); and to create NR 20.20 (3) (am) 2., (4) (c) 3., and (i) 4., (7) (c) 2., and (h), (49) (f) 2., 20.20 (51) (b) 2., (e) 3., and (i) 5., (57) (i) 5., (66) (bm), (68) (cm), and (69) (c) 3. and (d) 3, relating to fishing on the inland, outlying, and boundary waters of Wisconsin.

Submitted by **DEPARTMENT OF NATURAL RESOURCES**

02-17-2010 RECEIVED BY LEGISLATIVE COUNCIL.

03-16-2010 REPORT SENT TO AGENCY.

RS:LAK

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





WISCONSIN LEGISLATIVE COUNCIL RULES CLEARINGHOUSE

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CLEARINGHOUSE RULE 10-025

Comments

[NOTE: All citations to "Manual" in the comments below are to the Administrative Rules Procedures Manual, prepared by the Legislative Reference Bureau and the Legislative Council Staff, dated September 2008.]

2. Form, Style and Placement in Administrative Code

a. The rule preface should indicate the date by which public comments should be submitted. [See s. 1.02 (2) (a) 12., Manual.]

b. The text shown in the proposal after the repeal and recreation of s. NR 20.20 (26) includes a number of changes not described in the rule analysis (such as changes to the list of lakes to which the special bag limit requirements apply for walleye). If it is the department's intent to make these changes, they should be described in the rule analysis.

c. In s. NR 20.20 (26) (i) 3. a., does the department intend that the reference to one walleye longer than 14 inches should replace the current reference to one walleye longer than 20 inches?

d. In s. NR 20.20 (44) (g), changes are made to the existing code that are not indicated by strikethroughs and underscoring. Any such changes that are intended should be so described and should also be included in the rule summary.

e. Section NR 20.20 (49) (f) 2. already exists in the administrative code, and therefore cannot be created. It appears that the department's intent is to add Big Butternut, Half Moon, Pipe, and Ward Lakes to the existing provision for Big Round Lake under subd. 2.

f. The subsection that should be referenced in SECTIONS 16 and 17 is "(55)."

5. Clarity, Grammar, Punctuation and Use of Plain Language

a. In SECTION 8 of the rule preface, the word “a” should be inserted before the phrase “regional director.”

b. The rule preface describes changes to “Horseshoe” lake while the text of the proposed rule refers to “Horsehead” lake. [See s. NR 20.20 (3) (am) 2.]

c. In addition to the description in the rule preface, s. NR 20.20 (66) (bm) appears to allow a five bass bag limit throughout the hook and line season on Long and Middle McKenzie Lakes. If this is correct, this change should be added to the plain language analysis in the rule preface.