

## Clearinghouse Rule 13-001

Report to  
Legislative Council Rules Clearinghouse  
NR 19, 20, 21, 22, 23, 25, 26, Wis. Adm. Code  
Natural Resources Board Order FH-19-12

### Wisconsin Statutory Authority

Sections ss. 29.014(1), 29.041, 29.519(1m)(b), and 29.733(2)(f), Wis. Stats.

### Federal Authority

Not applicable.

### Court Decisions Directly Relevant

None.

### Analysis of the Rule – Rule Effect – Reason for the Rule

This rule is being proposed to make non-substantive housekeeping changes to sections of NR 19, 20, 21, 22, 23, 25, and 26, Wis. Adm. Code, relating to the regulation of fishing and harvest of turtles. The goal is to ensure the rule language that governs fishing in inland, outlying, and boundary waters is accurate and properly reflects the desired management of Wisconsin waters. The rule is in response to recent legislative changes and to the interests of the public and both Law Enforcement and Fisheries Management staff. The objectives are to:

- add language to respond to newly created statutory language,
- remove sections of code that are outdated or have been replaced by other statute or code changes,
- correct errors that occurred during the drafting of rules, and
- add or repeal language to clarify intent of original rules.

No new policy will be proposed in this housekeeping rule. It will include non-substantive changes to administrative code that support existing policies and goals. Fishing regulations in this rule, such as length and bag limits or season dates, are used as a tool to ensure good fishing exists into the future.

#### Changes to ch. NR 19

- Amending Subchapter III of NR 19, which regulates fish farms in natural waterbodies, in response to legislative changes in 2011 Wisconsin Act 207. Natural waterbody permits now do not expire unless the Department makes a finding that substantial public interest exists in the waterbody and that public or private rights in the waterbody will be damaged. A natural waterbody permit will not be required for someone wishing to use a natural waterbody for a fish farm if he or she was already issued a permit for changing the course of a stream, enlarging a waterway, or constructing a dam. In addition, the Department is not required to hold a hearing or provide notice that it will not hold a hearing before issuing a permit, but it must post a notice of every permit application on its website.
- Clarifying that setlines and set or bank poles are authorized methods for taking turtles.

#### Changes to ch. NR 20

- Removing all notations of a 40-inch size limit for muskellunge in ss. NR 20.20(1) through (72) county regulations. A minimum size of 40 inches is now the general inland waters size limit for muskellunge and is indicated in s. NR 20.20(73).

- Removing expired language for regulations on Sparkling Lake in Vilas County and Twin Valley Lake in Iowa County.
- Clarifying in s. NR 20.06(1) that trolling may also be allowed as provided in s. 29.193, Stats., which authorizes approvals for disabled persons.
- Creating no possession limit in s. NR 20.03(31) for food distribution services, as defined in s. 29.001(28), Stats., that lawfully receive fish for purposes of redistribution. This clarifies in code the existing law enforcement policy on fish donations.
- Correcting Wisconsin-Michigan boundary water regulations, including restoring night fishing and removing a hook gap restriction on the Menominee River and closing spearing for rough fish on all WI-MI boundary waters. A rule implemented in 2009 unexpectedly changed the regulations on boundary waters. Department of Natural Resources staff from both states met in 2011 and agreed to return night angling, hook size, and spearing regulations to how administrative code was previously enforced and for consistency between state regulations. Regulations will match Michigan regulations and are intended to improve public understanding of rule enforcement on these shared waters.
- Adding sunset language in s. NR 20.20(64)(c) for bass regulations on Sparkling Lake in Vilas County that was mistakenly excluded from a rule in 2008.
- Removing perch in Vilas County from the list of detrimental fish under s. NR 20.38. There are and never were any contracts issued for removal of perch on those waters and abundant perch are no longer considered bad for the fishery.
- Correcting language in s. NR 20.20(44) for the Minocqua Chain in Oneida County. Bass season language was left out in error during rule changes in 2011.
- Clarifying boundaries of trout regulations in s. NR 20.20(54)(e) for the East Fork of Raccoon Creek in Rock County.
- Preventing currently overlapping dates of regulations for walleye, sauger, and hybrids on the Fox River downstream from the DePere Dam.
- Providing free fishing during the third weekend in January each year when no license is required to fish, in response to legislative changes in 2011 Wisconsin Act 168.
- Revising code to allow anyone to fish for rough fish with a crossbow under the same circumstances as with a bow and arrow and adding Asian carp to the definition of rough fish, in response to 2011 Wisconsin Act 180.

#### Changes to chs. NR 21, 22, and 23

- Making ice shelter labeling rules the same on boundary waters as on inland waters. Owners will not be required to post their names and addresses on fishing shelters that are occupied or otherwise in use.
- Providing free fishing during the third weekend in January each year when no license is required to fish, in response to legislative changes in 2011 Wisconsin Act 168.
- Revising code to allow anyone to fish for rough fish with a crossbow under the same circumstances as with a bow and arrow and adding Asian carp to the definition of rough fish, in response to 2011 Wisconsin Act 180.

#### Changes to ch. NR 25

- Deleting references to minimum harvesting requirements for commercial fishing in the Great Lakes, in response to legislative changes in 2011 Wisconsin Act 177.
- Correcting and removing expired language and adding the Old Stone Quarry to the list of secondary ports where fish are landed by commercial fishers.

#### Changes to ch. NR 26

- Removing expired language for a fish refuge on the Grand River in Green Lake County.
- Extending an existing fish refuge on Wingra Creek in Dane County. The refuge boundaries will be extended in response to a rebuilt and extended platform next to the refuge.

Agency Procedures for Promulgation

Public hearing, Natural Resources Board final adoption, Governor's Office of Regulatory Compliance final approval, followed by legislative review

Description of any Forms

None

Name and Telephone Number of Agency Contacts

Kate Strom Hiorns, Bureau of Fisheries Management – (608) 266-0828

Chandra Harvey, Bureau of Legal Services – (608) 266-7588

Linda Haddix, Bureau of Legal Services – (608) 266-1959

Submitted on December 26, 2012