

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

The Wisconsin Natural Resources Board proposes an order to repeal NR 20.20(21)(e)1, (64)(h)7 and (70)(f)1; to amend NR 20.20(3)(c)1 and (4)(e)1, (27)(e)1 and (g)4, (44)(f) and (g)3, (49)(c)2, (57)(e)2 and 4, (64)(g)2 and (h)4 and (73)(a), (i)1, (L)2.a and 3.c and (m); to repeal and recreate NR 20.33(5)(c); and to create NR 20.12(2)(k) and 20.20(4)(a)2, (10)(bm), (17)(dm), (72)(h)2 and (73)(cx) and (i)1m. relating to fishing on the inland, outlying, and boundary waters of Wisconsin.

FH-09-05

Analysis Prepared by the Department of Natural Resources

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

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

Explanation of Agency Authority to Promulgate the Proposed Rules Under the Statutory Authority: Sections 29.014(1), 29.041 and 227.11(2)(a), Stats., grant rule making authority to the department to establish and maintain open and closed seasons for fish and game and any bag limits, size limits, rest days and conditions governing the taking of fish and game that will conserve the fish and game supply and ensure the citizens of this state continued opportunities for good fishing, hunting and trapping; and provide that the department may regulate hunting and 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.

Related Rule or Statute: None.

Plain Language Rule Analysis: Section by section details of this rule order are outlined as follows:

Section 1 prohibits the placement of setlines, set or bank poles or any part thereof prior to the opening of the setline, set or bank pole season and requires that they be removed after the season is closed.

Section 2 increases the minimum length limit from no minimum to 26 inches and decreases the daily bag limit from 5 to 2 for northern pike on Bass Lake (T33N, R10W, S34), Barron County and Horseshoe Lake (T34N R14W S7), Barron/Polk County.

Section 3 restricts hook and line fishing to artificial lures only and creates a catch and release only regulation for all fish species on Inch Lake, Bayfield County.

Section 4 eliminates the 26-inch minimum length limit and increases the daily bag limit from 2 to 5 for northern pike on Ellison Lake, Bayfield County.

Sections 5 and 8 reduce the daily bag limit from 25 in total to 10 in total for panfish on Lake Arbutus and connected waters, Clark/Jackson County.

Section 6 reduces the daily bag limit from 25 in total to 10 in total for panfish on Lake Menomin and Tainter Lake, Dunn County.

Section 7 eliminates the 32-inch minimum length limit and increases the daily bag limit from 1 to 5 for northern pike on Butternut and Franklin Lakes, Forest County.

Section 9 extends the open season for trout on Lake Wazee by changing the closing date from September 30 to the first Sunday in March, Jackson County.

Section 10 increases the minimum length limit from 12 inches to 30 inches, decreases the daily bag limit from 5 in total to 1 in total, and shortens the open season by changing the closing date from the first Sunday in March to September 30 for trout on Big Carr and Clear (T39N R7E S16) Lakes, Oneida County.

Section 11 establishes a 15-inch minimum length limit and eliminates the restriction of only 1 fish longer than 14 inches allowed for walleye on Pelican Lake, Oneida County.

Section 12 increases the minimum length limit from no minimum to 26 inches and decreases the daily bag limit from 5 to 2 for northern pike on Horseshoe Lake (T34N R15W S1, S12, S13, S14), Polk/Barron County.

Sections 13 and 14 increase the minimum length limit from 40 inches to 45 inches on the Chippewa river from the Chippewa flowage dam (Winter dam) downstream to and including the Radisson Flowage, Sawyer County.

Section 15 increases the minimum length limit from 7 inches to 30 inches and decreases the daily bag limit from 5 in total to 1 in total for trout on Long Lake.

Sections 16 and 17 eliminate the 28-inch minimum length limit and establish a restriction of 1 fish longer than 14-in allowed, and increase the daily bag limit from 1 to 5 for walleye on Kentuck Lake, Vilas County.

Section 18 eliminates the catch and release only with artificial lures only season and replaces it with the Waushara County base regulation of a 7-inch minimum length limit and a 5 in total daily bag limit for trout on the Pine River upstream from the Wild Rose mill pond, Waushara County.

Section 19 increases the minimum length limit from 15 inches to 18 inches and reduces the daily bag limit from 5 in total to 3 in total for walleye, sauger and hybrids on Nepco and Wauzeecha Lakes, Wood County.

Section 20 makes it illegal to hook and line fish at night (1/2 hour after sunset to 1/2 hour before sunrise) on the Little River in Oconto County from October 1st through the Friday immediately preceding the opening of the general fishing season. If the September 15 closure starting date is adopted (see sections 24 and 25), the October 1 date will be changed to September 15 to make consistent.

Sections 20, 24 and 25 begin the current night fishing closure and hook gap size restrictions on September 15 rather than October 1 each year to better coincide with the runs of migratory salmonids on tributaries to Lake Michigan and Green Bay. The prohibition of hook and line fishing at night will continue to end on the first Saturday in May. In addition, these sections prohibit fishing by any methods from September 15 – December 31. Thus, on January 1, authorized fishing methods other than hook and line fishing reopen. For example, under the proposal, dip netting for suckers at night in the spring would remain open to sport fishers.

Sections 21 and 26 provide anglers with the ability to legally possess a non-indigenous detrimental fish for the purpose of transporting it to a DNR office for identification. An angler is restricted to one specimen and it must be immediately killed.

Sections 21, 22 and 23 changes the open season for northern pike on small Lake Michigan tributaries north of U.S. Highway 10 from a continuous open season to the general fishing season of the first Saturday in May to the first Sunday in March to protect northern pike during the spawn. The northern pike fishing season on the East Twin River, West Twin River, Ahnapee River and Kewaunee River will remain open all year.

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

Comparison of Similar Rules in Adjacent States: Fisheries management is generally quite similar in the states surrounding Wisconsin. All the bordering states regulate 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; however, 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.

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 fish team or law enforcement team supervisor and forwarded to regional director for approval. Proposals approved by the regions were forwarded to the FH Bureau Director, who conducted a review with the Fisheries and Habitat Board, law enforcement, legal services, and the Great Lakes Indian Fish and Wildlife Commission. Proposals approved by the FH Bureau Director are included.

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, with the possible exception of rules clarifying the time for placement and removal of set or bank poles and setlines. Some setlines and set or bank poles may be used by licensees who sell the catfish, rough fish or turtles they catch. However, the decision to sell is at the discretion of the licensee and no reporting of sales is required, the department has no objective basis for quantifying the effect of the proposed rule on such small businesses, if they exist.

Anticipated Costs Incurred by Private Sector: Costs incurred by the private sector are not anticipated.

Effect on Small Business, Including How the Rule Will Be Enforced: The proposed rule will not directly affect small business as the rules will not directly apply to them, with the possible exception of some holders of setline or set or bank pole licenses who choose to sell the catfish, rough fish and turtles that they catch. However, such sales are discretionary and no reporting is required, so it is not known whether the proposed rule relating to the clarification of timing of placement of setlines and set or bank poles will affect any licensees who are small businesses. Any effects are likely to be insignificant. The rules will be enforced by Conservation Wardens who have arrest powers and may use citations.

Agency contact person: Steven Hewett, FH/3 101 South Webster Street, Madison, WI 53707-7921; email: Steve.Hewett@dmr.state.wi.us; phone: 608.267.7501.

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

NR 20.12(2)(k) Place, use, set, or fail to remove from state lands or waters of the state any setline, set or bank pole, or part thereof, prior to or following the close of the open season authorizing the use of setlines, set or bank poles in s. NR 20.20.

SECTION 2. NR 20.20(3)(c)1. is amended to read:

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

(c) Northern pike	1. Prairie lake, Chetek lake, Pokegama lake, Mud lake, Ten Mile lake, Staples lake, <u>Bass lake (T33N R10W S34), Horseshoe lake (T34N R14W S7)</u>	a. Hook and line.	First Saturday in May to the first Sunday in March	2	26
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SECTION 3. NR 20.20(4)(a)2. is created to read:

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

(a) All species	2. Inch lake	a. Hook and line, only artificial lures may be used.	As specified in this subsection or sub. (73)	0	-
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SECTION 4. NR 20.20(4)(e)1. is amended to read:

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

(e) Northern pike	1. Elison lake , Muskellunge lake, Sand Bar lake, Tomahawk lake, all tributaries and connected sloughs to Lake Superior upstream to the first dam or lake	a. Hook and line	First Saturday in May to the first Sunday in March	2	26
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SECTION 5. NR 20.20(10)(bm) is created to read:

(10) CLARK (for species and waters not listed, see sub. (73))

(bm) Panfish	1. Arbutus lake, including the Black river from Arbutus lake upstream to STH 95, the East Fork of the Black river upstream to East Fork road, and Arnolds creek upstream to Bachelors Ave.	a. Hook and line	Continuous	10 in total	None
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SECTION 6. NR 20.20(17)(dm) is created to read:

(17) DUNN (for species and waters not listed, see sub. (73))

(dm) Panfish	1. Menomin lake including the Red Cedar river upstream from Lake Menomin to the Cedar Falls dam, Tainter lake	a. Hook and line	Continuous	10 in total	None
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SECTION 7. NR 20.20(21)(e)1. is repealed.

SECTION 8. NR 20.20(27)(e)1. is amended to read:

(27) JACKSON (for species and waters not listed, see sub. (73))

(e) Panfish	1. <u>Wazee lake, Arbutus lake, including the Black river upstream from Arbutus lake to STH 95, the East Fork of the Black river upstream to East Fork Road, and Arnolds creek upstream to Bachelors Ave.</u>	a. Hook and line	Continuous	10 in total	None
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SECTION 9. NR 20.20(27)(g)4. is amended to read:

(27) JACKSON (for species and waters not listed, see sub. (73))

(g) Trout and salmon	4. Wazee lake	a. Hook and line	First Saturday in May at 5:00 a.m. to September 30 <u>the first Sunday in March</u>	2	12
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SECTION 10. NR 20.20(44)(f) is amended to read:

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

(f) Trout and salmon	1. Little Bass lake	a. Hook and line. Only artificial lures may be used.	First Saturday in May at 5:00 a.m. to November 15.	5 in total	12
	2. Big Carr, Clear (T39N R7E S16) , Dorothy, Perch (T36N R7E S2), Squash (T39N R8E S19) lakes	a. Hook and line	First Saturday in May at 5:00 a.m. to the first Sunday in March	5 in total	12
	3. Hawk lake	a. Hook and line	First Saturday in May at 5:00 a.m. to September 30	5 in total	None
	<u>4. Big Carr, Clear (T39N R7E S16)</u>	<u>a. Hook and line</u>	<u>First Saturday in May at 5:00 a.m. to September 30</u>	<u>1 in total</u>	<u>30</u>
	<u>5. All other waters</u>	a. Hook and line	First Saturday in May at 5:00 a.m. to September 30	5 in total	7

SECTION 11. NR 20.20(44)(g)3. is amended to read:

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

(g) Walleye, sauger and hybrids	3. 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, Pelican , 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	a. Hook and line	First Saturday in May to the first Sunday in March	5 in total but only 1 may be longer than 14"	None
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SECTION 12. NR 20.20(49)(c)2. is amended to read:

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

(c) Northern pike	2. Balsam lake, Long lake, Loveless lake, <u>Horseshoe lake (T34N R15W S1, S12, S13, S14)</u>	a. Hook and line	First Saturday in May to the first Sunday in March	2	26
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SECTION 13. NR 20.20(57)(e)2. is amended to read:

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

(e) Muskellunge	2. Brunet river from state hwy. 70 downstream to the Chippewa river including Winter flowage, Chippewa river	a. Hook and line	First Saturday in May to November 30	1	40
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~~from the Chippewa flowage dam (Winter dam) downstream including all tributaries upstream to the first dam or lake, Big Sissabagama lake, Moose lake~~

SECTION 14. NR 20.20(57)(e)4. is amended to read:

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

(e) Muskellunge	4. Chippewa flowage, <u>Chippewa river from the Chippewa flowage dam (Winter dam) downstream to and including the Raddison flowage and all tributaries upstream to the first dam or lake</u>	a. Hook and line	<u>First Saturday in May to November 30</u>	1	45
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SECTION 15. NR 20.20(64)(g)2. is amended to read:

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

(g) Trout and salmon	2. Black Oak lake, <u>Long lake</u> , Trout lake	a. Hook and line	First Saturday in May at 5:00 a.m. to September 30	1 in total	30
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SECTION 16. NR 20.20(64)(h)4. is amended to read:

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

(h) Walleye, sauger and hybrids	4. Alder, Averill, Big (T42N R6E S4), Big Arbor Vitae, Big Muskellunge, Birch, Boulder, Buckskin, Clear, Crab, Dead Pike, Emily, Fawn (T42N R5E S11), Fishtrap, Harris, High, <u>Kentuck</u> , lke Walton, Island, Laura, Little Arbor Vitae, Little Star, Manitowish, North Crab, North Turtle, Oxbow, Presque Isle, Rest, Rock, Rush, South Turtle, Sherman, Spider, Squaw, Star, Stone, Van Vliet and Wild Rice lakes	a. Hook and line	First Saturday in May to the first Sunday in March	5 in total but only 1 may be longer than 14"	None
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SECTION 17. NR 20.20(64)(h)7. is repealed.

SECTION 18. NR 20.20(70)(f)1. is repealed.

SECTION 19. NR 20.20(72)(h)2. is created to read:

(72) WOOD (for species and waters not listed, see sub. (73))

(h) Walleye, sauger and hybrids	2. Nepco lake, Wauzeecha lake	a. Hook and line	First Saturday in May to the first Sunday in March	3 in total	18
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SECTION 20. NR 20.20(73)(a) is amended to read:

(73) SPECIES OR WATERS NOT LISTED IN SUBS. (1) TO (72)

(a) All species	1. Green Bay, Lake Michigan, Lake Superior	a. Motor trolling is permitted.	As specified in this subsection	As specified in this subsection	As specified in this subsection
	2. Peshtigo river upstream to the first railroad bridge, Marinette county; Oconto river and tributaries including <u>except the Little river downstream from highway 141, Oconto county</u>	a. From October 4 <u>September 15</u> to the first Saturday in May only hooks with a one-half inch gap or less may be used while hook and line fishing.	As specified in this subsection	As specified in this subsection	As specified in this subsection
	3. Lake Michigan tributaries; Peshtigo river upstream from the first railroad bridge to the first dam, Marinette county; <u>Little river downstream from highway 141, Oconto county; and</u> all other tributary streams, rivers and ditches to Green Bay upstream to the first dam or lake	a. <u>In addition to the restrictions under par. (b) to (o), all of the following restrictions apply:</u> Motor trolling is permitted in Lake Michigan tributaries of Racine county. From October 4 <u>September 15</u> 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. <u>From September 15 to December 31, fishing by any method is prohibited from one-half hour after sunset to one-half hour before sunrise.</u>	As specified in this subsection	As specified in this subsection	As specified in this subsection
	4. Lake Winnebago system waters	a. Motor trolling is permitted except on the Wolf river from its mouth at Lake Poygan upstream to the dam in the city of Shawano, and all its tributaries upstream to the first dam, including Cincoe and Partridge lakes in Winnebago, Waupaca, Outagamie and Shawano counties.	As specified in this subsection	As specified in this subsection	As specified in this subsection

SECTION 21. NR 20.20(73)(cm) is created to read:

(73) SPECIES OR WATERS NOT LISTED IN SUBS. (1) TO (72)

(cm) Nonindigenous detrimental fish species, as defined in s. NR 20.38(6), except rough fish under par. (L) and white perch under par. (m)	1. All waters	a. Hook and line	Continuous	0, except that 1 may be taken if it is killed immediately and delivered immediately to a department service center or regional office.	None
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SECTION 22. NR 20.20(73)(i)1. is amended to read:

(73) SPECIES OR WATERS NOT LISTED IN SUBS. (1) TO (72)

(i) Northern pike	1. Green Bay, major Green Bay tributaries, Lake Michigan waters north of a line running due east from the eastern terminus of Waldo boulevard in the city of Manitowoc, Lake Michigan tributaries north of U.S. highway 10 except Manitowoc river <u>Kewaunee river, East Twin river downstream from the Michicot dam, West Twin river downstream from Shoto dam, and the Ahnapee river downstream from the Forestville dam</u>	a. Hook and line	Continuous	5	None
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SECTION 23. NR 20.20(73)(i)1m. is created to read:

(73) SPECIES OR WATERS NOT LISTED IN SUBS. (1) TO (72)

(i) Northern pike	1m. Other Lake Michigan tributaries not listed in subd. 1. north of U.S. highway 10 except the Manitowoc river	a. Hook and line	First Saturday in May to the first Sunday in March	5	None
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SECTION 24. NR 20.20(73)(L)2.a. is amended to read:

(73) SPECIES OR WATERS NOT LISTED IN SUBS. (1) TO (72)

(L) Rough fish	2. Major Green Bay tributaries, Lake Michigan tributaries	a. Hook and line, by hand, dip netting at any time 500 feet or more below the first upstream dam or up to 5 miles straight inland from the mouth, whichever is less, <u>except from September 15 through December 31 when fishing by any method is prohibited from one-half hour after sunset to one-half hour before sunrise.</u>	Continuous	None	None
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SECTION 25. NR 20.20(73)(L)3.c. is amended to read:

(73) SPECIES OR WATERS NOT LISTED IN SUBS. (1) TO (72)

(L) Rough fish	3. All other tributary streams and ditches	c. Dip netting at any time 500 feet or more below the first upstream dam or up to 5 miles straight inland	Continuous	None	None
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to Green Bay upstream to the first dam or lake from the mouth, whichever is less, except from September 15 through December 31 when fishing by any method is prohibited from one-half hour after sunset to one-half hour before sunrise.

SECTION 26. NR 20.20(73)(m) is amended to read:

(73) SPECIES OR WATERS NOT LISTED IN SUBS. (1) TO (72)

(m) Ruffe, white perch and gobies <u>White</u>	1. Lake Michigan, Green Bay, Lake Michigan tributaries, major Green Bay tributaries	a. Hook and line	Continuous for white perch, no open season for ruffe or gobies	None	None
	1m. All other tributary streams, rivers and ditches to Green Bay upstream to the first dam or lake	a. Hook and line	First Saturday in May to first Sunday in March for white perch, no open season for ruffe or gobies	None	None
	2. All other waters not listed in subs. (1) to (72) or this paragraph	a. Hook and line	No open season but one of each may be killed and possessed for immediate delivery to a department service center or regional office	-	-

SECTION 27. EFFECTIVE DATE. This rule shall take effect on April 1, 2006, except sections 16 and 17, which shall take effect the first day of the month following publication in the Wisconsin Administrative Register as provided in s. 227.22(2), Stats.

SECTION 28. BOARD ADOPTION. This rule was approved and adopted by the State of Wisconsin Natural Resources Board on May 25, 2005.

Dated at Madison, Wisconsin, _____

STATE OF WISCONSIN
DEPARTMENT OF NATURAL RESOURCES

By _____
Scott Hassett, Secretary

(SEAL)