Form 1100-001P (Rev. 11/12)

**Wisconsin Department of Natural Resources**
**Natural Resources Board Agenda Item**

Item No. 3.B.1

**SUBJECT:**
Request that the Board adopt Board Order FH-19-12, proposed rules affecting NR 19, 20, 21, 22, 23, 25, and 26, Wis. Adm. Code related to housekeeping corrections, clarifications, and updates to code for fishing in inland, outlying, and boundary waters, and harvest of turtles.

**FOR: March 2013 Board meeting**

**PRESENTER'S NAME AND TITLE:** Kate Strom Hiorns, Fisheries Policy Specialist

**SUMMARY:**
The proposed rule would make housekeeping changes to ensure the code 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 statutory changes and to the interests of the public and both Law Enforcement and Fisheries Management staff.

In addition to correcting errors or removing outdated sections of code, the rule will:
- adjust code language to match statutory changes to the Natural Waterbody Permit Program and commercial fishing licensing rules, as well as matching statutory changes to allow a free fishing weekend in January and permit the use of a crossbow whenever bow and arrow is allowed;
- make corrections to 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. These regulations were mistakenly modified by a 2009 rule;
- clarify that there is no possession limit for food distribution services that lawfully receive fish for purposes of redistribution;
- extend an existing fish refuge boundary on Wingra Creek in Dane County;
- make ice shelter labeling rules the same on boundary waters as on inland waters; and
- clarify that setlines and set or bank poles are authorized methods for taking turtles.

Level 3: minimal to no impact on small businesses

**RECOMMENDATION:** That the Board adopt Board Order FH-19-12.

**LIST OF ATTACHED MATERIALS (check all that are applicable):**
- ☒ background memo
- ☐ Statement of scope
- ☒ Fiscal estimate and economic impact analysis (EIA) form
- ☒ Response summary
- ☐ Attachments to background memo
- ☐ Governor approval of statement of scope
- ☐ Environmental assessment or impact statement
- ☒ Board order/rule

| Approved by | Signature | Date |
|---|---|---|
| Mike Staggs, Bureau Director | Michael Staggs | Feb. 11, 2013 |
| Ken Johnson, Administrator | Ken Johnson | 2/24/2013 |
| Cathy Stepp, Secretary | Matt Moroney | 3/6/13 |

cc: Board Liaison - AD/8 Program attorney – LS/8 Department rule coordinator – LS/8

# CORRESPONDENCE/MEMORANDUM

State of Wisconsin

DATE: February 1, 2013

TO: All Members of the Natural Resources Board

FROM: Cathy Stepp, Secretary

SUBJECT: Background memo on Board Order FH-19-12, relating to the regulation of fishing and the harvest of turtles

**1. Subject of Proposed Rule:**

The proposed rule addresses minor changes to administrative code relating to the regulation of fishing and harvest of turtles.

**2. Background:**

The rule is in response to recent statutory changes made by the State Legislature and to the interests of the public and both Law Enforcement and Fisheries Management staff.

**3. Why is the rule being proposed?**

The proposed rule makes minor changes to sections of NR 19, 20, 21, 22, 23, 25, and 26 relating to the regulation of fishing. 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 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.

**4. Summary of the rule.**

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. New natural waterbody permits 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).



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- 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.

**5. How does this proposal affect existing policy?**

This rule includes minor 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.

**6. Has Board dealt with these issues before?**

The Board periodically reviews rule proposals for making "housekeeping" amendments to fishing regulations in administrative code. The most recent Fisheries housekeeping rule (FH-18-09) was approved by the Board in 2009.

**7. Who will be impacted by the proposed rule? How?**

The proposed rule will have minimal impact on members of the public. As with any change in regulations, there will be a requirement for anglers to learn the new rules. However, a majority of this rule change clarifies code to reflect existing policies for which anglers must already comply. The Fisheries Management Bureau works to notify the public of new regulations via press releases, the internet, and fishing regulations pamphlets.

**8. Soliciting public input on economic impact synopsis**

During the economic impact analysis open comment period, the department only received one comment from the Milwaukee Great Lakes Sport Fishing Club which stated it was in favor of amending rules to make it easier to donate fish to local charities in Milwaukee. The Department requested economic impact comments from Wisconsin Conservation Congress, WI Wildlife Federation, Great Lakes Indian Fish & Wildlife Commission, WI Association of Lakes, WI Bow Hunters Association, WI Archery Alliance, WI Traditional Archers, WI Federation of Great Lakes Sport Fishing Clubs, WI Council of Sport Fishing Organizations, Federation of Fly Fishers - Wisconsin Council, Musky Clubs Alliance of Wisconsin, Inc., Salmon Unlimited, Trout Unlimited - WI Council, Walleyes for Tomorrow, WI Bass Federation, Izaak Walton League-Wisconsin Division, Lake Michigan Fisheries Forum, Wisconsin Aquaculture Association, American Fisheries Society-Wisconsin Chapter, Natural Resources Foundation of WI, Gathering Waters, River Alliance of Wisconsin, UW Sea Grant, League of WI Municipalities, WI Towns Association, WI Counties Association, Northeast WI Great Lakes Sport Fishermen, and Great Lakes Sport Fishermen of Milwaukee. Proposed rule documents were also posted on the Department website and the Wisconsin Administrative Rules website.

A public hearing was held on January 31, 2013, in Madison at the Department of Natural Resources Office Building, 101 S. Webster St. at 2:00 pm. The same groups listed above were notified of the hearing. No one attended or provided hearing comments.

**9. Environmental Analysis**

This is a Type IV action under Chapter NR 150, Wis. Admin. Code. No environmental assessment was required.

**10. Small Business Analysis**

The proposed rule will have minimal to no impact on businesses and members of the public. The Department has determined that this rule would not adversely affect in a material way the economy, a sector of the economy, productivity, jobs, or the overall economic competitiveness of this state. It is not expected that there will be any economic impact directly related to these rule changes on anglers or fishing-related businesses. The proposed rule does not impose any compliance or reporting requirements on small businesses nor are any design or operational standards contained in the rule. No fiscal impacts are expected for public utility rate payers or local governmental units.

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.

STATE OF WISCONSIN
DEPARTMENT OF ADMINISTRATION
DOA-2049 (R03/2012)

DIVISION OF EXECUTIVE BUDGET AND FINANCE
101 EAST WILSON STREET, 10TH FLOOR
P.O. BOX 7864
MADISON, WI 53707-7864
FAX: (608) 267-0372

# ADMINISTRATIVE RULES
## Fiscal Estimate & Economic Impact Analysis

1. Type of Estimate and Analysis
☐ Original ☒ Updated ☐ Corrected

2. Administrative Rule Chapter, Title and Number
Sections of NR 19, 20, 21, 22, 23, 25, and 26 relating to the regulation of fishing

3. Subject
Changes 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.

4. Fund Sources Affected
☐ GPR ☐ FED ☐ PRO ☐ PRS ☐ SEG ☐ SEG-S

5. Chapter 20, Stats. Appropriations Affected

6. Fiscal Effect of Implementing the Rule
☒ No Fiscal Effect ☐ Increase Existing Revenues ☐ Increase Costs
☐ Indeterminate ☐ Decrease Existing Revenues ☐ Could Absorb Within Agency's Budget
☐ Decrease Cost

7. The Rule Will Impact the Following (Check All That Apply)
☐ State's Economy ☐ Specific Businesses/Sectors
☐ Local Government Units ☐ Public Utility Rate Payers
☐ Small Businesses **(if checked, complete Attachment A)**

8. Would Implementation and Compliance Costs Be Greater Than $20 million?
☐ Yes ☒ No

9. Policy Problem Addressed by the Rule
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.

10. Summary of the businesses, business sectors, associations representing business, local governmental units, and individuals that may be affected by the proposed rule that were contacted for comments.
The proposed rule will have minimal impact on businesses and members of the public. As with any change in regulations, there will be a requirement for anglers to learn the new rules. However, a majority of this rule change clarifies code to reflect existing policies with which anglers must already comply. The Fisheries Management Bureau works to notify the public of new regulations via press releases, the internet, and fishing regulations pamphlets. The following organizations were contacted by the Department for economic impact comments: Wisconsin Conservation Congress, WI Wildlife Federation, Great Lakes Indian Fish & Wildlife Commission, WI Association of Lakes, WI Bow Hunters Association, WI Archery Alliance, WI Traditional Archers, WI Federation of Great Lakes Sport Fishing Clubs, WI Council of Sport Fishing Organizations, Federation of Fly Fishers - Wisconsin Council, Musky Clubs Alliance of Wisconsin, Inc., Salmon Unlimited, Trout Unlimited - WI Council, Walleyes for Tomorrow, WI Bass Federation, Izaak Walton League-Wisconsin Division, Lake Michigan Fisheries Forum, Wisconsin Aquaculture Association, American Fisheries Society-Wisconsin Chapter, Natural Resources Foundation of WI, Gathering Waters, River Alliance of Wisconsin, UW Sea Grant, League of WI Municipalities, WI Towns Association, WI Counties Association, Northeast WI Great Lakes Sport Fishermen, and Great Lakes Sport Fishermen of Milwaukee.

11. Identify the local governmental units that participated in the development of this EIA.
The open comment period was conducted during November 2012. No local governments commented or requested to participate in the development of the EIA.

12. Summary of Rule's Economic and Fiscal Impact on Specific Businesses, Business Sectors, Public Utility Rate Payers, Local

DIVISION OF EXECUTIVE BUDGET AND FINANCE
101 EAST WILSON STREET, 10TH FLOOR
P.O. BOX 7864
MADISON, WI 53707-7864
FAX: (608) 267-0372

# ADMINISTRATIVE RULES
## Fiscal Estimate & Economic Impact Analysis

Governmental Units and the State's Economy as a Whole (Include Implementation and Compliance Costs Expected to be Incurred)

The Department only received one comment during the EIA comment period and it was not related to an economic impact. The Milwaukee Great Lakes Sport Fishing Club stated it was in favor of amending rules to make it easier to donate fish to local charities in Milwaukee.

It is not expected that there will be any economic impact directly related to these rule changes on anglers or fishing-related businesses. The proposed rule does not impose any compliance or reporting requirements on small businesses nor are any design or operational standards contained in the rule.

13. Benefits of Implementing the Rule and Alternative(s) to Implementing the Rule

The proposed rule will include 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. The goal of fish management, as stated in s. NR 1.01(2), is "to provide opportunities for the optimum use and enjoyment of Wisconsin's aquatic resources, both sport and commercial. A healthy and diverse environment is essential to meet this goal and shall be promoted through management programs."

14. Long Range Implications of Implementing the Rule

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.

15. Compare With Approaches Being Used by Federal Government

Authority to promulgate fishing regulations is granted to states. None of the proposed changes violate or conflict with federal regulations.

16. Compare With Approaches Being Used by Neighboring States (Illinois, Iowa, Michigan and Minnesota)

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 and bag and size limits may differ for species among the surrounding states, but the general principles are similar. Michigan, Minnesota, Iowa, and Illinois all have statewide seasons and bag and size limits for fish species, along with special or experimental regulations on individual waters. The Department meets with the Michigan and Minnesota departments of natural resources each year to discuss management and regulation changes.

| 17. Contact Name | 18. Contact Phone Number |
|---|---|
| Kate Strom Hiorns | 608-266-0828 |

This document can be made available in alternate formats to individuals with disabilities upon request.

Response to Legislative Council Rules Clearinghouse Record

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

Final Regulatory Flexibility Analysis

The proposed rule will have minimal to no impact on businesses and members of the public. As with any change in regulations, there will be a requirement for anglers to learn the new rules. However, a majority of this rule change clarifies code to reflect existing policies with which anglers must already comply. The Fisheries Management Bureau works to notify the public of new regulations via press releases, the internet, and fishing regulations pamphlets.

The Department has determined that this rule would not adversely affect in a material way the economy, a sector of the economy, productivity, jobs, or the overall economic competitiveness of this state. It is not expected that there will be any economic impact directly related to these rule changes on anglers or fishing-related businesses. The proposed rule does not impose any compliance or reporting requirements on small businesses nor are any design or operational standards contained in the rule. No fiscal impacts are expected for public utility rate payers or local governmental units.

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.

This determination was made after the Department requested economic impact comments from Wisconsin Conservation Congress, WI Wildlife Federation, Great Lakes Indian Fish & Wildlife Commission, WI Association of Lakes, WI Bow Hunters Association, WI Archery Alliance, WI Traditional Archers, WI Federation of Great Lakes Sport Fishing Clubs, WI Council of Sport Fishing Organizations, Federation of Fly Fishers - Wisconsin Council, Musky Clubs Alliance of Wisconsin, Inc., Salmon Unlimited, Trout Unlimited - WI Council, Walleyes for Tomorrow, WI Bass Federation, Izaak Walton League-Wisconsin Division, Lake Michigan Fisheries Forum, Wisconsin Aquaculture Association, American Fisheries Society-Wisconsin Chapter, Natural Resources Foundation of WI, Gathering Waters, River Alliance of Wisconsin, UW Sea Grant, League of WI Municipalities, WI Towns Association, WI Counties Association, Northeast WI Great Lakes Sport Fishermen, and Great Lakes Sport Fishermen of Milwaukee. Proposed rule documents were also posted on the Department website and the Wisconsin Administrative Rules website.

# REPORT TO LEGISLATURE

## NR 19, 20, 21, 22, 23, 25, and 26, Wis. Adm. Code
## Minor changes to rules regulating fishing and harvest of turtles

## Board Order No. FH-19-12
## Clearinghouse Rule No. 13-001

### Basis and Purpose of the Proposed Rule

This rule is being proposed to make 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.

### Summary of Public Comments

During the economic impact analysis open comment period, the department received one comment from the Milwaukee Great Lakes Sport Fishing Club which stated it was in favor of amending rules to make it easier to donate fish to local charities in Milwaukee. No other comments were received during rule promulgation.

### Modifications Made to Rule

The rule was modified slightly since it was submitted to the Legislative Council Rules Clearinghouse on January 2, 2013. Section 3 was added and sections 4, 5, and 6 were amended based on further legal review of statutory changes made to the Natural Waterbody Permit program in 2011 Wisconsin Act 207. The enactment date for Section 45 was changed so the hook size and night fishing prohibitions on the Menominee River would be removed as soon as possible rather than waiting until April 1, 2014. All changes suggested by the Legislative Council to improve style and use of plain language were made.

### Appearances at the Public Hearing

A public hearing was held on January 31, 2013, in Madison at the Department of Natural Resources Office Building, 101 S. Webster St. at 2:00 pm. No one attended the hearing or provided hearing comments.

### Changes to Rule Analysis and Fiscal Estimate

The rule analysis was modified as suggested by the Legislative Council to remove references to "housekeeping" and "non-substantive changes." The fiscal estimate was similarly modified, but the expected fiscal effect remains the same.

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

The statement of scope for this rule, SS 058-12, was approved by the Governor on July 25, 2012, published in Register No. 680 on August 14, 2012, and approved by the Natural Resources Board on September 26, 2012. This permanent rule was approved by the Governor on _____.

Wisconsin Natural Resources Board proposes an order to repeal NR 20.20(2)(c)2., (7)(d), (9)(c), (10)(b), (11)(f), (16)(d)2., (24)(d), (25)(d), (27)(d), (32)(cm), (35)(c), (37)(d), (42)(bm), (49)(am)1., (55)(bm), (58)(c), (60)(c), (61)(am), (62)(ae), (64)(d)2m., (65)(c), (66)(c), 20.38(2), 25.06(3m), 25.07(2)(a)2., 25.07 (2)(g)5.d., 26.01(24), 26.01(64), 26.015, and 26.32; to amend NR 19.275(3)(b), 19.91(3), 19.92, 19.93, 19.94(5), 19.94(7), 20.06(1), 20.09(1), 20.09(2), 20.105(1)(d), 20.20(4)(d), (4)(g)2.c., (25)(c), (26)(b), (34)(b), (44)(b)4., (49)(b), (54)(e)(1), (64)(c)7., (73)(a)3., (73)(L)3.b., (73)(o)1., NR 20.25(1), 21.015(1), 21.06(1)(d), 21.07, 22.015(1), 22.06(1)(d), 22.07, 23.015, 23.09(3), 25.02(8), 25.02(9), 25.02(46), 25.03(1)(b), 25.03(2)(b), 25.07(2)(b)2.c., 25.07(2)(bg)2., 25.07(2)(br)2., 25.07(3)(c), 25.135(1)(a)1., 25.135(2), 25.18(1)(c)2., 26.01(39)(b), and 26.24(13); and to create NR 19.90(2)(d), 20.03(31)(h), 20.03(38) Note, and 23.085, relating to fishing rules on inland, outlying, and boundary waters of Wisconsin and harvest of turtles.

FH-19-12

Analysis Prepared by Department of Natural Resources

**1. Statutes interpreted.** Sections 29.014(1), 29.041, 29.519(1m)(b), and 29.733(2)(f), Stats., have been interpreted as giving the department the authority to make changes to Wisconsin fishing rules.

**2. Statutory authority.** ss. 29.014(1), 29.041, 29.519(1m)(b), and 29.733(2)(f), Stats.

**3. Explanation of agency authority to promulgate the proposed rules under the statutory authority.** Section 29.014(1), Stats., directs the department to establish and maintain conditions governing the taking of fish that will conserve the fish supply and ensure the citizens of this state continued opportunities for good fishing.

Section 29.041, Stats., provides that the department may regulate fishing on and in all interstate boundary waters and outlying waters.

Section 29.519(1m)(b), Stats., provides that "after giving due consideration to the recommendations made by the commercial fishing boards under sub. (7), the department may establish species harvest limits and promulgate rules to establish formulas for the allocation of the species harvest limits among commercial fishing licensees or for the allotment of individual licensee catch quotas."

Section 29.733(2)(f), Stats., provides that the department shall promulgate rules to establish the fees, criteria and procedures to be used in issuing permits for natural waters used in fish farms.

**4. Related statutes or rules.**
29.197 Waivers of certain approvals
29.405 Fishing with a bow and arrow or crossbow

**5. Plain language analysis of the proposed rule.** This rule is being proposed to make 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.

Section 1 clarifies that setlines and set or bank poles are authorized methods for taking turtles. Another section of code lists the use of setlines and bank poles for taking turtles and these are already commonly used, accepted methods.

Sections 2 to 7 amend Subchapter III of NR 19, which regulates fish farms in natural waterbodies, in response to statutory changes in 2011 Wisconsin Act 207. Under those changes, newly issued natural waterbody permits 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.

Section 8 creates no possession limit for food distribution services – as defined in statute as programs that provide food or serve meals directly to individuals with low incomes or to elderly individuals, or that collect and distribute food to persons who provide food or serve meals directly to these individuals – that lawfully receive fish for purposes of redistribution. This clarifies in code the existing law enforcement policy on fish donations.

Sections 9, 12, 16, 51, and 54 revise code to match statutory changes that 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.

Section 10 clarifies in code that trolling is allowed as provided in s. 29.193(1m), Stats., which authorizes trolling approvals for disabled persons.

Sections 11, 45, 46, and 57 update Wisconsin-Michigan boundary water regulations. Section NR 23.01, Wis. Adm. Code, was amended in 2009 to include the language "The provisions of this chapter, *along with other applicable rules and statutes*, regulate fishing in WI-MI boundary waters." which had the unintended result of applying some regulations in s. NR 20.20 to boundary waters. This rule will restore night fishing and remove a hook gap restriction on the Menominee River. In addition, rough fish spearing will be closed again on all WI-MI boundary waters. Specific language has been absent in ch. NR 23 regarding spearing, and, before 2009, regulation books stated that rough fish spearing was closed year round. This rule will specify that rough fish spearing is again closed in all WI-MI boundary waters and return regulations to how administrative code was previously interpreted and enforced. Wisconsin's regulations will match Michigan regulations and are intended to improve public understanding of rule enforcement on these shared waters. Department of Natural Resources staff from both states met in 2011 and agreed to make night angling, hook size, and spearing changes for consistency between state regulations and for clarity within code.

Section 13 revises code to match statutory changes that allow 12- and 13-year olds to apply for a sturgeon spearing license in response to 2011 Wisconsin Act 168. Previously the lower age limit was 14 years of age.

Sections 14, 15, 17, 18, 19, 20, 21, 22, 24, 25, 26, 27, 29, 30, 31, 34, 36, 37, 38, 39, 40, 42, 43, and 44 remove the unnecessary notations of a 40-inch size limit for muskellunge in ss. NR 20.20(1) through (72) county regulations. A minimum size limit of 40 inches is the general inland waters size limit for muskellunge and is indicated in existing s. NR 20.20(73)(g). This regulation was effective April 1, 2012.

Section 23 removes expired language for regulations on Twin Valley Lake in Iowa County.

Section 28 corrects mistakenly printed regulation language for largemouth and smallmouth bass in Langlade County. There is no change to the regulation.

Section 32 corrects language for bass regulations on the Minocqua Chain in Oneida County. The early catch and release season dates for largemouth and smallmouth bass were left out in error during rule changes in 2012.

Section 33 removes expired language for largemouth and smallmouth bass in Big Round Lake and Balsam Lake in Polk County.

Section 35 clarifies the boundaries for trout regulations on the East Fork of Raccoon Creek (also known as Paddock Creek) in Rock County. Original code language was unclear and resulted in enforcement issues. Trout have only been stocked in the East Fork of Raccoon Creek and the regulation applies only to that classified section of trout waters.

Section 41 adds sunset language for bass regulations on Sparkling Lake in Vilas County that was mistakenly excluded from rule printing in 2008.

Section 47 prevents overlapping start and end dates of differing regulations for walleye, sauger, and hybrids on the Fox River downstream from the DePere Dam. Currently, the early season regulation begins on March 2 while the alternate regulation ends on the first Sunday in March. These dates may overlap in certain years.

Sections 48, 50, 53, and 56 provide free fishing during the third weekend in January each year when no license is required to fish in inland, outlying, and boundary waters, in response to statutory changes in 2011 Wisconsin Act 168.

Section 49 removes 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.

Sections 52, 55, and 58 makes 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.

Sections 59, 60, 61, 64, 65, and 69 make corrections to code or remove expired language within NR 25, rules governing commercial fishing in outlying waters.
Sections 62, 63, 66, 67, 68, 70, 71, and 72 delete references to minimum harvesting requirements for commercial fishing in the Great Lakes, in response to statutory changes in 2011 Wisconsin Act 177.

Section 73 adds the Old Stone Quarry to the list of secondary ports where fish are landed by commercial fishers. Commercials fishers need to call in a plan to the local warden each day that fish are being landed at a secondary port and this location is already being used as such. Law enforcement staff support this addition to code language.

Sections 74, 75, 76, 77, and 79 remove notations of expired fish refuges in NR 26.

Section 78 extends the boundary of an existing fish refuge on Wingra Creek in Dane County. The extension is necessary because a rebuilt and extended platform next to the refuge reduces protection for fish populations in this refuge area.

**6. Summary of and comparison with existing or proposed federal statutes and regulations.** Authority to promulgate fishing regulations is granted to states. None of the proposed changes violate or conflict with federal regulations.

**7. Comparison with rules iu 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 and bag and size limits may differ for species among the surrounding states, but the general principles are similar. Michigan, Minnesota, Iowa, and Illinois all have statewide seasons and bag and size limits for fish species, along with special or experimental regulations on individual waters. The Department meets with the Michigan and Minnesota departments of natural resources each year to discuss management and regulation changes.

**8. Summary of factual data and analytical methodologies.** 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. The department has used different types of fishing regulations in order to: control angler impacts on fish populations; maintain numbers and sizes of fish in a lake or stream; provide different types of fishing experiences, such as fishing for dinner or for a trophy fish; and make access to fishing as fair as possible.

This rule includes minor changes to administrative code that support existing policies and fisheries management goals.

**9. Analysis and supporting documents used to determine effect on small business or in preparatiou of an economic impact analysis.** It is not expected that there will be any economic impact directly related to these rule changes. The Department conducted an economic impact analysis and determined that no individuals, businesses, local governments, or other entities are expected to be adversely affected economically.

**10. Effects on small business.** The rule is not expected to have an effect on small businesses. The proposed rule does not impose any compliance or reporting requirements on small businesses nor are any design or operational standards contained in the rule.

**11. Rules proposed by the Department of Veterans Affairs.** No information

**12. Agency contact person.**

Kate Strom Hiorns
Department of Natural Resources
P.O. Box 7921
Madison, WI 53707-7921
Telephone: (608) 266-0828

Email: kathryn.stromhiorns@wisconsin.gov

**13. Place where comments are to be submitted and deadline for submission.** Comments on this proposed rule may be submitted to the agency contact person listed above. The deadline for written comments was January 31, 2013.

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SECTION 1. NR 19.275(3)(b) is amended to read:

NR 19.275(3)(b) Take turtles by methods other than hoop net turtle traps that comply with par. (c), hand, hook and line when in possession of a fishing license, setline or set or bank poles when in possession of a setline or set or bank pole license used in compliance with NR 20.12, or hooking.

SECTION 2. NR 19.90(2)(d) is created to read:

NR 19.90(2)(d) Bodies of water for which a person was issued a permit under ss. 30.19, 30.195, or 31.04, Stats.

SECTION 3. NR 19.91(3) is amended to read:

NR 19.91(3) "Natural body of water" means any spring, stream, pond, lake or wetland that was historically present in a natural state but may have been physically altered over time ~~except any waterbody that has been permitted by the department under ch. 30 or 31, Stats., or ch. NR 299 water quality certification and not declared public under s. 30.19(5), Stats.~~

SECTION 4. NR 19.92 is amended to read:

NR 19.92 **Natural body of water permit application fees.** Permit application fees for the use of natural bodies of water for fish farms ~~for a period of 10 years~~ shall be as follows:

~~(1) Permit applicants for natural bodies of water reauthorized for use as fish farms under s. 29.733 (2) (b) and (c), Stats., shall pay a non-refundable renewal fee of $50.00.~~

~~(2)~~ (1) Permit applicants for the initial use of freeze-out ponds as fish farms shall pay a $500.00 non-refundable permit application fee.

~~(3)~~ (2) ~~Recipients of~~ Permit applicants for permit transfers shall pay a non-refundable permit transfer fee of $100.00. ~~The expiration date of the original permit shall remain in effect for the transferred permit.~~

(3) Permit applicants for permit renewals shall pay a non-refundable permit renewal fee of $50.00.

SECTION 5. NR 19.93 is amended to read:

NR 19.93 **Applicant permit procedures for use of natural bodies of water for fish farms.**

(1) ~~For~~ The deadline for permits reauthorized under s. 29.733 (2) (b), Stats., ~~the applicant shall complete and submit an application form provided by the department and the appropriate permit fee by~~ was January 1, 2003.

(2) For renewal of permits ~~under s. 29.733 (2) (c), Stats.,~~ the applicant shall submit a new application to the department not more than 16 months before the expiration date of the permit granted under this chapter but not less than 2 months from the expiration date of the permit.

(3) Applications for permits under this subchapter shall include documents verifying all of the following:

(a) The land that is riparian to the body of water is owned, leased or controlled by the owners of the fish farm.

(b) None of the owners of the fish farm or of the riparian lands provides access to the body of water to the public by means of an easement or other right-of way or by means of a business open to the public, except that the owners of the fish farm may allow fishing by the public for a fee.

(c) Documentation that the natural body of water may be a freeze-out pond or that the natural body of water is a preexisting fish rearing facility that is barrier equipped.

(d) Copies of any other permits or authorization required by ch. 30 or 31, Stats., the Army corps of engineers and any other federal, state or local laws and zoning ordinances.

(e) All applicants shall identify the water source and quantity used for the fish farm and whether there is any discharge to a water of the state.

(f) Any other information requested by the department to determine whether a permit would or would not be granted by the department.

Note: Permit application forms are available from the Bureau of Fisheries Management ~~and Habitat Protection~~, 101 South Webster St., P.O. Box 7921, Madison, WI 53707.

(4) The department ~~shall~~ may issue a notice of intent to use a natural body of water as a fish hatching or rearing facility that was not being used as of January 1, 1998 by the department. The department shall comply with all provisions of s. NR 19.94 before it may use a natural body of water as a fish hatching or rearing facility.

SECTION 6. NR 19.94(5) is amended to read:

NR 19.94(5) The department shall issue or renew ~~under s. 29.733 (2) (c), Stats.,~~ a permit issued under s. 29.733 (2) (a) and (b), Stats., for use of a natural body of water as a fish farm or any part of a fish farm in a natural body of water unless the department determines there has been a substantial adverse change affecting one or more of the criteria specified in sub. (1) (a) to (e), (2), (3), or s. 29.734, Stats., resulting from the operation of the fish farm. The department shall consider the historical condition of the

natural water body prior to the presence and operation of the fish farm as part of their permit renewal decision. ~~under s. 29.733 (2) (c), Stats.~~

**Note:** Under this paragraph, historical conditions refer to known uses of the natural body of water prior to the inception of the fish farm.

SECTION 7. NR 19.94(7) is amended to read:

NR 19.94(7) Upon receipt of a complete permit application, the department shall post notice of every application submitted to the department on the department's Internet Web site. ~~the department shall either~~ The department may schedule a hearing or provide notice stating that it will proceed on the application without a hearing if no substantive written objections to issuance of the permit is received within 30 days after publication or notice. The notice ~~shall~~ may be provided to news media and other persons according to the procedures in s. NR 27.07 (1) (b) and (c). The department may provide notice to other persons as it deems appropriate. The department will assume the cost of publishing the notice.

SECTION 8. NR 20.03(31)(h) is created to read:

NR 20.03(31)(h) There is no possession limit for fish possessed by a food distribution service, as defined in s. 29.001(28), Stats., that lawfully receive fish for purposes of redistribution.

SECTION 9. NR 20.03(38) Note is created to read:

NR 20.03(38) "Spearing" means fishing with a device consisting of a shaft with an attached sharp point or points and includes devices such as spears, bow and arrow, spear guns or similar devices.
Note: Under s. 29.405, Stats., if the department establishes an open season for taking rough fish with a bow and arrow on a particular body of water, the department shall also allow the use of a crossbow to take rough fish on that body of water under the same conditions that apply to the use of a bow and arrow to take rough fish on that body of water.

SECTION 10. NR 20.06(1) is amended to read:

NR 20.06(1) Fish in inland waters by the method of trolling except where specifically authorized in s. NR 20.20 or as provided in s. 29.193(1m), Wis. Stats.

SECTION 11. NR 20.09(1) is amended to read:

NR 20.09(1) Possess or control any bow, spear or similar device while on any water or on the banks or shores of any water that might be used for the purpose of fishing except as specifically authorized in s. NR 20.20 or chs. NR 21, NR 22, or NR 23.

SECTION 12. NR 20.09(2) is amended to read:

NR 20.09(2) Use, possess or control any bow, spear or similar device from sunset to sunrise while on the waters or on the banks or shores of any waters except that a bow and arrow or crossbow may be possessed and used for spearing rough fish from sunset to sunrise during the open season for spearing rough fish.

SECTION 13. NR 20.105(1)(d) is amended to read:

NR 20.105(1)(d) *Applications for upriver lakes*. No person may apply for an upriver lakes sturgeon spearing license unless they will become ~~14~~ 12 years of age before or on the last day of the upcoming sturgeon spearing season.

SECTION 14. NR 20.20(2)(c)2. is repealed.

SECTION 15. NR 20.20(4)(d) is amended to read:

NR 20.20(4) BAYFIELD (for species or waters not listed, including Lake Superior, see sub. (73))

| | | | | | |
|---|---|---|---|---|---|
| (d) Muskellunge | ~~1. Bony lake, Middle Eau Claire lake, Pike Lake chain (includes Buskey Bay lake, Millicent lake, Hart lake, Twin Bear lake, Eagle lake, Flynn lake and McCarry lake), Upper Eau Claire lake~~ | ~~a. Hook and line~~ | ~~Saturday nearest Memorial day to November 30~~ | ~~1~~ | ~~40~~ |
| | ~~2.~~ 1. Namekagon lake | a. Hook and line | Saturday nearest Memorial day to November 30 | 1 | 50 |

SECTION 16. NR 20.20(4)(g)2.c. is amended to read:

NR 20.20(4) BAYFIELD (for species or waters not listed, including Lake Superior, see sub. (73))

| | | | | | |
|---|---|---|---|---|---|
| (g) Rough fish | 2. Fish Creek slough | c. Spearing | Saturday | None | None |

| | | | |
|---|---|---|---|
| | downstream from the junction of North and South Fish creeks | with bow and arrow or crossbow only. | nearest May 20 to July 1 |

SECTION 17. NR 20.20(7)(d) is repealed.

SECTION 18. NR 20.20(9)(c) is repealed.

SECTION 19. NR 20.20(10)(b) is repealed.

SECTION 20. NR 20.20(11)(f) is repealed.

SECTION 21. NR 20.20(16)(d)2. is repealed.

SECTION 22. NR 20.20(24)(d) is repealed.

SECTION 23. NR 20.20(25)(c) is amended to read:

NR 20.20(25) IOWA (for species and waters not listed, see sub. (73))

| | | | | | |
|---|---|---|---|---|---|
| (c) Largemouth and smallmouth bass | 1. East branch Pecatonica river downstream from STH 39, lower Wisconsin river | a. Hook and line. | Continuous | 5 in total | 14 |
| | ~~2. Twin Valley lake, from first Saturday in May of 2000 through March 1, 2003~~ | ~~a. Hook and line.~~ | ~~First Saturday in May to the first Sunday in March~~ | ~~0~~ | ~~—~~ |

SECTION 24. NR 20.20(25)(d) is repealed.

SECTION 25. NR 20.20(26)(b) is amended to read:

NR 20.20(26) IRON (for species or waters not listed, including Lake Superior, see sub. (73))

| | | | | | |
|---|---|---|---|---|---|
| (b) Muskellunge | ~~1. Catherine lake, Cedar lake, Fisher lake, Gile flowage, Long~~ | ~~a. Hook and line~~ | ~~Saturday nearest Memorial day~~ | ~~1~~ | ~~40~~ |

| | | | | |
|---|---|---|---|---|
| ~~lake, Lower Springstead lake, Mercer lake, Moose lake, Pine lake, Turtle-Flambeau flowage including Trude lake, Upper Springstead lake, Wilson lake.~~ | | ~~to November 30.~~ | | |
| ~~2.~~ 1. Owl lake | a. Hook and line | Saturday nearest Memorial day to November 30 | 1 in total | 28 |

SECTION 26. NR 20.20(27)(d) is repealed.

SECTION 27. NR 20.20(32)(cm) is repealed.

SECTION 28. NR 20.20(34)(b)3. is amended to read:

NR 20.20(34) LANGLADE (for species or waters not listed, see sub. (73))

| | | | | | |
|---|---|---|---|---|---|
| (b) Largemouth and smallmouth bass | 3. Greater Bass lake | a. Hook and line | ~~Third Saturday in June to the first Sunday in March~~ First Saturday in May to day preceding the third Saturday in June | 0 | ~~18.~~ -- |
| | | | ~~First Saturday in May to day preceding the third~~ | 1 in total | 18 |

| | | | | | |
|---|---|---|---|---|---|
| | | | ~~Saturday in June~~ Third Saturday in June to the first Sunday in March | | |

SECTION 29. NR 20.20(35)(c) is repealed.

SECTION 30. NR 20.20(37)(d) is repealed.

SECTION 31. NR 20.20(42)(bm) is repealed.

SECTION 32. NR 20.20(44)(b)4. is amended to read:

NR 20.20(44) ONEIDA (for species or waters not listed, see sub. (73))

| | | | | | |
|---|---|---|---|---|---|
| (b) Largemouth and smallmouth bass | 4. Minocqua chain (includes Kawaguesaga, Little Tomahawk, Mid, Minocqua, Mud, and Tomahawk lakes and connecting waters) | a. Hook and line | First Saturday in May to Friday preceding third Saturday in June | 0 | -- |
| | | | ~~First Saturday in May~~ Third Saturday in June to the first Sunday in March | 5 in total | -- |

SECTION 33. NR 20.20(49)(am)1. is repealed.

SECTION 34. NR 20.20(49)(b) is amended to read:

NR 20.20(49) POLK (for species or waters not listed, see sub. (73))

| | | | | | |
|---|---|---|---|---|---|
| (b) Muskellunge | ~~1. All waters not listed~~ | ~~a. Hook and line~~ | ~~Saturday nearest Memorial day to November 30~~ | ~~1~~ | ~~40~~ |

| | | | | | |
|---|---|---|---|---|---|
| | ~~2.~~ 1. Bone lake | a. Hook and line | Saturday nearest Memorial day to November 30 | 1 | 50 |

SECTION 35. NR 20.20(54)(e)1. is amended to read:

NR 20.20(54) ROCK (for species or waters not listed, see sub. (73))

| | | | | | |
|---|---|---|---|---|---|
| (e) Trout and salmon | 1. ~~Raccoon creek and Raccoon creek (east branch)~~ East Fork Raccoon creek (Paddock creek) | a. Hook and line, only artificial lures may be used | First Saturday in May at 5:00 a.m. to September 30 | All trout caught shall be immediately released | — |

SECTION 36. NR 20.20(55)(bm) is repealed.

SECTION 37. NR 20.20(58)(c) is repealed.

SECTION 38. NR 20.20(60)(c) is repealed.

SECTION 39. NR 20.20(61)(am) is repealed.

SECTION 40. NR 20.20(62)(ae) is repealed.

SECTION 41. NR 20.20(64)(c)7. is amended to read:

NR 20.20(64) VILAS (for species or waters not listed, see sub. (73))

| | | | | | |
|---|---|---|---|---|---|
| (c) Largemouth and smallmouth bass | 7. Sparkling lake | a. Hook and line~~.~~ | First Saturday in May to Friday preceding the third Saturday in June | 0 | -- |
| | | | Third Saturday in June to the first Sunday in March | 1 until March 3, 2014 when it becomes 5 in total | 18 until March 3, 2014 when it becomes 14 |

SECTION 42. NR 20.20(64)(d)2m. is repealed.

SECTION 43. NR 20.20(65)(c) is repealed.

SECTION 44. NR 20.20(66)(c) is repealed.

SECTION 45. NR 20.20(73)(a)3. is amended to read:

NR 20.20(73) SPECIES OR WATERS NOT LISTED IN SUBS. (1) TO (72)

| | | | | | |
|---|---|---|---|---|---|
| (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; Oconto river upstream from the upstream side of the highway 141 bridge to the first dam, Oconto county; and all other tributary streams, rivers and ditches -excluding the Menominee River- 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 46. NR 20.20(73)(L)3.b. is amended to read:

NR 20.20(73) SPECIES OR WATERS NOT LISTED IN SUBS. (1) TO (72)

| | | | | | |
|---|---|---|---|---|---|
| (L) Rough fish | 3. All other tributary streams and ditches to Green Bay upstream to the first dam or lake | b. Spearing~~.~~ | April 21 to ~~March 1~~ the first Sunday in March but portions of tributaries west of hwy. 141, Oconto county, and the Menominee river have no open season | None | None |

SECTION 47. NR 20.20(73)(o)1. is amended to read:

NR 20.20(73) SPECIES OR WATERS NOT LISTED IN SUBS. (1) TO (72)

| | | | | | |
|---|---|---|---|---|---|
| (o) Walleye, sauger and walleye-sauger hybrids | 1. Fox river downstream from DePere dam | a. Hook and line~~.~~ | ~~March 2~~ Monday after the first Sunday in March to but not including the first Saturday in May | 1 in total | 28 |
| | | | First Saturday in May to the first Sunday in March | 3 in total | None |

SECTION 48. NR 20.25(1) is amended to read:

NR 20.25(1) On the first Saturday and consecutive Sunday of June and the third Saturday and consecutive Sunday of January each year, no fishing license is required to fish the inland or outlying waters, pursuant to s. 29.197 (3), Stats.

SECTION 49. NR 20.38(2) is repealed.

SECTION 50. NR 21.015(1) is amended to read:

NR 21.015(1) On the first Saturday and consecutive Sunday of June and the third Saturday and consecutive Sunday of January each year, no fishing license is required to fish the Wisconsin-Minnesota boundary waters.

SECTION 51. NR 21.06(1)(d) is amended to read:

NR 21.06(1)(d) Except in Lake Superior, its bays and tributaries, may take rough fish by means of spear, bow and arrow, crossbow, or dip nets and landing nets not to exceed 24 inches in diameter or square only from sunrise to sunset from the Saturday nearest April 21 to March 1, except that the use of dip nets and landing nets not to exceed 24 inches in diameter or square for the taking of rough fish in the

St. Croix river downstream to the St. Croix Falls dam is permitted from the Saturday nearest May 15 to June 30 each year, and bow and arrow or crossbow may be possessed and used for spearing rough fish from sunset to sunrise during the open season for spearing rough fish.

SECTION 52. NR 21.07 is amended to read:

NR 21.07 **Ice fishing shelters.** Buildings, vehicles, tents, fish shanties or similar enclosures may be used on the ice for fishing purposes on the Mississippi river, Lake St. Croix, the St. Croix river and St. Louis river as defined in s. NR 21.02 (39) from the time the ice forms; provided, however, that all such enclosures or shelters shall be removed from the ice on or before March 1 of each year. The door of any such enclosure or shelter must be equipped with a latch which will permit the door to be readily opened from the outside at all times while the enclosure or shelter is occupied. ~~The~~ Fishing shelters that are not occupied or otherwise in use shall have the name and residential address of the person owning such shelter or enclosure ~~must be~~ painted or permanently affixed in the English language on the outside of the structure with lettering a minimum of one inch square. Residents of Wisconsin or Minnesota angling from a fish house shall comply with the law of their respective states relative to licensing and identification of fish houses. Residents of states other than Wisconsin and Minnesota who hold a nonresident fishing license from either state must comply with the law of the issuing state relative to the licensing and identification of fish houses.

SECTION 53. NR 22.015(1) is amended to read:

NR 22.015(1) **License waiver.** On the first Saturday and consecutive Sunday in June and the third Saturday and consecutive Sunday of January each year, no fishing license is required to fish the Wisconsin-Iowa boundary waters.

SECTION 54. NR 22.06(1)(d) is amended to read:

NR 22.06(1)(d) Take rough fish by means of a spear, bow and arrow, crossbow, or landing net or dip nets not to exceed 24 inches in diameter or square from sunrise to sunset only, and bow and arrow or crossbow may be possessed and used for spearing rough fish from sunset to sunrise during the open season for spearing rough fish.

SECTION 55. NR 22.07 is amended to read:

NR 22.07 **Ice fishing shelters.** Buildings, vehicles, tents, fish shanties or similar enclosures may be used on the ice for fishing purposes on the Mississippi river from the time the ice forms; provided, however, that all such enclosures or shelters shall be removed from the ice on or before February 20 of

each year unless otherwise extended by the department. The door of any enclosure or shelter shall be equipped with a latch which will permit the door to be readily opened from the outside at all times while the enclosure or shelter is occupied. ~~The~~ Fishing shelters that are not occupied or otherwise in use shall have the name and residential address of the person owning such enclosure or shelter ~~shall be~~ painted or permanently affixed in the English language on the outside of the structure with lettering a minimum of one inch square. Residents of Wisconsin or Iowa angling from a fish shelter shall comply with the law of their respective states relative to licensing and identification of fish shelters. Residents of states other than Wisconsin or Iowa who hold a nonresident fishing license from either state must comply with the law of the issuing state relative to the licensing and identification of fish shelters.

SECTION 56. NR 23.015 is amended to read:

NR 23.015 **License waiver.** On the first Saturday and consecutive Sunday in June and the third Saturday and consecutive Sunday of January each year, no fishing license is required to fish the Wisconsin-Michigan boundary waters.

SECTION 57. NR 23.085 is created to read:

NR 23.085 Spearing. Notwithstanding seasons established in NR 20.20, no person may fish by the method of spearing on any Wisconsin-Michigan boundary waters.

SECTION 58. NR 23.09(3) is amended to read:

NR 23.09(3) All buildings, tents, fish shanties and similar enclosures or shelters maintained, occupied, or used for fishing on the ice of any Wisconsin-Michigan boundary waters shall have the name and ~~address of the person owning or using it printed in the English language on the outside of it so the name is readily visible at all times.~~ residential address in the English language of the person owning or using the fishing shelter legibly painted or otherwise affixed on the outside of the fishing shelter with block lettering a minimum of one inch square and in contrasting colors. Fishing shelters that are occupied or otherwise in use are exempt from this requirement.

SECTION 59. NR 25.02(8) is amended to read:

NR 25.02(8) "Commercial fishing" means fishing for fish regulated by this chapter with commercial gear or methods other than those commonly known as hook and line fishing or angling, the taking of smelt pursuant to ~~s. NR 20.09,~~ s. NR 20.20, or the taking of minnows.

SECTION 60. NR 25.02(9) is amended to read:

NR 25.02(9) "Commercial fishing gear" or "commercial gear" is that equipment identified in or regulated by this chapter, with the exception of hook and line or angling equipment, gear for the taking of smelt pursuant to ~~s. NR 20.09,~~ s. NR 20.20, or the taking of minnows.

SECTION 61. NR 25.02(46) is amended to read:

NR 25.02(46) "Northern and southern Green Bay line" means that line described as a line in Green Bay drawn from the most northerly point of Friedmann's point at Fish creek at N45°07.925', W87°14.926', located in the southwest quarter of section 29, township 31 north, range 27 east, Door county; thence northwesterly to the most southeasterly point of Chambers island at N45°09.505', W87°19.714'; thence along the southwest shoreline to the most southwesterly point of Chambers island at N45°10.680', ~~W87°27.610'~~ W87°22.608' ; thence due west to the Wisconsin-Michigan boundary line at N45°10.680', ~~W87°24.750'~~ W87°24.775'.

SECTION 62. NR 25.03(1)(b) is amended to read:

NR 25.03(1) LAKE SUPERIOR.

(b) Applications for licenses authorizing commercial fishing on Lake Superior which have been filed in accordance with sub. (3) shall be reviewed, and approved or denied, pursuant to the following criteria:

1. The applicant shall show proof of a $5,000 investment in commercial fishing equipment not to include vehicles other than those directly employed in operating nets.

~~2. Except as provided in subd. 3. or 4., for the license years beginning January 1, 2012 and thereafter, the applicant or, where the applicant obtained the license by transfer, the transferor and applicant jointly shall have reported a minimum commercial harvest during the previous license year of at least 5,000 pounds or X pounds, whichever is less, where X = 20 times the lesser of the average reported daily harvest of commercial fish taken by gill nets or the average reported daily harvest of commercial fish taken by trap nets by all licensed commercial fishers on Lake Superior during the 12 months preceding 2 months before the end of the license year preceding the license year for which application is being made.~~

~~3. Notwithstanding subd. 2., for the license year immediately following a reduction in the harvest limit of any commercial fish species, the minimum commercial harvest required for licensing shall, for each applicant, be reduced by an amount equal to that applicant's reported harvest of that species for the license year before the harvest limit was reduced or, where the applicant obtained the license by transfer, the transferor's and applicant's combined reported harvest, of that species for the license year before the harvest limit was reduced.~~

~~4. Neither subd. 2. or 3. applies if the department determines that unavoidable circumstances prevented the applicant or the transferor from complying with subd. 2. or 3. Examples of unavoidable circumstances~~

~~may include but are not limited to serious injury to or illness of the applicant or an immediate family member, sudden unavailability of qualified crew members, mechanical breakdown of or structural damage to the applicant's vessel, and extended or recurring bad weather.~~

~~5.~~ 2. Any applicant failing to meet the criteria of this paragraph will not be eligible to reapply for a license until the application period for the succeeding license year.

SECTION 63. NR 25.03(2)(b) is amended to read:

NR 25.03(2) LAKE MICHIGAN.

(b) Applications for licenses authorizing commercial fishing in Lake Michigan which have been filed in accordance with sub. (3) shall be reviewed, and approved or denied, pursuant to the following criteria:

1. The applicant shall show proof of a $5,000 investment in commercial fishing equipment not to include vehicles other than those directly employed in operating nets.

~~2. Except as provided in subd. 3. or 4., the applicant or, where the applicant obtained the license by transfer, the transferor and applicant jointly shall have reported a minimum commercial harvest during the previous license year of either of the following:~~

~~a. Smelt of at least 147,870 or X1 total pounds, whichever is less, from zone 1, or 76,770 or X3 total pounds, whichever is less, from zone 3, where X1 and X3 = 30 times the average reported total daily harvest of smelt taken by trawls from zone 1 or 3, respectively, by all licensed commercial fishers during the 12 month period preceding 2 months before the end of the license year preceding the license year for which application is being made.~~

~~b. Commercial fish other than smelt of at least 3,570 or X1 total pounds, whichever is less, from zone 1, 13,656 or X2 total pounds, whichever is less, from zone 2, or 19,638 or X3 total pounds, whichever is less, from zone 3, where X1, X2 and X3 = 20 times the average reported total daily harvest of commercial fish other than smelt from zone 1, 2 or 3, respectively, by all licensed commercial fishers on Lake Michigan during the 12 months preceding 2 months before the end of the license year preceding the license year for which application is being made.~~

~~3. Notwithstanding subd. 2., for the license year immediately following a reduction in the harvest limit of any commercial fish other than smelt, the minimum commercial harvest from each zone required for licensing shall, for each applicant, be reduced by an amount equal to that applicant's reported harvest or, where the applicant obtained the license by transfer, the transferor's and applicant's combined reported harvest, of that species from that zone for the license year before the harvest limit was reduced.~~

~~4. Neither subd. 2. or 3. applies if the department determines that unavoidable circumstances prevented the applicant or the transferor from complying with subd. 2. or 3. Examples of unavoidable circumstances may include but are not limited to serious injury to or illness of the applicant or an immediate family~~

~~member, sudden unavailability of qualified crew members, mechanical breakdown of or structural damage to the applicant's vessel and extended or recurring bad weather.~~

~~5.~~ 2. Any applicant failing to meet the criteria of this paragraph will not be eligible to reapply for a license until the application period for the succeeding license year.

SECTION 64. NR 25.06(3m) is repealed.

SECTION 65. NR 25.07(2)(a)2. is repealed.

SECTION 66. NR 25.07(2)(b)2.c. is amended to read:

NR 25.07(2)(b)2.c. Who applied for and received a Green Bay yellow perch fishing permit or a yellow perch fishing permit for zone 1 for the license year preceding the license year for which the permit application is being made~~, unless unavoidable circumstances prevented application for or receipt of that previous permit. Those circumstances shall be reviewed by the department which shall approve or deny the pending permit application~~.

SECTION 67. NR 25.07(2)(bg)2. is amended to read:

NR 25.07(2)(bg)2. A yellow perch fishing permit and individual licensee catch quota for zone 2 shall be issued to each applicant who holds a commercial fishing license issued under s. 29.519, Stats., reported a commercial harvest of yellow perch legally taken from zone 2 between January 1, 1983 and December 31, 1987 and, effective July 1, 1990, applied for and received a yellow perch fishing permit for zone 2 for the license year preceding the license year for which the permit application is being made~~, unless unavoidable circumstances prevented application for or receipt of that previous year's permit. Those circumstances shall be reviewed by the department which shall approve or deny the pending permit application~~.

SECTION 68. NR 25.07(2)(br)2. is amended to read:

NR 25.07(2)(br)2. A yellow perch fishing permit and individual licensee catch quota for zone 3 shall be issued to each applicant who holds a commercial fishing license issued under s. 29.519, Stats., reported a commercial harvest of yellow perch legally taken from zone 3 between January 1, 1984 and December 31, 1988 and, effective July 1, 1990, applied for and received a yellow perch fishing permit for zone 3 for the license year preceding the license year for which the permit application is being made~~, unless unavoidable circumstances prevented application for or receipt of that previous year's permit.~~

~~Those circumstances shall be reviewed by the department which shall approve or deny the pending permit application~~.

SECTION 69. NR 25.07 (2)(g)5.d. is repealed.

SECTION 70. NR 25.07(3)(c) is amended to read:

NR 25.07(3)(c) The applications shall be reviewed by the department and approved or denied no later than 15 days before the license year for which application is being made~~, unless there are circumstances that may prevent the applicant from being a licensed as a commercial fisher on the first day of the license year for which application is being made. In those cases, the applicant shall be notified of the approval or denial of the application in conjunction with the notice of approval or denial of the license authorizing commercial fishing on the outlying waters~~.

SECTION 71. NR 25.135(1)(a)1. is amended to read:

NR 25.135(1)(a)1. The application shall include the person's name, commercial fishing license numbers, descriptions of the boats to be included in the fleet reporting program, and the order of the licenses to which the person's daily reported catch will be credited ~~until the minimum production criteria of s. NR 25.03 (1) (b) are met for each license~~.

SECTION 72. NR 25.135(2) is amended to read:

NR 25.135(2) **FLEET REPORTING FOR LAKE MICHIGAN**.

(a) The department may authorize a person who holds more than one license under s. 29.519 (1m) (a), Stats., and s. NR 25.03 (2) (am) for commercial fishing on Lake Michigan to participate in a fleet reporting program involving those licenses if it determines that all of the following conditions are met:

1. The person applies for fleet reporting on a form available from the department in accordance with s. NR 25.03 (3) prior to the start of the license year and the application includes all of the following:

a. The person's name, commercial fishing license numbers and descriptions of the boats to be included in the fleet reporting program.

b. For each license, a description of the individual catch quotas, by species and zone, "racehorse" chub fishing permits or "racehorse" smelt fishery permits to be included in the fleet reporting program.

c. The order of the licenses to which the person's daily reported catch will be credited ~~until the minimum production criteria of s. NR 25.03 (2) (b) are met for each license~~.

~~d. After the minimum production criteria of s. NR 25.03 (2) (b) are met for all of the person's licenses, either the percentages of the person's daily reported catch, by species and zone, that will be credited to~~

~~each license, until the applicable individual catch quotas under each license are reached, or the applicable "racehorse" fisheries close, or the order of the licenses to which all of the daily reported catch, by species and zone, will be applied until the applicable individual catch quota under each license is reached or the applicable "racehorse" fisheries close.~~

~~2. The person holds or will hold individual allocated quotas of sufficient size or "racehorse" chub fishing permits or "racehorse" smelt fishery permits under each license to allow the person to meet the minimum production criteria of s. NR 25.03 (2) (b) independently for the issuance of each license.~~

3. All commercial fishing licenses held by the person are included in the fleet reporting program.

SECTION 73. NR 25.18(1)(c)2. is amended to read:

NR 25.18(1)(c)2. Door County: Chaudoir's dock, Detroit Harbor (Washington Island), Egg Harbor, Jacksonport, Murphy park, Nordheim (Washington Island), Old Stone Quarry (Sturgeon Bay), Sister Bay and Wave Pointe Resort.

SECTION 74. NR 26.01(24) is repealed.

SECTION 75. NR 26.01(39)(b) is amended to read:

NR 26.01(39)(b) *Grand river.* That part of the Grand river beginning at the Grand River wildlife dam located in the NW ¼ of the NW ¼ of section 1, township 14 north, range 10 east and extending downstream a distance of 50 feet. ~~The following described area on the Grand river shall be included until May 1, 1993: from the Green Lake - Marquette county line downstream to the Grand River Marsh Wildlife Area dam including the Grand river marsh.~~

SECTION 76. NR 26.01(64) is repealed.

SECTION 77. NR 26.015 is repealed.

SECTION 78. NR 26.24(13) is amended to read:

NR 26.24(13) DANE COUNTY. (a) *Wingra creek.* That portion of Wingra creek, including the entire spillway of Wingra lake, extending downstream for a distance of ~~50~~ 100 feet from the spillway.

SECTION 79. NR 26.32 is repealed.

SECTION 80. EFFECTIVE DATE. This 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., except

sections 35, 46, and 57 that shall take effect on April 1, 2014.

SECTION 81. BOARD ADOPTION. This rule was approved and adopted by the State of Wisconsin Natural Resources Board on _____.

Dated at Madison, Wisconsin _____

STATE OF WISCONSIN
DEPARTMENT OF NATURAL RESOURCES

By _____
Cathy Stepp, Secretary

(SEAL)