

Clearinghouse Rule 08-012

ORDER OF THE STATE OF WISCONSIN NATURAL RESOURCES BOARD AMENDING RULES

The Wisconsin Natural Resources Board proposes an order to amend NR 20.20 (2) (bm), (6) (bm), (7) (b), (9) (am), (17) (bm), (18) (bm), (26), (am), (47) (bm), (51) (bg), (55) (bg), (57) (c), (61) (ag), (73) (e) (3) and 21.04 (7) (a) relating to the hook and line harvest of lake sturgeon.

FH-42-07

Analysis Prepared by the Department of Natural Resources

1. **Statutes interpreted:** ss. 23.09 (2) (intro), 29.014 (1), 29.041 and 227.11 (2) (a), Stats.
2. **Statutory Authority:** ss. 29.014, 29.041 and 29.192 (3), Stats.
3. **Explanation of agency authority to promulgate the rules under the statutory authority:** Section 23.09 (2) (intro), Stats., grants the department general authority to adopt rules for the protection, development and use of forests, fish and game, lakes, streams, plant life, flowers and other outdoor resources in this state.

Sections 29.014 (1) and 29.041, and 29.192 (3), Stats., grant rule making authority to the department to establish and maintain open and closed seasons for fish and any bag limits, size limits, rest days and conditions governing the taking of fish that will conserve the fish and game supply and ensure the citizens of this state continued opportunities for good fishing, and provide that the department may regulate fishing on and in all interstate boundary waters and outlying waters.

Section 227.11 (2) (a), Stats., expressly confers rulemaking authority on the department to promulgate rules interpreting any statute enforced or administered by it, if the agency considers it necessary to effectuate the purpose of the statute.

4. **Related statute or rule:** None.

5. **Plain language analysis of the proposed rule:** Order FH-42-07 revises the existing regulations on the inland and the lower St. Croix River populations of lake sturgeon harvested by hook and line.

SECTIONS 1 through 13 increase the minimum length limit for lake sturgeon in inland waters from 50" to 60" and reduce the season length from 6 weeks to 4 weeks.

SECTION 14 increases the minimum length limit for lake sturgeon in the lower St. Croix River from 50" to 60" and reduces the season length from 6 weeks to 4 weeks.

6. **Summary of and preliminary comparison with any existing or proposed federal regulation:**
None

7. **Comparison of similar rules in adjacent states (Minnesota, Iowa, Illinois and Michigan):**
Fisheries Management is generally similar in the states surrounding Wisconsin. All the bordering states regulate fishing by the use of seasons, bag limits, and length limits. Specific seasons, bag, and length limits may differ for species across the states; however, the general principles are similar. Minnesota, Iowa, and Illinois all have statewide seasons, bag, and length limits for fish species, along with special or experimental regulations on individual waters.

8. Summary of the factual data and analytical methodologies that the agency used in support of the proposed rule and how any related findings support the regulatory approach chosen for the rule: The rule proposal was developed by fisheries staff to address sturgeon management concerns. The proposal was supported by the Sturgeon Management Assessment Team (internal and external advisory team). The rule was reviewed for need and adequacy and approved by the Fisheries Management Board.

9. Any analysis and supporting documentation that the agency used to determine in the rule's effect on small businesses under s. 227.114, Stats., or that was used when the agency prepared an economic impact report: Small businesses related to hook and line lake sturgeon fishing may be affected by the rule. However, we currently have no basis for quantifying the economic impacts of the rule.

10. Effect on small business, including how the rule will be enforced: Small businesses related to hook and line lake sturgeon fishing may be affected by the rule. The rule will be enforced by Department conservation wardens, county district attorneys, and county circuit courts through the use of citations and civil or criminal complaints under the provisions of ch. 29, Stats.

11. Agency contact person:

Steve Hewett – FH/4
Bureau of Fisheries Management
Department of Natural Resources
PO Box 7921
Madison, WI 53707-7921
phone: (608) 267-7501
email: steve.hewett@wisconsin.gov

12. Place where comments are to be submitted and deadline for submission:

Written comments may be submitted at the public hearing, by regular mail, fax or e-mail to:

Karl Scheidegger – FH/4
Bureau of Fisheries Management
Department of Natural Resources
PO Box 7921
Madison, WI 53707-7921
phone: (608) 267-9426
Fax: (608) 266-2244
email: karl.scheidegger@wisconsin.gov

Written comments may also be submitted to the Department using the Wisconsin Administrative Rules Internet Website at <http://adminrules.wisconsin.gov>

The deadline for written comments is March 14, 2008.

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

NR 20.20(2) ASHLAND (for species or waters not listed, including Lake Superior, see sub. (73))

MINIMUM

COUNTY AND SPECIES	WATERS	AUTHORIZED METHODS	OPEN SEASON (both dates inclusive)	DAILY BAG LIMIT	LENGTH OR OTHER SIZE RESTRICTIONS (INCHES)
(bm) Lake sturgeon	1. East Fork Chippewa river, including sloughs bayous and flowages, including Pelican lake, and North Fork Flambeau river, including sloughs, bayous and flowages.	a. Hook and line.	First Saturday in September to October 15 <u>September 30</u>	1 per season	50 <u>60</u>

SECTION 2. NR 20.20 (6) (bm) is amended to read:

NR 20.20(6) BUFFALO (for species or waters not listed, see sub. (73))

COUNTY AND SPECIES	WATERS	AUTHORIZED METHODS	OPEN SEASON (both dates inclusive)	DAILY BAG LIMIT	MINIMUM LENGTH OR OTHER SIZE RESTRICTIONS (INCHES)
(bm) Lake sturgeon	1. Chippewa river	a. Hook and line.	First Saturday in September to October 15 <u>September 30</u>	1 per season	50 <u>60</u>

SECTION 3. NR 20.20 (7) (b) amended to read:

NR 20.20(7) BURNETT (for species or waters not listed, see sub. (73))

COUNTY AND SPECIES	WATERS	AUTHORIZED METHODS	OPEN SEASON (both dates inclusive)	DAILY BAG LIMIT	MINIMUM LENGTH OR OTHER SIZE RESTRICTIONS (INCHES)
(b) Lake sturgeon	1. Yellow lake, Little Yellow lake, Danbury, flowage, Yellow river from Yellow lake downstream to the Danbury dam	a. Hook and line.	First Saturday in September to October 15 <u>September 30</u>	1 per season	50 <u>60</u>

SECTION 4. NR 20.20 (9) (am) is amended to read:

NR 20.20 (9) CHIPPEWA (for species or waters not listed, see sub. (73))

COUNTY AND SPECIES	WATERS	AUTHORIZED METHODS	OPEN SEASON (both dates inclusive)	DAILY BAG LIMIT	MINIMUM LENGTH OR OTHER SIZE RESTRICTIONS (INCHES)
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COUNTY AND SPECIES	WATERS	AUTHORIZED METHODS	OPEN SEASON (both dates inclusive)	DAILY BAG LIMIT	OTHER SIZE RESTRICTIONS (INCHES)
(am) Lake sturgeon	1. Chippewa river including Holcombe flowage, Cornell flowage, Old Abe lake, Jump river	a. Hook and line.	First Saturday in September to October 15 <u>September 30</u>	1 per season	50 <u>60</u>

SECTION 5. NR 20.20 (17) (bm) is amended to read:

NR 20.20 (17) DUNN (for species or waters not listed, see sub. (73))

COUNTY AND SPECIES	WATERS	AUTHORIZED METHODS	OPEN SEASON (both dates inclusive)	DAILY BAG LIMIT	MINIMUM LENGTH OR OTHER SIZE RESTRICTIONS (INCHES)
(bm) Lake sturgeon	1. Chippewa river	a. Hook and line.	First Saturday in September to October 15 <u>September 30</u>	1 per season	50 <u>60</u>

SECTION 6. NR 20.20 (18) (bm) is amended to read:

NR 20.20(18) EAU CLAIRE (for species or waters not listed, see sub. (73))

COUNTY AND SPECIES	WATERS	AUTHORIZED METHODS	OPEN SEASON (both dates inclusive)	DAILY BAG LIMIT	MINIMUM LENGTH OR OTHER SIZE RESTRICTIONS (INCHES)
(bm) Lake sturgeon	1. Chippewa river including Dells pond	a. Hook and line.	First Saturday in September to October 15 <u>September 30</u>	1 per season	50 <u>60</u>

SECTION 7. NR 20.20 (26) (am) amended to read:

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

COUNTY AND SPECIES	WATERS	AUTHORIZED METHODS	OPEN SEASON (both dates inclusive)	DAILY BAG LIMIT	MINIMUM LENGTH OR OTHER SIZE RESTRICTIONS (INCHES)
(am) Lake sturgeon	1. North Fork Flambeau river downstream from	a. Hook and line.	First Saturday in September to October 15	1 per season	50 <u>60</u>

Turtle Flambeau
flowage dam

September 30

SECTION 8. NR 20.20 (47) (bm) is amended to read:

NR 20.20 (47) PEPIN (for species or waters not listed, see sub. (73))

COUNTY AND SPECIES	WATERS	AUTHORIZED METHODS	OPEN SEASON (both dates inclusive)	DAILY BAG LIMIT	MINIMUM LENGTH OR OTHER SIZE RESTRICTIONS (INCHES)
(bm) Lake sturgeon	1. Chippewa river	a. Hook and line.	First Saturday in September to October 15 <u>September 30</u>	1 per season	50 <u>60</u>

SECTION 9. NR 20.20 (51) (bg) is amended to read:

NR 20.20 (51) PRICE (for species or waters not listed, see sub. (73))

COUNTY AND SPECIES	WATERS	AUTHORIZED METHODS	OPEN SEASON (both dates inclusive)	DAILY BAG LIMIT	MINIMUM LENGTH OR OTHER SIZE RESTRICTIONS (INCHES)
(bg) Lake sturgeon	1. Butternut lake, North Fork Flambeau river including sloughs, bayous and flowages, South Fork Flambeau river including sloughs, bayous, and flowages, Jump river downstream from the confluence of the north and south forks	a. Hook and line. Tag required (see s. NR 20.07).	First Saturday in September to October 15 <u>September 30</u>	1 per season	50 <u>60</u>

SECTION 10. NR 20.20 (55) (bg) is amended to read:

NR 20.20 (55) RUSK (for species or waters not listed, see sub. (73))

COUNTY AND SPECIES	WATERS	AUTHORIZED METHODS	OPEN SEASON (both dates inclusive)	DAILY BAG LIMIT	MINIMUM LENGTH OR OTHER SIZE RESTRICTIONS (INCHES)
(bg) Lake	1. Chippewa river	a. Hook and	First Saturday	1 per	50 <u>60</u>

sturgeon	including sloughs, bayous and flowages, Jump river, South Fork Flambeau river	line. Tag required (see s. NR 20.07)	in September to October 15 <u>September 30</u>	season
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SECTION 11. NR 20.20 (57) (c) is amended to read:

NR 20.20 (57) SAWYER (for species or waters not listed, see sub. (73))

COUNTY AND SPECIES	WATERS	AUTHORIZED METHODS	OPEN SEASON (both dates inclusive)	DAILY BAG LIMIT	MINIMUM LENGTH OR OTHER SIZE RESTRICTIONS (INCHES)
(c) Lake sturgeon	1. Chippewa river including sloughs, bayous and flowages, including Radisson flowage, East Fork Chippewa river including sloughs, bayous and flowages including Blaisdell lake, Hunter lake, Barker lake, West Fork Chippewa river downstream from Moose lake dam including sloughs, bayous and flowages, including Chippewa flowage, North Fork Flambeau river including sloughs, bayous and flowages, South Fork Flambeau river including sloughs, bayous and flowages	a. Hook and line.	First Saturday in September to October 15 <u>September 30</u>	1 per season	50 <u>60</u>

SECTION 12. NR 20.20 (61) (ag) is amended to read:

NR 20.20 (61) TAYLOR (for species or waters not listed, see sub. (73))

COUNTY AND SPECIES	WATERS	AUTHORIZED METHODS	OPEN SEASON (both dates inclusive)	DAILY BAG LIMIT	MINIMUM LENGTH OR OTHER SIZE RESTRICTIONS (INCHES)
(ag) Lake sturgeon	1. Jump river	a. Hook and line.	First Saturday in September	1 per season	50 <u>60</u>

to ~~October 15~~
September 30

SECTION 13. NR 20.20 (73) (e) 3. is amended to read:

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

COUNTY AND SPECIES	WATERS	AUTHORIZED METHODS	OPEN SEASON (both dates inclusive)	DAILY BAG LIMIT	MINIMUM LENGTH OR OTHER SIZE RESTRICTIONS (INCHES)
(e) Lake sturgeon	3. Lower Wisconsin River downstream from Wisconsin Dells dam	a. Hook and line.	First Saturday in September to October 15 <u>September 30</u>	1 per season	50 in odd numbered years, 70 in even-numbered years <u>60</u>

SECTION 14. NR 21.04 (7) (a) is amended to read:

KIND OF FISH AND LOCALITY	OPEN SEASON (both dates inclusive)	DAILY BAG LIMIT	MINIMUM LENGTH (INCHES)
NR 21.04 (7) Lake sturgeon (a) St. Croix river	First Saturday in September to October 15 <u>September 30</u>	1 per season	50 <u>60</u> inches

SECTION 15. EFFECTIVE DATE. The rule shall take effect the first day of the month following publication in the Wisconsin administrative register as provided in s. 227.22(2)(intro.), Stats, except Section 14, which, in order to be consistent with Minnesota DNR boundary regulations, shall take effect on January 1, 2009.

SECTION 16. BOARD ADOPTION. The 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 _____
 Matthew J. Frank, Secretary

(SEAL)