

Clearinghouse Rule 24-064

PETITION OF THE STATE OF WISCONSIN DEPARTMENT OF NATURAL RESOURCES REPEALING AN UNAUTHORIZED RULE

The Wisconsin Department of Natural Resources proposes the following permanent rule to **repeal** NR 20.05 (2), relating to: possession and control of a firearm while fishing.

EXR-16

Analysis Prepared by the Department of Natural Resources

1. Statute Interpreted:

Sections 29.014, 29.041, and 29.053, Stats.
2011 Wisconsin Act 35

2. Statutory Authority:

Section 227.26 (4) (b), Stats.
Section 227.29 (1) (a), Stats.

3. Explanation of Agency Authority:

The department has the authority to regulate fishing on inland, outlying and boundary waters to secure continued opportunities for good fishing under ss. 29.014, 29.041, and 29.053, Stats. This authority includes the ability to determine lawful methods of harvest and establish other conditions for the taking of fish. The department's authority to regulate the possession and control of firearms must align with applicable state and federal laws and constitutional provisions.

4. Related Statutes or Rules:

Section NR 20.05 (1), Wis. Adm. Code

5. Plain Language Analysis:

Section NR 20.05 (2), Wis. Adm. Code, prohibits a person from "Possess[ing] or control[ling] any firearm, gun or similar device at any time while on the waters, banks or shores that might be used for the purpose of fishing." This rule was written into its current form in 1999, but the prohibition on the possession or control of guns that might be used for fishing has existed since the 1950s to prevent the shooting of fish. More recently, concealed carry laws implemented under 2011 Wis. Act 35 render this rule obsolete because under state law, a licensed person can legally carry a concealed firearm in public spaces including the waters, banks and shores of the state. If s. NR 20.05 (2), Wis. Adm. Code, is repealed, fish would remain protected from firearm harvest under s. NR 20.05 (1), Wis. Adm. Code, which generally prohibits the take of fish by methods other than hook and line unless specifically regulated under ch. NR 20 and related chapters of administrative code.

6. Agency Contact Person:

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RULE TEXT

SECTION 1. NR 20.05 (2) is repealed.

SECTION 2. EFFECTIVE DATE. This rule takes effect on the first day of the month following publication in the Wisconsin Administrative Register as provided in s. 227.22 (2) (intro.), Stats.

END OF TEXT