

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

The Wisconsin Natural Resources Board proposes an order to repeal 20.20(57)(b), 26.01(57)(a) and (b), 26.05(26), 26.06(57)(b), (d) and (g) and 26.09(57)(a) and (b); to amend 20.20(2)(a), (3)(f)1., (7)(c)2., (21)(h)1., (44)(g), (49)(am), (49)(f)2., (51)(a), (57)(d), (f)1., and (i)4., (64)(d)1m., (66)(g)3., (69)(f)3. and (73)(a)3., 21.04(7)(a) and 23.05(5)(d)1.; and to create NR 20.20(3)(am)2., (4)(c)3. and (i)4., (7)(h), (57)(b)2. and (e)3., (57)(i)5., (66)(bm), (68)(cm) and (69)(c)3. and (d)3., relating to fishing on the inland, outlying, and boundary waters of Wisconsin.

FH-03-10

Analysis Prepared by the Department of Natural Resources

1. Statutes Interpreted: In promulgating this rule, ss. 29.014(1), 29.039, 29.041, 29.053, 29.531 and 29.533, Stats., which authorize fishing, have been interpreted as giving the department the authority to make changes to fishing regulations on inland and boundary waters of Wisconsin.

2. Statutory Authority: Sections 29.014(1), 29.039, 29.041, 29.053 and 227.11(2)(a), Stats.

3. Explanation of Agency Authority to Promulgate the Proposed Rules Under the Statutory Authority: Sections 29.014(1), 29.039, 29.041, 29.053 and 29.531, 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 supply and ensure the citizens of this state continued opportunities for good fishing; grant that the department may establish limitations relating to taking, possession, transportation, processing, and sale or offer for sale, of nongame species; 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 Rule or Statute: None.

5. Plain Language Rule Analysis:

Section 1 permits motor trolling in Ashland county.

Section 2 of the Order eliminates the minimum size restriction for largemouth and smallmouth bass in Bear, Horseshoe, and Upper and Lower Turtle lakes (Barron county).

Section 3 increases the minimum size restriction for walleye in Bear, Horseshoe (T36N, R14E, S3, 115 ac.), and Upper and Lower Turtle lakes (Barron county) from 15 to 18 inches and decreases the daily bag limit for walleye from 5 fish to 3 fish.

Section 4 eliminates the minimum size restriction for largemouth and smallmouth bass in Lake Owen (Bayfield county).

Section 5 increases the minimum size restriction for walleye in Lake Owen (Bayfield county) from 15 to 18 inches and decreases the daily bag limit for walleye from 5 fish to 3 fish.

Section 6 eliminates the minimum size restriction for largemouth and smallmouth bass in Big McKenzie lake (Burnett/ Washburn counties).

Section 7 increases the minimum size restriction for walleye in Big McKenzie lake (Burnett/ Washburn counties) from 15 to 18 inches and decreases the daily bag limit for walleye from 5 fish to 3 fish.

Section 8 increases the minimum size restriction for walleye in Metonga lake (Forest county) from 15 to 18 inches and decreases the daily bag limit for walleye from 5 fish to 3 fish. This rule would take effect on the first day of the month following publication.

Section 9 replaces the current no minimum size restriction and 14 to 18 inch protected slot with no minimum size restriction but only one fish over 14 inches in length and increases the daily bag limit from 3 to 5 for walleye in the Three Lakes chain and replaces the no minimum size restriction but only one fish over 14 inches in length with a 15 inch minimum size restriction on Sevenmile lake, Oneida county.

Section 10 eliminates the minimum size restriction for largemouth and smallmouth bass in Half Moon, Pipe, and Ward lakes (Polk county), and increases the bag limit for bass from 3 fish to 5 fish/day in Pipe lake.

Section 11 increases the minimum size restriction for walleye in Big Butternut, Half Moon, Pipe, and Ward lakes (Polk county) from 15 to 18 inches and reduces the daily bag limit for walleye from 5 fish to 3 fish.

Section 12 permits motor trolling in Price county.

Section 13 eliminates the minimum size restriction for largemouth and smallmouth bass in Chain, Clear, Island, and McCann lakes (Island chain of lakes, Rusk county).

Section 14 increases the minimum size restriction for walleye in Chain, Clear, Island, and McCann lakes (Island chain of lakes, Rusk county) from 15 to 18 inches and reduces the daily bag limit for walleye from 5 fish to 3 fish.

Sections 15 and 19 extend the season on Chippewa flowage (Sawyer county) from the first Saturday in May to the first Sunday in March for all species except muskellunge, walleye, and lake sturgeon.

Section 16 eliminates the minimum size restriction for largemouth and smallmouth bass in Whitefish and Sissabagama lakes (Sawyer county).

Section 17 changes the panfish daily bag limit to a 25-fish daily bag limit for all panfish all year on the Chippewa flowage, and creates a continuous open season for panfish. The previous panfish bag limits were 25 with no more than 15 crappie from the first Saturday in May until November 30 but no crappie from December 1 to the first Sunday in March, with fishing for panfish prohibited between the first Sunday in March and the first Saturday in May.

Section 18 increases the minimum size restriction for walleye in Nelson, Sissabagama and Whitefish lakes from 15 to 18 inches and reduces the daily bag limit for walleye from 5 fish to 3 fish.

Section 20 makes permanent the 45 inch minimum size restriction for muskellunge in Little St. Germain lake (Vilas county). The current 45-inch minimum regulation is scheduled to expire November 30, 2011.

Section 21 eliminates the minimum size restriction for largemouth and smallmouth bass in Middle McKenzie (Washburn/ Burnett counties), Nancy and Long lakes (Washburn county). The daily bag limit is unchanged at 5 fish/day, aggregate.

Section 22 increases the minimum size restriction for walleye in Middle McKenzie (Washburn/ Burnett counties), Nancy and Long lakes (Washburn county) from 15 to 18 inches and reduces the daily bag limit for walleye from 5 fish to 3 fish.

Section 23 increases the minimum size restriction for northern pike on Big Muskego lake including Bass bay (Waukesha county) from 26 inches to 40 inches and reduces the daily bag limit from 2 to 1 fish. This rule will expire April 1, 2018

Section 24 increases the minimum size restriction for bass in Marion Pond (Waupaca county) from 14 to 18 inches and reduces the daily angler bag limit from 5 to 1. This rule will expire on April 1, 2016.

Section 25 increases the minimum size restriction for northern pike in Marion pond (Waupaca county) from no minimum to 26 inches and reduces the daily angler bag limit from 5 to 2. This rule will expire April 1, 2016.

Section 26 decreases the minimum length restriction to 7 inches for all trout in the Waupaca river downstream of River road. Current regulations are 12 inches for brown trout and rainbow trout, and 8 inches for brook trout. It also increases the daily angler bag from 3 trout to 5 trout.

Section 27 prohibits night fishing from September 15 to the first Saturday in May in the section of the Oconto river from the upstream side of the US 141 Bridge to the Stiles dam (Oconto county).

Section 28 adds a catch-and-release season for Lake Sturgeon on the St. Croix river from October 1 to 15. This section of the St. Croix river is a Wisconsin-Minnesota boundary water, and this section will make Wisconsin rules consistent with Minnesota rules.

Section 29 extends the largemouth and smallmouth bass fishing season on Wisconsin-Michigan boundary waters from November 30 to December 31. This will make Wisconsin and Michigan rules consistent.

Sections 30, 31, 32, and 33 eliminate the following fish refuges: on the Chippewa flowage for 500 feet below Moose lake (Sawyer county), on Spider creek between Spider lake and State highway 77 (Sawyer county), on Island creek between Island and Black Dan lakes (Sawyer county), on Malviney creek (Sawyer county), on the unnamed tributary of Lake Chetac from Lake Chetac to 1000 feet upstream (Sawyer county), on the Brunet River from Lake Winter to 500 feet downstream (Sawyer county), on the Couderay river from the Grimh (Radisson) dam to 500 feet downstream (Sawyer county) and on the Little Turtle river and Turtle-Flambeau flowage 200 feet upstream of Popko's Circle road until 200 feet downstream of Popko's Circle road (Iron county).

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

7. Comparison of Similar Rules in 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, bag and size limits may differ for species across the surrounding states, but 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.

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

9. 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.

10. Effect on Small Business, Including How the Rule Will Be Enforced: The proposed rules do not impose any compliance or reporting requirements on small businesses nor are any design or operational standards contained in the rule. The rules will be enforced by Conservation Wardens who have arrest powers and may use citations.

11. Agency contact person: Joseph Hennessy, FM/4 , 101 South Webster Street, Madison, WI 53707-7921; email: Joseph.Hennessy@wisconsin.gov; phone: 608.267.9427.

Section 1. NR 20.20(2)(a) is amended to read:

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

(a) All species	1. Kakagon river and sloughs <u>All waters</u>	a. Motor trolling is permitted	As specified in this subsection or sub. (73)	As specified in this subsection or sub. (73)	As specified in this subsection or sub. (73)
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Section 2. NR 20.20(3)(am)2. is created to read:

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

(am) Largemouth and smallmouth bass	2. Bear, Horseshoe (T36N, R14E, S3, 115 ac.), Lower Turtle and Upper Turtle lakes	a. Hook and line.	First Saturday in May to the first Sunday in March	5	None
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Section 3. NR 20.20(3)(f) is amended to read:

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

(f) Walleye, sauger and hybrids	1. Red Cedar lake, Hemlock lake, Beaver Dam lake, <u>Bear, Horseshoe, (T36N, R14E, S3, 115 ac.), Lower Turtle, and Upper Turtle lakes</u>	a. Hook and line	First Saturday in May to the first Sunday in March	3 in total	18
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Section 4. NR 20.20(4)(c)3. is created to read:

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

(c) Largemouth and smallmouth bass	3. Lake Owen	a. Hook and line.	First Saturday in May to Friday preceding third Saturday in June	0	--
			Third Saturday in June to the first Sunday in March	5	None

Section 5. NR 20.20(4)(i)4. is created to read:

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

(i) Walleye, sauger and hybrids	4. Lake Owen	a. Hook and line.	First Saturday in May to the first Sunday in March	3 in total	18
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Section 6. NR 20.20(7)(c)2. is amended to read:

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

(c) Largemouth and smallmouth bass	2. Twenty-Six lake, and <u>Big McKenzie lakes</u>	a. Hook and line.	First Saturday in May to the first Sunday in March	5 in total	None
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Section 7. NR 20.20(7)(h) is created to read:

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

(h) Walleye, sauger, and hybrids	1. Big McKenzie lake	a. Hook and line.	First Saturday in May to the first Sunday in March	3 in total	18
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Section 8. NR 20.20(21)(h)1. is amended to read:

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

(h) Walleye, sauger and hybrids	1. Crane, Lucerne, <u>Metonga</u> and Pickerel lakes	a. Hook and line.	First Saturday in May to the first Sunday in March	3 in total	18
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Section 9. NR 20.20(44)(g) is amended to read:

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

(g) Walleye, sauger and hybrids	1. Three lakes chain (includes Big, Big Fork, Big Stone, Crystal, Deer, Dog, Fourmile, Island, Laurel, Little Fork, Long, Medicine, Moccasin, Planting Ground, Rangeline, Round, Spirit, Townline, Virgin and Whitefish lakes, all connecting waters and Eagle river downstream to Vilas county line), <u>Alva, Bearskin, Buckskin, Buffalo, Crescent, Diamond, George, Hasbrook,</u>	a. Hook and line.	First Saturday in May to the first Sunday in March	3 in total but only 4 may be longer than 181 <u>5 in total but only 1 may be longer than 14 inches</u>	None except the possession of fish from 142 through 182 is prohibited
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Katherine, Lost (T38N R9E S24), Mercer, Moen chain including Moen, Second, Third, Fourth, Fifth lakes and connecting waters, Muskellunge, Oneida, Pine (T37N R9E S4), Soo, Squash and Squirrel lakes and Sugar Camp chain including Dam, Sand, Echo, Chain and Stone (T39N R9E S32) lakes and connecting waters

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	<p>3 2. Maple lake, Stella lake, Thunder lake</p>	<p>a. Hook and line.</p>	<p>First Saturday in May to the first Sunday in March</p>	<p>3 in total</p>	<p>18</p>
	<p>4 3. Shishebogama lake</p>	<p>a. Hook and line.</p>	<p>First Saturday in May to the first Sunday in March</p>	<p>3 in total posted at public boat landings pursuant to s. NR 20.37</p>	<p>18 unless otherwise posted at public boat landings pursuant to s. NR 20.37</p>

Section 10. NR 20.20(49)(am) is amended to read:

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

(am)	1. Big Round Largemouth and smallmouth lake, Balsam lake	a. Hook and	First Saturday in May to the first Sunday in	5 in total but only 1 may be less than 14	None until March 1, 2012, when it becomes 14
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bass		line.	March	until March 1, 2012		
	2. Big Butternut, <u>Half Moon, Pipe, and Ward lakes</u>	a. Hook and line	First Saturday in May to the first Sunday in March	5		None
-	3. Pipe lake	a. Hook and line	First Saturday in May to the first Sunday in March	3 in total but only 1 may be larger than 18		None except the possession of fish from 14 through 18 is prohibited

Section 11. NR 20.20(49)(f)2. is amended to read:

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

(f) Walleye, sauger and hybrids	2. Big Round lake, <u>Big Butternut, Half Moon, Pipe, and Ward lakes</u>	a. Hook and line	First Saturday in May to the first Sunday in March	3		18
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Section 12. NR 20.20(51)(a) is amended to read:

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

(a) All species	1. Pike lake, Round lake <u>All waters</u>	a. Motor trolling is permitted	As specified in this subsection or sub. (73)	As specified in this subsection or sub. (73)	As specified in this subsection or sub. (73)
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Section 13. NR 20.20(55)(b)2. is created to read:

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

(b) Largemouth and smallmouth bass	2. Chain, Clear, Island, McCann lakes (Island chain of lakes), and connecting waters	a. Hook and line.	First Saturday in May to the first Sunday in March	5		None
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Section 14. NR 20.20(55)(e)3. is created to read:

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

(e) walleye, sauger, and hybrids	3. Chain, Clear, Island, McCann lakes (Island chain of lakes), and connecting waters	a. Hook and line.	First Saturday in May to the first Sunday in March	3		18
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Section 15. NR 20.20(57)(b) is repealed.

Section 16. NR 20.20(57)(d) is amended to read:

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

(d) Largemouth and smallmouth bass	1. Black lake, Christner lake	a. Hook and line.	First Saturday in May to Friday preceding third Saturday in June	0	--
			Third Saturday in June to the first Sunday in March	1 in total	18
	2. <u>Nelson and Whitefish lakes,</u>	a. Hook and line	First Saturday in May to Friday preceding third Saturday in June	0	--
			Third Saturday in June to the first Sunday in March	5 in total	None
	3. <u>Sissabagama lake</u>	a. <u>Hook and line.</u>	<u>First Saturday in May to the first Sunday in March</u>	<u>5 in total</u>	<u>None</u>

Section 17. NR 20.20(57)(f)1. is amended to read:

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

(f) Panfish	1. <u>Chippewa flowage and all connected waters within T39N R6, T39N R7, T39N R8, T40N R6, T40N R7 and T40N R8 except the Chippewa river downstream from the Chippewa flowage (Winter) dam</u>	a. Hook and line.	<u>First Saturday in May to November 30</u> <u>Year round</u>	25 in total	None
			December 1 to the first Sunday in March	but no more than 15 may be crappie 15 in total but none may be crappie	None

Section 18. NR 20.20(57)(i)4. is amended to read:

(i) Walleye, sauger	4. Sand lake, including	a. Hook and	First Saturday in	3 in total	18
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and hybrids Sissabagama creek line. May to the first
 upstream to Sand lake Sunday in
road, Nelson, March
Sissabagama, and
Whitefish lakes

Section 19. 20.20(57)(i)5. is created to read:

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

(i) Walleye, sauger, and hybrids	5. Chippewa flowage and all connected waters within T39N R6, T39N R7, T39N R8, T40N R6, T40N R7 and T40N R8 except the Chippewa river downstream from the Chippewa flowage (Winter) dam	a. Hook and line.	First Saturday in May to November 30	5 in total	None
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Section 20. NR 20.20(64)(d)1m. is amended to read:

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

(d) Muskellunge	1m. Little St. Germain lake	a. Hook and line.	Saturday nearest 1 Memorial day to November 30	45 until November 30, 2011 when it becomes 34
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Section 21. NR 20.20(66)(bm) is created to read:

(66) WASHBURN (for species or waters not listed, see sub. (73))

(bm) Largemouth and smallmouth bass	1. Nancy lake	a. Hook and line.	First Saturday in May to Friday preceding third Saturday in June	0	--
	2. Long and Middle McKenzie lakes	a. Hook and line.	Third Saturday in June to the first Sunday in March	5 in total	None
			First Saturday in May first Sunday in March	5 in total	None

Section 22. NR 20.20(66)(g)3. is amended to read:

(66) WASHBURN (for species or waters not listed, see sub. (73))

(g) Walleye, sauger and hybrids	3. Balsam lake, Red Cedar lake, Long, Middle McKenzie and Nancy lakes	a. Hook and line.	First Saturday in May to the first Sunday in March	3	18
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Section 23. NR 20.20(68)(cm) is created to read:

(68) WAUKESHA (for species or waters not listed, see sub. (73))

(cm) Northern Pike	1. Big Muskego lake including Bass bay	a. Hook and line.	First Saturday in May to first Sunday in March	1 until April 1, 2018, when it becomes 2	40 until April 1, 2018, when it becomes 26
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Section 24. NR 20.20(69)(c)3. is created to read:

(69) WAUPACA (for species or waters not listed, see sub. (73))

(c) Largemouth and smallmouth bass	3. Marion pond	a. Hook and line.	First Saturday in May to first Sunday in March	1 until April 1, 2016 when it becomes 5	18 until April 1, 2016 when it becomes 14
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Section 25. NR 20.20(69)(d)3. is created to read:

(69) WAUPACA (for species or waters not listed, see sub. (73))

(d) Northern pike	3. Marion pond	a. Hook and line.	First Saturday in May to first Sunday in March	2 until April 1, 2016 when it becomes 5	26 until April 1, 2016 when it becomes None
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Section 26. NR 20.20(69)(f)3. is amended to read:

(69) WAUPACA (for species or waters not listed, see sub. (73))

(f) Trout and salmon	3. Comet creek, Little Wolf river (north branch) except portion described above, Waupaca river except portion described above	a. Hook and line.	First Saturday in May at 5:00 a.m. to September 30	3 in total	Brown and rainbow trout 12, brook
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trout 8

Section 27. NR 20.20(73)(a)3. is amended to read:

(73)

(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; <u>Oconto river upstream from the upstream side of the highway 141 bridge to the first dam, Oconto county;</u> and all other tributary streams, rivers and ditches 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
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Section 28. NR 21.04(7)(a) is amended to read:

NR 21.04 Sport fishing; seasons and limits. All regulations applicable to sport fishing are as follows unless expressly provided elsewhere in this chapter or the law. (23.11, 29.041)

Kind of fish and locality	Open season (both dates inclusive)	Daily bag limit	Minimum length (inches)
7) LAKE STURGEON			
(a) St. Croix river	First Saturday in September to September 30 <u>October 1 to October 15</u>	1 per season <u>0 (Catch-and-release only)</u>	60 inches =

Section 29. NR 23.05(5)(d)1. is amended to read:

NR 23.05(5)

(5) The seasons, size limits and bag and possession limits for hook and line fishing in the Wisconsin-Michigan boundary waters for the species listed in this subsection, except as provided in s. NR 23.06, are as follows:

Kind of fish and locality	Open season (both dates inclusive)	Possession and daily bag limit	Minimum length (in.)
(d) Largemouth bass and Smallmouth bass			

1. All boundary waters	First Saturday in May to November 30 <u>December 31</u>	0, beginning the first Saturday in May to the Friday preceding the third Saturday in June 5 in total for the third Saturday in June to November 30 <u>December 31</u>	-- 14
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Section 30. NR 26.01(57)(a) and (b) are repealed.

Section 31. NR 26.05(26) is repealed.

Section 32. NR 26.06(57)(b), (d) and (g) are repealed.

Section 33. NR 26.09(57)(a) and (b) are repealed.

Section 34. EFFECTIVE DATE. This rule shall take effect April 1, 2011 except Sections 8, 15, 17, 19, 27, 28, 29, 30, 31, 32, and 33 which shall take effect on the first day of the month following publication in the Administrative Register, as provided in s. 227.22(2)(intro.), Stats.

Section 35. BOARD ADOPTION. This rule was approved and adopted by the State of Wisconsin Natural Resources Board on _____ May 26, 2010 _____.

Dated at Madison, Wisconsin, _____

STATE OF WISCONSIN
DEPARTMENT OF NATURAL RESOURCES

By _____

Matthew J. Frank, Secretary

(SEAL)