Form 1100-001
(R 9/07)

NATURAL RESOURCES BOARD AGENDA ITEM

Item No. 3.B.2

SUBJECT: Request adoption of Board Order FH-22-06A, revised fishing tournament regulations

FOR: AUGUST 12-13 **BOARD MEETING**

TO BE PRESENTED BY: Mike Staggs-Bureau Director DNR Fisheries

SUMMARY:

In January 2008, the NRB passed Board Order FH-22-06 related to the regulation of fishing tournaments. On May 1st 2008, the Assembly Committee on Natural Resources voted to send the bill back to the Department of Natural Resources for revisions. Specifically, the Assembly Committee requested considering removing provisions that provided DNR wardens inspection authority for any tournament participant at any point that gamefish are possessed. The DNR has made several changes to the rules based on public testimony at the Assembly Committe hearing, comments from the Assembly Committee, and several small issues of interest to the DNR.

RECOMMENDATION: Adopt FH-22-06A

LIST OF ATTACHED MATERIALS:

No	☐	Fiscal Estimate Required	Yes	☑	Attached
No	☑	Environmental Assessment or Impact Statement Required	Yes	☐	Attached
No	☐	Background Memo	Yes	☑	Attached

APPROVED:

Mike Staggs/DAS — Bureau Director — Date 6/17/08

Administrator — Date 6/17/08

Secretary, Matt Frank — Date 7/17/08

cc: Laurie J. Ross - AD/5

STAFF REVIEW - DNR BOARD AGENDA ITEM

REMINDER

Have the following questions been answered under the summary section of this form?

- -Why is the rule needed?
- -What are the significant changes?
- -What are the key issues/controversies?
- -What was the last action of the Board?

LIST OF ATTACHED REFERENCE MATERIAL REQUIRED FOR RULE PROPOSALS:

Hearing authorization:

Background Memo (if needed)*
Fiscal Estimate
Environmental Assessment (if needed)
Rule

Final adoption:

Background Memo (if needed)*
Response Summary
Fiscal Estimate
Environmental Assessment (if needed)
Rule

* If all the questions listed in the REMINDER section above can be adequately summarized on the Green Sheet (and a second sheet if needed), the Background Memo may be omitted.

Unit	Reviewer	Date	Comments
Environmental Analysis and Review			
Management and Budget	Pal Mann	7/8/08	
Legal Services -Program Attorney -Carol Turner	Tara CT	7/9/08 7/8/08	
Other (if applicable)			

CORRESPONDENCE/MEMORANDUM

State of Wisconsin

DATE: May 23, 2008

TO: Natural Resources Board Members

FROM: Matthew J. Frank

SUBJECT: FH-22-06A Fishing Tournament Regulation

BACKGROUND

In January 2008, the Natural Resources Board passed order FH-22-06 pertaining to the regulation of fishing tournaments. There are four general components included in the proposed rules. First, the rules establish a maximum amount of tournament fishing pressure that can occur on individual waterbodies. The determination of the maximum amount of fishing pressure was based on providing reasonable access to Wisconsin's fisheries and aquatic resources as outlined in NR 1.91 (5) (b). Second, the rules outline a process for applying for tournament permits. This process includes a provision to hold a lottery if tournament applications received during the open application period (April 1st-June 30th in the year prior to the event) exceed the maximum allowable amount of fishing pressure. "Traditional fishing tournaments" are given preference and are generally not subject to the lottery. Traditional fishing tournaments will receive their permit unless the number of traditional fishing tournaments exceeds the maximum. Third, the rules establish fees, which range from $25-$200, to recover the costs associated with processing and issuing tournament permits with lower fees associated with tournaments that are likely to have a small impact on fisheries resources or are non-profit in nature. Finally, the rules outline conditions that may be added to the fishing tournament permit by the department to reduce unwanted mortality and prevent the spread of aquatic invasive species. These conditions will be explicitly stated at the time of permit issuance.

On May 1st, 2008, the Assembly Committee on Natural Resources took testimony from the DNR and the public related to the rules passed by the NRB. In response to the testimony and the concerns of Committee, the Committee voted unanimously to request that the Department of Natural Resources consider modification to Clearinghouse Rule 06-108 including but not limited to the issue of law enforcement probable cause. In addition, a number of people testified that the fees were still too high for smaller tournaments and were concerned that the rules would adversely affect youth participation. In an effort to address these concerns as well as some smaller issues of interest to the DNR, the DNR has made revisions to the proposed rules.

Proposed changes to FH-22-06 (renumbered FH-22-06A, as revised).

- Added section 2 (i). A definition of "Opening Weekend" was added to clarify its meaning. In the absence of this definition, a change of regulation (such as from catch and release season to catch and keep) may constitute an "opening weekend" and as such, no tournaments could be permitted for that weekend. The current definition suggests that

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opening weekend means the first weekend that an angler is permitted to fish for that particular fish.

• Added section 3m. 3m (a) was originally included in section 3 but was moved to section 3m for clarification. 3m (b) which states that tournaments that do not require identification of participants prior to fishing do not require a permit, was added. This addition is meant to exempt "lottery type" tournaments where people are only required to register and pay an entry fee after they have caught a fish that they wish to enter in the tournament.

• Added section 4 (b)(4) which states that all fishing tournaments that target rough fish will be charged a fee of $25 regardless of the format or available prizes. In general, the DNR encourages the harvest of rough fish and as such, tournaments that target these species should be included in the lowest fee category. However, we feel that these tournaments should not be exempted from requiring a permit because they, like all fishing tournaments, do contribute to other tournament related issues such as crowding at boat landings.

• Changed section 4 (c) to reduce the permit fee charged to tournaments that are have catch-hold-release or catch and kill and provide prizes between $500 and $10,000 from $100 to $50. A number of smaller tournaments fit in this category and there is concern that the $100 fee would cause a number of these tournaments not to be held. In response, the suggested fee has been lowered. This reduction reduces the estimated revenue generated from approximately $33,000 to $22,600.

• Changed 4 (c)(2) and 4 (d)(2) to suggest that the permit fee would only be determined based on the prizes actually distributed at the permitted tournament, not future events. A number of tournaments operate on a standing or "points" system in which relatively modest prize levels are provided with the understanding that at the end of a season, the participant(s) with the highest number of points will have the opportunity to compete in another tournament for larger amounts of money.

• Removed section 6 (e) and (f) related to providing authority for conservation wardens to inspect live wells, holding tanks, bags, boat, or other devices used to transport fish of all tournament participants.

• Changed section 10 (a) to provide the opportunity for a tournament organizer to hold two tournaments that are concurrent or that occur within two weeks of each other if all of the participants in the additional tournaments are under the age of 18.

• Changed 10 (c) to clarify that traditional fishing tournaments are allowed on the 3-day Memorial Day weekend, the Fourth of July, and the 3-day Labor Day weekend. The previous version implied that traditional fishing tournaments would only be allowed on the 3-day Labor Day weekend. This was not the original intent.

May 2, 2008

Matthew Frank, Secretary
Wisconsin Department of Natural Resources
101 South Webster Street
Inter-Departmental
GEF-2, AD/5

Dear Secretary Frank,

On May 1, 2008 the Assembly Natural Resources Committee adopted the following motion with respect to Clearinghouse Rule 06-108, relating to regulation of fishing tournaments in inland, outlying, and boundary waters of Wisconsin:

> MOVED: that the Assembly Committee on Natural Resources, pursuant to s. 227.19 (4) (b) 2., Stats., requests the Department of Natural Resources to consider modifications to Clearinghouse Rule 06-108, relating to regulation of fishing tournaments in inland, outlying, and boundary waters of Wisconsin, including the issue of law enforcement probable cause.

This motion was adopted on a vote of Ayes, 9; Noes, 0.

If the Department of Natural Resources does not agree to consider modifications to Clearinghouse Rule 06-108 in a letter to the chair of the Assembly Committee on Natural Resources, or fails to respond in writing to this request for modification, by 5:00 p.m., May 9, 2008, the Assembly Committee on Natural Resources objects to Clearinghouse Rule 06-108 pursuant to s. 227.19 (4) (d) 6., Stats., on the grounds that the proposed rule is arbitrary and capricious, and imposes an undue hardship.

Thank you for your consideration of this recommendation.

Sincerely,

Representative Scott Gunderson
83rd District
Wisconsin State Assembly

State of Wisconsin \ DEPARTMENT OF NATURAL RESOURCES

Jim Doyle, Governor
Matthew J. Frank, Secretary

101 S. Webster St.
Box 7921
Madison, Wisconsin 53707-7921
Telephone 608-266-2621
FAX 608-267-3579
TTY Access via relay - 711

May 5, 2008

Honorable Scott Gunderson, Chair
Assembly Committee on Natural Resources
Room 7 West
State Capitol

Re: Clearinghouse Rule No. 06-108
Regulation of fishing tournaments in inland, outlying and boundary waters of Wisconsin

Dear Representative Gunderson:

In response to your letter dated May 2, 2008, the Department of Natural Resources agrees to consider modifications to Clearinghouse Rule No. 06-108 relating to regulation of fishing tournaments in inland, outlying and boundary waters of Wisconsin.

As required by s. 227.19(4)(b), Stats., the Department will notify your Committee when a decision has been made on the proposed modifications.

Sincerely,

Matthew J. Frank
Secretary

cc: Sen. M. Miller
Mike Staggs – FH/4
Andrew Fayram – FH/4
Tim Andryk – LS/8
Carol Turner – LS/8

Wisconsin Department of Administration
Division of Executive Budget and Finance
DOA-2048 (R10/2000)

Fiscal Estimate — 2007 Session

☒ Original ☐ Updated		LRB Number	Amendment Number if Applicable
☐ Corrected ☐ Supplemental		Bill Number	Administrative Rule Number FH-22-06A

Subject
Fishing Tournament Permit Program

Fiscal Effect
State: ☐ No State Fiscal Effect
☐ Indeterminate

Check columns below only if bill makes a direct appropriation or affects a sum sufficient appropriation.

☐ Increase Existing Appropriation ☒ Increase Existing Revenues
☐ Decrease Existing Appropriation ☐ Decrease Existing Revenues
☐ Create New Appropriation

☒ Increase Costs — May be possible to absorb within agency's budget. ☒ Yes ☐ No
☐ Decrease Costs

Local: ☒ No Local Government Costs
☐ Indeterminate

1. ☐ Increase Costs ☐ Permissive ☐ Mandatory
2. ☐ Decrease Costs ☐ Permissive ☐ Mandatory
3. ☐ Increase Revenues ☐ Permissive ☐ Mandatory
4. ☐ Decrease Revenues ☐ Permissive ☐ Mandatory
5. Types of Local Governmental Units Affected: ☐ Towns ☐ Villages ☐ Cities ☐ Counties ☐ Others ☐ School Districts ☐ WTCS Districts

Fund Sources Affected
☐ GPR ☐ FED ☐ PRO ☐ PRS ☒ SEG ☐ SEG-S

Affected Chapter 20 Appropriations
20.370 (4) (mu)

Assumptions Used in Arriving at Fiscal Estimate

The rule package establishes a fishing tournament permit program.

COST ESTIMATES

The Department estimates that there are a total of 400 fishing tournaments held in Wisconsin each year and that the annual cost of a fishing tournament permit program is $36,500. The costs are categorized as follows:

1. Permit application review and approval--salary and fringe costs of $11,900 for a senior level fish biologist.
2. Report review--salary and fringe costs of $5,900 for a senior level fish biologist.
3. Tournament database maintenance and data entry--salary and fringe costs of $18,700.

REVENUE ESTIMATES

The Department is proposing the following fee structure that would recover some of the costs of operating a tournament permit program.

1. "Immediate Release" Tournament Organizer Fee--The Department would impose a $25 fee on a tournament organizer if the tournament format is "immediate release", targets salmon and/or trout in Lake Superior, Lake Michigan and Green Bay, targets rough fish, or if the total value of the prizes is less than $500. Assuming that there are 147 tournaments of this type annually, a $25 fee would generate $3,675 (147 x $25) in annual fee revenue.

Long-Range Fiscal Implications

Prepared By:	Telephone No.	Agency
Joe Polasek	266-2794	Department of Natural Resources
Authorized Signature	Telephone No.	Date (mm/dd/ccyy)
	266-2794	05-22-08

Wisconsin Department of Administration
Division of Executive Budget and Finance
DOA-2047 (R10/2000)

Fiscal Estimate Worksheet — 2007 Session

Detailed Estimate of Annual Fiscal Effect

☒ Original	☐ Updated	LRB Number	Amendment Number if Applicable
☐ Corrected	☐ Supplemental	Bill Number	Administrative Rule Number FH-22-06A

Subject
Fishing Tournament Permit Program

One-time Costs or Revenue Impacts for State and/or Local Government (do not include in annualized fiscal effect):

Annualized Costs:	Annualized Fiscal Impact on State Funds from:	
A. State Costs by Category	Increased Costs	Decreased Costs
State Operations — Salaries and Fringes	$ 36,500	$ -
(FTE Position Changes)	(FTE)	(- FTE)
State Operations — Other Costs		-
Local Assistance		-
Aids to Individuals or Organizations		-
Total State Costs by Category	$ 36,500	$ -
B. State Costs by Source of Funds	Increased Costs	Decreased Costs
GPR	$	$ -
FED		-
PRO/PRS		-
SEG/SEG-S	36,500	-
State Revenues — Complete this only when proposal will increase or decrease state revenues (e.g., tax increase, decrease in license fee, etc.)	Increased Revenue	Decreased Revenue
GPR Taxes	$	$ -
GPR Earned		-
FED		-
PRO/PRS		-
SEG/SEG-S	22,625	-
Total State Revenues	$ 22,625	$ -

Net Annualized Fiscal Impact

	State	Local
Net Change in Costs	$ 36,500	$
Net Change in Revenues	$ 22,625	$

Prepared By:	Telephone No.	Agency
Joe Polasek	266-2794	Department of Natural Resources
Authorized Signature	Telephone No.	Date (mm/dd/ccyy)
J Polasek	266-2794	05-22-08

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

The Wisconsin Natural Resources Board proposes an order to repeal and recreate NR 20.40, relating to regulation of fishing tournaments in inland, outlying, and boundary waters of Wisconsin.

FH-22-06

Analysis Prepared by the Department of Natural Resources

Statutes Interpreted: In promulgating this rule, ss. 29.014, 29.041, 29.403, and 29.516, Stats., which authorize fishing and the hunting of small game, have been interpreted as giving the department the authority to make changes to fishing regulations on boundary waters of Wisconsin. Additionally, ss. 29.403, and 29.4035, Stats., have been interpreted as allowing the department the authority to write fishing tournament rules that help to ensure good fishing opportunities.

Statutory Authority: Sections 29.014(1), 29.039, 29.041, 29.403, and 227.11(2)(a),Stats.

Explanation of agency authority: In promulgating this rule, ss. 29.014(1), 29.403, and 29.4035, Stats., have been interpreted as allowing the department the authority to write fishing tournament rules that help to ensure good fishing opportunities.

Explanation of Agency Authority to Promulgate the Proposed Rules Under the Statutory Authority: Statutes that authorize the promulgation of this rule order include ss. 29.014(1), 29.403, 29.4035, and 227.11(2), Stats. These sections grant rule making authority to the department to establish and maintain open and closed seasons for fish and game and any bag limits, size limits, rest days and conditions governing the taking of fish and game that will conserve the fish and game supply and ensure the citizens of this state continued opportunities for good fishing, hunting and trapping that the department may establish a program to authorize and regulate fishing tournaments.

Related Rule or Statute: None.

Plain Language Rule Analysis: This rule exercises authority granted the Department in Wisconsin 2003 Act 249 to promulgate rules to establish a program to authorize and regulate fishing tournaments. New fishing tournament permit requirements are established so that if a fishing tournament consists of 20 or more boats or 100 or more participants or targets trout on classified trout streams or is a catch-hold-release tournament with an off-site weigh-in or has prizes of $10,000 or more a permit from the department is required. If none of those criteria are met, no permit is required.

Fishing tournament permit fees are established to cover a substantial amount of the cost of the program, estimated to be $36,500 annually, which includes permit application review and approval, catch report review, and database entry. Tournament organizer fees depend on the tournament format and the nature of the contest. Tournament organizers will be charged a fee of $25 if the tournament format is "immediate-release", targets salmon and/or trout in Lake Superior, Lake Michigan and Green Bay, targets rough fish, or if the total value of the prizes is less than $500 (approximately 147 tournaments of this type * $25 = $3,675). Tournament organizers will be charged a fee of $50 if the format is catch-hold-release or "catch and kill", and the total value of the prizes is greater than $500 but less than $10,000, or where results of the tournament are used to calculate rankings or standings for future prizes worth greater than $500 but less than $10,000 (approximately 211 tournaments of this type * $50 = $10,550). Similarly, tournament organizers will be charged a fee of $200 if the format is catch-hold-release or "catch and kill", and the total value of the prizes is $10,000 or greater or where results of the tournament are used to calculate rankings or standings for future prizes worth $10,000 or greater (approximately 42 tournaments of this type * $200 = $8,400).

This rule establishes a permit application process by which the department will accept applications for permits from April 1st - June 30th each year for tournaments to be held the following year. Applications received during that period that result in limits on the number of tournaments on a water being exceeded will be subjected to a lottery for the date and location. Prior to the lottery drawing, organizers will be informed and offered an opportunity to modify their application to a date or location where limits have not been reached. Limits on the size and number of fishing tournaments are proposed in this rule. Limits on lakes vary depending on lake size and are based on public access standards set forth in NR 1.91(5)(b). In addition, one permit per waterbody may be issued in each year up to 3 years in advance of the tournament if the additional time is required for the tournament organizer to hold the tournament and if the tournament will have a significant impact on the local economy. The rule also allows, but does not require, the department to invoke a reduced daily bag limit of three for walleye from the second Saturday in June to the first Sunday in September when the department determines that environmental conditions are not conducive to survival of fish intended for release. Similarly, the rule also allows the department to invoke a reduced daily bag limit of three bass from the first Saturday in July to the second Sunday in August when the department determines that environmental conditions are not conducive to survival of fish intended for release. The rule also establishes other requirements of tournament organizers, including requiring a plan for disposal of dead fish. The rule establishes other general provisions related to fishing tournament format, fish holding, and handling.

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

Comparison of Similar Rules in Adjacent States: Fishing tournament regulation in states bordering Wisconsin:

Iowa. Iowa's fishing tournament rules are more stringent than Wisconsin's current regulations and similar to the type of rules that Act 249 authorizes the department to promulgate. In Iowa, a permit is required to conduct a fishing tournament on public waters under the jurisdiction of the state. Approval of any tournament application is at the discretion of the fisheries management biologist. The DNR may impose special conditions not specifically covered herein for any fishing tournament if deemed necessary to protect the resource or to assure public safety. Special conditions may include, but are not limited to:

- release of live fish
- fish measured to length and released from a boat
- multiple weigh-ins when water temperatures exceed 70 degrees Fahrenheit
- aerated live wells
- designated release areas
- designated release persons

Tournament size:

- on lakes less than 100 surface acres - a 15 boat maximum
- on lakes greater than 100 surface acres - a maximum of one boat per ten surface acres (Biologists may waive this rule for special events.)
- The number of tournaments at any one access area during a given day may be restricted if deemed necessary to avoid congestion with the public or competing tournaments

Iowa rules read, "It is prohibited to sort, cull, highgrade, or replace any fish already in possession. Participants in permitted black bass tournaments are exempted. Any fish taken into possession by holding in a live well, on a stringer or in other fish holding devices is part of the daily bag limit. Once the daily bag limit of a particular species is reached, fishing for that species is permitted as long as all fish of that species caught are immediately released."

Illinois. The Illinois DNR requires a fishing tournament permit if:

- Prizes are offered for tagged or marked fish where any of the states waters with special regulations

are named as a tournament site; or

♦ The fishing event is conducted over a period of more than five days during any calendar year, and prizes with a total value in excess of $1,000 are offered, and where any of the waters listed have special regulations; or

♦ Special exemptions to the site specific regulations for daily creel and size limit are requested for:

- catch, hold for weigh-in, and release tournaments for muskellunge on all waters;
- black bass catch and release tournaments (Lake Michigan and streams, except that the Mississippi, Ohio, and Wabash Rivers are not eligible for permits which exempt participants from daily catch and size limits)'
- special catch and release tournaments for which the proceeds go towards youth education and/or charity type projects;
- national catch and release tournaments; and
- special fishing tournaments/events for children under 16, for disabled persons, or for adults over 65.

Issuance or denial of fishing tournament permits are based on the following criteria:

♦ The capability of the fishery resource to absorb the tournament with minimal impact to its well-being.

♦ The location of the tournament; catch and release management zones on streams are not eligible for permits.

♦ The evaluation of the adverse impacts resulting from the additional fishing pressure generated by the tournament on the fish population and the targeted fish species. The evaluation must demonstrate minimal and short-term impacts in order for the ILDNR to issue the permit. Specific items to be considered include:

- biological status of the fish population including the species being sought.
- length of the tournament;
- number of boats and anglers participating in the tournament;
- for tagged fish tournaments; provisions for obtaining and tagging targeted fish species; and
- safety of anglers and potential boater-user conflicts.

♦ Demonstrates adequate provisions for holding, handling, and releasing caught fish. Specific criteria are:

- Tournament officials must be able to certify that all boats possess a live well (except muskellunge fishing tournaments) measuring at least 18-in long, 12-in deep, and 12-in wide. and be fitted with a functioning aerator and water pump.
- Following the weigh-in, fish must be released away from the weigh-in site and as near to the spot where the catch was made as possible by means of a common release boat, or by individual boats.
- Common release boats must meet specifications set by the ILDNR and must be certified by the ILDNR as a common release boat. Individual boats can not carry more than the daily creel limit of fish.
- For catch, weigh-in, and release muskellunge tournaments, all boats must have a fish cradle to temporarily hold fish in the water while an official determines the length or weight of the fish prior to release. Muskellunge may not be transported to a weigh-in site.

♦ Adequate identification of participants in fishing tournaments for law enforcement purposes. Specific criteria are:

- Tournament officials must keep and have available on site a written record or log of daily participants (including names and boat registration numbers) for inspection by ILDNR officials.
- Each participant and boat must be identified in an easily recognizable manner at a distance (patch on the hat or back).

Failure to acquire a permit will result in denial of future applications for a fishing tournament permit by that applicant, sponsor or group for up to 5 years.

Michigan. Fishing tournament permits are obtained through the Michigan Recreational Boating

Information Center for the use of the waterbody access site.

Minnesota. The Minnesota DNR recently (August 2007) put in place new rules for permitting and regulating fishing tournaments. The rules are as follows:

♦Fees

-Open water contests: Small contests (31-100 participants, 50 or fewer boats) = $120, large contests (more than 100 participants or more than 50 boats) = $400.

-Open water contests with off-site weigh-ins: small contests = $500, large contests $1,000.

-Ice fishing contests with more than 150 participants = $120.

-Fees may be waived by the commissioner for charitable organizations.

♦Permits

-Permits are issued to Minnesota residents only.

-A permit is required for any fishing contest that is limited to specifically named waters is one or more of the following apply 1) there are greater than 30 participants for open-water contests or 150 participants for ice fishing contests, 2) the entry fee is greater than $25/person, 3) the total prize value is greater than $25,000 or 4) the contest is limited to trout species only.

-Contests limited to youth age 18 and under do not need a permit. Statewide and regional fishing contests do not need a permit unless they are limited to trout only.

-Permit applications will be accepted from August 1st through September 28th.

-If permit applications exceed the monthly limits for a given waterbody, the DNR will notify the applicants that their application will be subject to a lottery. Applicants will then be given seven days to change their application but could not change to a location an time period for which applications are already at or above the limit.

-The DNR will conduct a drawing for all locations and time periods for which applications exceed limits. First preference in the drawings will be given to applicants for established or traditional fishing contests. Preference points will be given to contests based on the number of times they have been unsuccessful in previous drawings. Contests lose all accumulated preference points after being successfully drawn.

-Results of the drawing will be announced no later than November 7th.

-Permit applications received after September 28th will be considered on a first come first served basis.

♦Monthly limits on the number of fishing contests

Lake size (acres)	**Maximum number of permitted fishing contests**	**Maximum number of large permitted fishing contests**	**Maximum number of permitted fishing contest days**
less than 2,000	2	0	4
2,000-4,999	3	1	6
5,000-14,999	4	2	8
15,000-55,000	5	3	10
more than 55,000	no limit	no limit	no limit

Rivers	Maximum number of permitted fishing contests	Maximum number of large permitted fishing contests	Maximum number of permitted fishing contest days
Mississippi River pool #1,2,3,5,5a,6,7,8,9	4 (each pool)	2 (each pool)	8 (each pool)
Mississippi River pool #4	5	3	10
Lake St. Croix	4	2	8
St. Croix River	2	1	8
All other rivers	2	1	4

-Up to five additional permits beyond the monthly limits listed above may be issued for fishing tournaments on lakes that are 5,000 acres or larger if the applicants can demonstrate that the contest will provide economic benefits to the local area, promote public awareness of fishing and the state's resources, and conforms to the best management practices for the lake.

♦Weekend Limitations

-On any waterbody less than 55,000 acres, the DNR may require at least two weekends per month with no permitted fishing contests.

-The DNR may require that multiple-day permitted fishing contests may not include more than one weekend day from Memorial Day through labor day weekend.

-Permitted fishing contests may not be held on the weekend of fishing season openers if the contest would target a species that the season is open for.

♦Other items

-The DNR may include the following restrictions as part of a fishing contest permit 1) restrictions on catch-hold-release or off-site weigh-ins, or denial of catch-hold-release or off-site weigh-ins to prevent undue loss of fish, 2) restrictions on hours that a fishing contest is conducted including specified start and stop times, 3) limits on pre-fishing and proof that such limits were communicated to contest participants and enforced, and 4) limits on the use of parking spaces at state-owned public water access sites and proof that such limits were communicated to the participants and enforced.

Definitions:

• **Permitted fishing contest** means an open-water fishing or ice-fishing contest that requires a permit from the MNDNR.

• **Permitted fishing contest day** means a day on a water body where a permitted fishing contest is held. Two permitted fishing contests that are held on the same water body on the same day count as two permitted fishing contest days.

• **Large permitted fishing contest** means an open-water fishing contest with more than 50 boats or 100 participants that requires a permit from the MNDNR.

• **Established or traditional fishing contest** means a fishing contest that prior to the 2001 tournament season had been issued at least two consecutive permits in the previous two years, or four out of the previous five years, for the same lake and time period. Tournaments granted established status need thereafter to be conducted annually or at least four out of five years to remain established.

• **Off-site weigh-in** means a weigh-in of fish from a fishing contest at a location that is not adjacent to the waters listed on the fishing contest permit.

• **Pre-fishing** means fishing by participants of a permitted fishing contest prior to the scheduled dates of the contest on waters listed on the fishing contest permit.
• **Participant** means a person who is taking part in a fishing contest.

Summary of Factual Data and Analytical Methodologies Used in Support of the Rule: The proposed rule revisions were developed with substantial input from the fishing tournament advisory committee (FTAC), established in July 2004 by the Department as required by 2003 Wisconsin Act 249. The Department concurrently established an internal fishing tournament working group (FTWG) that provided substantial input into these rule revisions. The rule revisions were also reviewed by other department staff represented by members of the FTWG.

The FTAC consists of fishing tournament organizers and representatives of the Conservation Congress, sport fishing organizations, and users of the lakes and streams of this state. The FTWG consists of department fisheries, watershed, law enforcement, and legal services staff. The FTAC has met twelve times between August 2004 and June 2007, six of those with the Department's FWTG. Eleven of those meetings involved discussion of fishing tournament rule revisions. The groups focused on the specific authorities as provided in 2003 Wisconsin Act 249 in developing revised tournament rules.

Analysis and Documentation Used in Support of the Agency's Determination Under s. 227.114, Stats., (Small Business Impact): Small businesses likely to be impacted by this rule include some tournament organizers. Tournament organizers will be affected by the imposition of tournament permit fees and will potentially be impacted by the imposition of the limits on the amount of tournament activity that can take place on a particular waterbody. However, the rules do not prevent any tournament organizer from holding a tournament particularly if the organizer is flexible with regard to location and date of the tournament.

Effect on Small Business, Including How the Rule Will Be Enforced: Local businesses that cater to tournament anglers and spectators may be indirectly affected by these regulations. Local communities and businesses may be affected if tournament activity either increases or decreases as a result of these rules. Tournament activity generates local economic activity and can range from tens of thousands of dollars to approximately one million dollars depending on the type of tournament (see the Economic component of the Bass Fishing Tournament Pilot program summary for specific details). The amount of tournament activity in Wisconsin may increase as a result of these rules if they are viewed as more favorable than those of surrounding states. Conversely, the amount of tournament activity may decrease if the rules are viewed as overly restrictive. The Department has no data to answer the question of whether these rules will act to increase or decrease tournament activity and it is therefore difficult to predict the overall economic impact of these regulations although the impact may be of notable magnitude.

Agency contact person: Andrew Fayram, FH/4 101 South Webster Street, Madison, WI 53707-7921; email: Andrew.Fayram@wisconsin.gov; phone: 608.266.5250.

SECTION 1. NR 20.40 is repealed and recreated to read:

NR 20.40 Fishing tournaments. (1) APPLICABILITY. This section applies to fishing tournaments on lakes, rivers, the Great Lakes, Wisconsin-Minnesota boundary waters as defined in s. NR 21.02(16), Wisconsin-Iowa boundary waters as defined in s. NR 22.02(14), and Wisconsin-Michigan boundary waters as defined in s. NR 23.02(10).

(2) DEFINITIONS. In this section:

(a) "Aquatic invasive species" has the meaning in s. NR 198.12(1).

(b) "Aquatic plant" has the meaning in s. 30.715(1)(a), Stats.

(c) "Catch and kill tournament" means a fishing tournament where fish are caught by participants, reduced to their possession, and retained as part of the participant's daily bag limit.

(c) "Catch-hold-release tournament" means a fishing tournament where fish caught by participants are reduced to possession and transported, usually for purposes of recording, and live fish are then released to the water from which they came. This format was previously referred to as a "live-release" tournament.

(d) "Fishing tournament" means any organized fishing activity, on any water of the state where competition is the primary purpose, and where incentives, such as money, prizes or points, are awarded.

(e) "Immediate-release tournament" means a fishing tournament where fish caught by participants are not reduced to possession and transported, but are held only long enough for identification and to document length or weight or both, and released to the water from which they came.

(f) "Live well" means a container designed to hold live fish on a boat.

(g) "Off-site weigh-in" means a weigh-in of fish caught in a catch-hold-release tournament at a location that is not on the shoreline or adjacent to the waters listed on the fishing tournament permit.

(h) "Open water fishing" means all fishing that occurs except when ice is used as a platform from which to fish.

(i) "Opening weekend" means the first weekend of a calendar year that an angler is permitted to fish for that particular species of fish.

(j) "Organize" means to advance, conduct, direct, establish, promote or otherwise be responsible for the operation of a fishing tournament.

(k) "Organizer" means a person who advances, conducts, directs, establishes, organizes, promotes or otherwise is responsible for the operation of a fishing tournament, but does not include a person who only assists in advertising or publicizing another person's fishing tournament.

(l) "Permitted fishing tournament" means a fishing tournament that requires a permit from the department.

(m) "Permitted fishing tournament boat days" is a measure of tournament fishing pressure for open water permitted fishing tournaments. It is calculated by multiplying the number of boats participating in an open water permitted fishing tournament by the number of days the permitted fishing tournament is held. Any part of a day shall count as one day.

(n) "Person" means any individual, partnership, association, organization or body politic or corporate.

(o) "Possess" for the purposes of this section means to own, control, restrain, transport or keep. Once a fish is possessed, it shall be counted towards the angler's daily bag limit pursuant to s. NR 20.05(7). Any of the following conditions constitute possession:

1. Holding a fish out of the water longer than necessary to remove hooks and measure the fish for length, weight or both.

2. Placing a fish into a live well except to revive a fish or to avoid imminent boating danger.

3. Holding a fish at the side of a stationary boat for longer than necessary to register and revive the fish.

4. Resuming fishing by any angler in the boat prior to the release of the fish.

(m) "Prizes" means money or items that are provided to a tournament participant based on their performance in a competitive fishing event. This does not include "raffle" type prizes which are given to tournament participants independent of their performance in the competitive fishing event.

(n) "Traditional fishing tournament" means a fishing tournament that was issued permits 4 out of 5 years from 2004 to 2008, for the same water or waters and time period. Beginning January 1, 2009, traditional fishing tournaments shall continue to be conducted at least 4 out of 5 years for the same waterbody and time period to remain a traditional fishing tournament.

(o) "Weigh-in" means a registration process for catch-hold-release tournaments by which fish are measured and released.

(3) PERMIT REQUIRED. No person may carry out a fishing tournament that meets any of the criteria in pars. (a) to (d), without a permit. A person shall obtain a permit from the department to organize a fishing tournament when the waters to be fished are identified by name by the sponsor and one or more of the following apply:

(a) The fishing tournament involves 20 or more boats, or 100 or more participants.

(b) The fishing tournament includes any trout species on waters classified as trout streams under s. NR 1.02(7).

(c) The fishing tournament is a catch-hold-release tournament with an off-site weigh-in.

(d) The total prize value is $10,000 or greater.

(3m) Permit Exceptions:

(a) Fishing tournaments that are statewide or regional in nature do not require a permit.

(b) Fishing tournaments that do not require identification or registration of participants prior to engaging in the tournament do not require a permit.

(4) APPLICATION. A person who wishes to organize a fishing tournament requiring a permit from the department shall apply on forms available from the department.

(a) Permit applications shall specify an individual who is responsible for supervising the tournament to ensure compliance with all tournament permit conditions and regulations.

(b) Applicants for a fishing tournament permit shall pay a $25.00 non-refundable permit application fee upon submission of the application when the following conditions apply:

1. The tournament format is immediate-release; or

2. Total prizes provided to tournament participants are valued at less than $1,000; or

3. The tournament targets salmon species on Lake Michigan, Green Bay, or Lake Superior; or

4. The tournament targets rough fish as defined in s. 29.001(74), Stats.

(c) Applicants for a fishing tournament permit shall pay a $50.00 non-refundable permit application fee upon submission of the application when the following conditions apply:

1. The tournament format is catch-hold-release or catch and kill; and

2. Total prizes provided to tournament participants are valued at $1,000 or greater and less than $10,000.

(d) Applicants for a fishing tournament permit shall pay a $200.00 non-refundable permit application fee upon submission of the application when the following conditions apply:

1. The tournament format is catch-hold-release or catch and kill; and

2. Total prizes provided to tournament participants are valued at $10,000 or greater.

(e) There is no fee for a fishing tournament permit where 50% or more of the participants are younger than 18 years of age or are developmentally disabled as defined under s. 51.01(5)(a), Stats., or physically disabled and eligible for a license under s. 29.193(3) or (3m), Stats.

Note: Application forms may be obtained at no charge from department service centers and regional offices.

(5) PERMIT APPLICATION PROCESS. (a) Beginning April 1st each year, the department shall accept permit applications for fishing tournaments to be held in the following calendar year.

(b) If the number of permit applications submitted to the department from April 1st through June 30th exceeds the limits specified in subs. (7) and (8), the department shall notify the affected applicants that their requested locations and time period are subject to a drawing. After notification, the department shall allow the affected applicants a minimum of 7 days to change the location or time period requested on their applications to a location or time period for which applications are not already at or above the limits specified in subs. (7) and (8). If June 30th falls on a weekend, applications will be accepted through the following Monday.

(c) After the deadline to change applications as provided under par. (b), the department shall conduct a random drawing for each location and time period for which applications exceed limits established in subs. (7) and (8). Traditional fishing tournaments are not included in a random drawing unless they are competing with other traditional fishing tournaments for limited fishing tournament permits for a body of water. Only one permit application per organizer will be included in a drawing for the same location and time period.

(d) By August 1st, the department shall approve or deny permit applications that are submitted by June 30th in compliance with the limits in subs. (7) and (8).

(e) The department may approve a permit application that is received after June 30th if approving the application would not result in exceeding the limits in subs. (7) and (8) and the application is received at least 30 days prior to the start of the tournament.

(6) COMPLIANCE. (a) All participants in a permitted fishing tournament shall comply with all provisions of the permit.

(b) If a participant fails to comply with the permit, the violating participant shall promptly be disqualified and expelled from the tournament by the organizer.

(c) All organizers of a permitted fishing tournament shall comply with all permit terms and conditions and the rules of this section and shall take adequate measures to ensure that all participants comply with all provisions of the permit. The organizer of a permitted fishing tournament shall provide each participant a copy of the permit conditions and rules specific to the fishing tournament along with potential penalties for noncompliance prior to any participant being allowed to participate in the tournament.

(d) Notwithstanding par. (b), the department may take other appropriate enforcement action against a participant or organizer found to be in violation of this chapter or ch. 29, Stats.

(7) LIMITS ON SIZE AND NUMBER OF FISHING TOURNAMENTS. The size and number of permitted fishing tournaments allowed on a water body may not exceed the following limits except in Lake Michigan, Green Bay, Lake Superior, and Lake Winnebago where there are no limits on the size and number of permitted fishing tournaments. Traditional fishing tournaments may be permitted to exceed the limits established in this subsection up to the maximum level of participation or boat days associated with that tournament in the past 5 years.

(a) The following monthly limits on permitted fishing tournament size, number, and total boat days are based on lake acreage are outlined in the table below.

LAKE OR LAKE CHAIN SIZE (ACRES)	MAXIMUM DAILY NUMBER OF BOATS ALLOWED FOR PERMITTED OPEN WATER FISHING TOURNAMENTS	MAXIMUM MONTHLY NUMBER OF PERMITTED FISHING TOURNAMENT BOAT DAYS	MAXIMUM DAILY NUMBER OF PARTICIPANTS ALLOWED FOR PERMITTED ICE FISHING TOURNAMENTS	MAXIMUM DAILY NUMBER OF CONCURRENT PERMITTED FISHING TOURNAMENTS
1. Less than 100	0	0	50	1 (ice fishing only)
2. 100 – 449	25	50	150	1
2. 450 – 999	50	300	500	1
3. 1,000 – 4,999	125	1,125	1,000	2
4. 5,000 – 9,999	150	2,400	1,500	2
5. Larger than 10,000	Determined by actual acreage (1 boat/50 acres)	3,000	No Limit	No Limit

(b) Open water fishing tournaments on lakes or lake chains smaller than 100 acres may be permitted if the department finds that the tournament:

1. Will promote public awareness of fishing and the state's resources and conforms to the best management practices for the lake; or

2. Is a traditional fishing tournament.

(c) The following shall apply to fishing tournaments permitted for any combination of lakes within a chain of interconnected lakes:

1. Permitted fishing tournaments may engage in fishing activities in lake chains or connected lakes but the tournament organizer must select a lake where the primary fishing activity or weigh-in will take place. The availability of permits will be based on the acreage of the selected lake as outlined in par. (a).

(d) For boundary water lakes, the limits on the number of permitted fishing contests shall be determined based on the Wisconsin acreage.

(e) For flowages and impoundments of rivers, the limits in par. (a) shall include tributaries upstream to the first dam or road crossing unless otherwise specified in the permit.

(f) The following provisions apply to rivers:

1. The maximum number of permitted fishing tournaments per month on the Mississippi River, Lake St. Croix, St. Croix River, Wisconsin River, Fox River, and Wolf River are outlined in the following table.

RIVER SEGMENT OR SECTION	MAXIMUM NUMBER OF PERMITTED FISHING TOURNAMENTS PER MONTH
1. Mississippi River: Pool 3; 5; 5A; 6; 7; 8; 9; 10; 11; 12	4 (each pool)
2. Mississippi River: Pool 4	5
3. Lake St. Croix	4
4. Mississippi River: Pool 10; 11; 12	8
5. St. Croix River, Wisconsin River, Fox River, Wolf River (excluding Lake Winnebago system waters as defined in s. NR 20.03(19))	2 (each 10 mile segment)

2. Fishing tournament waters identified in the permit for Mississippi River pools are limited to no more than 3 pools where each pool is separated by a lock and dam.

3. Fishing tournament waters for Lake St. Croix shall be restricted to the waters between the U.S. highway 10 bridge at Prescott upstream to the Acola Bar.

4. No more than 2 permitted fishing tournaments per month, not to exceed 4 days combined, may be issued for any 10 mile segment of a river not listed in subd. 1., as defined in the permit. If any portion of river permitted overlaps with a previously permitted portion of the same river, it shall be considered the same segment. Segment boundaries shall be readily identifiable features as close to 10 miles apart as possible.

5. Permitted fishing tournaments may engage in fishing activities in multiple pools but the tournament organizer must select the pool where the primary fishing activity or weigh-in will take place. The availability of permits will be based on the selected pool as outlined in subd. 1.

(8) ADDITIONAL FISHING TOURNAMENT PERMITS. Notwithstanding the limits in sub. (7), the department may allow one additional permit each year for fishing tournaments on lakes greater than 1,000 acres or river segments identified by the department. For additional fishing tournaments permitted under this subsection, the fishing tournament permit applicant shall demonstrate to the department that the tournament:

(a) Will promote public awareness of fishing and the state's resources and conform to best management practices for the lake; or

(b) Is a traditional fishing tournament.

(c) The department may issue one advance tournament permit for each waterbody in each year that authorizes a tournament on that waterbody up to 3 years before the tournament is to occur when:

1. The tournament sponsor can demonstrate undue hardship unless they receive an advance permit, and

2. The tournament sponsor can demonstrate a substantial economic benefit to the local economy by being able to receive a tournament permit up to 3 years in advance for a specific waterbody.

(9) DISPOSITION OF DEAD FISH. The department shall require each applicant to provide a written plan for the disposition of any dead fish encountered within a 48-hour period from the end of the tournament and are a result of the fishing tournament which complies with s. 23.095(1g), Stats. No plan may include retention of any fish contrary to the requirements of department rule.

Note: Section 23.095(1g), Stats., General prohibition. No person may damage or attempt to damage any natural resource within the state. Under s. 23.095(1)(a) "Damage" means to commit a physical act that unreasonably destroys, molests, defaces, removes or wastes.

(10) GENERAL PROVISIONS AND PERMIT CONDITIONS. (a) No person may organize fishing tournaments on the same body of water with starting dates separated by less than 2 weeks unless all participants in the additional tournament or tournaments are under the age of 18.

(b) The department may deny an application for a fishing tournament permit upon determination that the body of water, the fish or other aquatic resources may be substantially harmed by the concentration of fishing activity from the fishing tournament.

(c) No person may conduct a fishing tournament on any of the following unless it is a traditional fishing tournament:

1. Opening weekend of a fishing season of a particular species if fishing tournament targets that species.

2. 3-day Memorial Day weekend.

3. Fourth of July.

4. 3-day Labor Day weekend.

(d) The department may require the tournament organizer to make parking arrangements in addition to those normally present at location where the event is taking place the for fishing tournament participants in order to ensure reasonable public access to the water where the permitted fishing tournament is being conducted. A plan outlining the alternative parking arrangements shall be submitted to the department upon request. The department may withhold approval of a fishing tournament permit application until an adequate alternative parking plan or parking arrangements have been provided by the organizer.

(e) For open water permitted fishing tournaments, participants' boats shall be identified in a uniform manner that makes them easily identifiable on the water as fishing tournament participants and the method for identification shall be provided to the department. This requirement does not apply to tournaments on the Great Lakes for trout and salmon.

(f) The following provisions apply to immediate-release tournaments:

1. Participants may not reduce fish to their possession.

2. Participants shall immediately initiate the official tournament registration process upon landing a fish.

3. Participants shall successfully release the fish, as indicated by the capability of the fish to swim away upright under its own power, prior to resuming fishing.

(g) The following provisions apply to catch-hold-release tournaments:

1. No person may conduct a catch-hold-release tournament for muskellunge, northern pike, sturgeon or trout with an off-site weigh-in.

2. No person may conduct a catch-hold-release tournament unless they follow the conditions related to fish handling specified on the permit.

3. No person may participate in a catch-hold-release tournament unless their boat is equipped with a live well that is demonstrated to the tournament organizer as functioning properly prior to fishing in the fishing tournament.

4. No person may hold fish in a catch-hold-release tournament in on-shore holding tanks unless the tanks have the capacity to hold at least one gallon of water per pound of fish held and are equipped with an aeration or oxygenation system that maintains the dissolved oxygen at 5 parts per million or higher.

5. No person may conduct a catch-hold-release tournament with an off-site weigh-in unless the fish holding equipment and fish handling procedures at the weigh in site are approved by the department and the approval is specified on the permit.

6. The department shall include permit conditions that specify fish handling requirements during weigh-in for catch-hold-release tournaments.

7. The department may include the following permit conditions related to tournament operation for permitted catch-hold-release tournaments at the point of permit issuance when it determines that environmental conditions are not conducive to survival of fish intended for release and the release may constitute unreasonable waste of natural resources under the provisions of s. 23.095 (1g), Stats.

a. The department may restrict the area that may be fished by fishing tournament participants to reduce the time that fish are held in live wells, the distance fish are transported to a weigh-in site or both.

b. The department may require redistribution of released fish.

c. The department may require a reduced daily bag limit of 3 walleye for catch-hold-release tournaments on all waters with a daily bag limit of 3 walleye or greater from the second Saturday in June to the first Sunday in September. The department may also require a reduced daily bag limit of 3 bass for catch-hold-release tournaments on all waters with a daily bag limit of 3 bass or greater from the first Saturday in July to the second Sunday in August.

(h) All permits for fishing tournaments shall do the following:

1. Identify areas where competitive fishing is prohibited for the following reasons:

a. To protect critical habitat, including areas designated by local ordinance for aquatic vegetation

preservation or areas where habitat enhancement activity is underway.

b. To protect public rights, interests or safety, including designated swimming areas, mooring areas, access areas, navigational channels, staging areas, beaches or other special use areas.

2. Prohibit the use of tagged fish, except when approved by the department for any of the following reasons:

a. To enhance collection of data for management purposes as part of a scientific study.

b. The tagged fish are legally obtained from a licensed private fish hatchery and are planted under a stocking or introduction permit issued by the department under s. 29.736, Stats., and s. NR 19.05.

(i) Pursuant to s. NR 20.05 (7), any fish taken into possession by an individual and not released immediately shall be included as part of the individual's daily bag limit.

(j) The time limitations upon the length of a fishing tournament under this section do not include fishing activities by tournament participants carried out prior to the time when the tournament begins.

(k) Except for tournaments on the Great Lakes, the fishing portion of any catch-hold-release tournament may not run for more than 10 consecutive hours each day or more than 4 consecutive days.

(l) The fishing portion of tournaments on the Great Lakes is not limited in duration.

(m) Upon permit approval, tournament organizers shall notify the county and city, village, or town within which the access site, weigh-in site, or headquarters for the tournament is located of the date, time, location, and size of tournament.

(11) AQUATIC INVASIVE SPECIES. (a) All tournament participants shall comply with s. 30.715, Stats., and all department rules pertaining to control of aquatic invasive species.

(b) Fishing tournament organizers shall inform all tournament participants of procedures recommended by the department to clean and decontaminate boats and equipment of aquatic plants and invasive species prior to the tournament.

(c) The department may include permit conditions necessary to prevent the spread of aquatic invasive species.

(12) REPORTING. Each organizer shall report the results of the organizer's tournament and other information which the department deems necessary on forms available from the department no later than 30 days following the last day of the tournament.

Note: Reporting forms will be issued with permits.

SECTION 2. EFFECTIVE DATE. This rule shall take effect January 1st, 2009, following publication in the Wisconsin administrative register, as provided in s. 227.22(2)(intro.), Stats.

SECTION 3. 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 _____
Matthew J. Frank, Secretary

(SEAL)