

NATURAL RESOURCE COMMISSION[571]

Adopted and Filed

Pursuant to the authority of Iowa Code sections 455A.5(6)“a,” 481A.38, 481A.39, 481A.67, 481A.73, 481A.74, and 481A.76, the Natural Resource Commission hereby amends Chapter 81, “Fishing Regulations,” and rescinds Chapter 85, “Trotlines,” Iowa Administrative Code.

The purposes of this rule making are as follows:

1. Modify the language in subrule 81.2(1) regarding fishing for muskellunge on the Okoboji lakes to make the subrule easier to read and to change the season to make it consistent with language for the Iowa/Minnesota border muskellunge season. (See Item 2.)

2. Establish special walleye length limits by posting signs and remove Black Hawk Lake from the list of lakes that have additional restrictions on walleye fishing. First, to maximize fishing opportunities without harming the walleye population, the Commission is removing from subrule 81.2(3) the daily bag limit of three for walleye at Black Hawk Lake and replacing it with a daily bag limit of five. Second, paragraph 81.2(3)“b” will give staff from the Department of Natural Resources (DNR) the flexibility to manage walleye populations in the same manner as it does black bass. For years, the DNR has established black bass length limits by posting length limit signs at lakes. Anglers are not only familiar with this approach, but it has proven to be a successful management methodology. (See Item 3.)

3. Modify the fishing regulations on Iowa/Minnesota border lakes. The Iowa/Minnesota border transects five lakes. Fisheries professionals from both states work together to manage these sport fisheries. Changes to subrule 81.2(6) will sustain quality fishing opportunities on these lakes. In addition to specifying new bag and possession limits for numerous species such as crappie, sunfish, and white bass, this amendment will reduce the walleye, largemouth bass, and smallmouth bass daily bag limit from six to three. (See Item 5.) The walleye daily bag limit is consistent with the existing walleye bag limit of nearby Spirit and East and West Okoboji Lakes; Upper and Lower Gar Lakes; and Minnewashta Lake. The largemouth and smallmouth bass daily bag limit is consistent with Iowa’s existing statewide daily bag limit for bass. Therefore, although there will be a reduction in daily bag limits, the limits are consistent with other Iowa locations and will ensure that fishing opportunities on the border lakes are sustained into the future. This will also provide a clear standard to anglers who fish at both border lakes and Okoboji lakes. The Minnesota DNR is also in the process of proposing these same rule changes.

4. Prohibit snagging and bow and arrow and spear fishing at specified Clear Lake and Lost Island Lake locations, as well as at the Lower Gar Lake outlet. The DNR and its partners have made significant investments to restore water quality, aquatic habitats and water-based recreational opportunities at Clear Lake (approximately \$13 million) and Lost Island Lake (approximately \$1.5 million). Carp are a major contributor to poor water quality, and significant portions of these restoration dollars included methods to eliminate or reduce adult carp reproduction in wetlands adjacent to these lakes. There is evidence that anglers catch carp at outflow areas in these lakes and release them into the wetlands (rather than back into the lake). Evidence includes finding arrow-injured/scarred carp in the wetlands. In other words, human behavior is allowing the carp to bypass the physical barriers constructed to prevent carp movement into the wetlands. Significantly, the addition of even just a few spawning carp into the wetlands can produce millions of carp in a year that could return to the lake, minimizing the success of costly restoration efforts. Bow fishers are also leaving their catch to rot at the sites at which the fish are caught. These dead fish create undesirable conditions for other anglers. In sum, prohibiting snagging and bow and arrow and spear fishing at the locations listed in new paragraph “b” of subrule 81.2(11) will protect water quality as well as ensure an enjoyable environment for other anglers.

Similarly, invasive silver and bighead carp species invaded the Iowa Great Lakes during the 2010 floods. To prevent future invasions, the DNR constructed an electric fish barrier at the outlet area of Lower Gar Lake. Fencing and signage safety measures were implemented around the barrier even though it was designed to pose minimum risk to public safety. Bow fishers are bypassing these safety and access measures and are putting themselves at risk. To eliminate the threat of angler injury at this location, the

Commission is restricting snagging and bow and arrow and spear fishing around the fish barrier. (See Item 6.)

5. Remove hand fishing as a legal means of take for all rough fish (e.g., common carp). This change will make the rules consistent between rough fish and sport fish (hand fishing for sport fish is already illegal). (See Item 6.)

6. Establish the harvest of paddlefish on the Missouri and Big Sioux Rivers. The amendment to paragraph 81.2(4)“e” implements regulations governing the harvest of paddlefish on the Missouri and Big Sioux Rivers, including the number of annual paddlefish fishing licenses that may be issued. This amendment is intended to implement 2014 Iowa Acts, Senate File 2198, signed by Governor Branstad on April 3, 2014. (See Items 1 and 4.)

7. Rescind Chapter 85. New rule 571—81.3(481A) contains the list of designated areas in the state where anglers may use trotlines or throw lines. This list was previously found in Chapter 85, but it is not necessary to have two chapters of administrative rules on fishing regulations. Therefore, the rescission of Chapter 85 is adopted, and its content is merged into Chapter 81. (See Item 8.) In addition to moving the list into Chapter 81, the Mississippi River in Allamakee, Clayton, Dubuque, and Jackson Counties is being designated as an approved trotline stream segment. This designation was always intended but was not done in prior rule making due to staff oversight. (See Item 7.)

Notice of Intended Action was published in the Iowa Administrative Bulletin on August 6, 2014, as **ARC 1565C**. Public hearings were held on August 28, 2014, and on September 2, 3 and 4, 2014. A total of 12 people attended the four public hearings, and three comments were received by telephone or e-mail. Two comments supported the paddlefish fishing season but requested that the DNR consider removing the 200-yard no snagging restriction on Missouri River tributaries during the paddlefish fishing season and extend paddlefish snagging during the open season on each tributary to its Interstate 29 bridge. Three comments supported the no snagging, spearing and bow and arrow restriction in Item 6, paragraph 81.2(11)“b,” and one comment opposed this restriction at the Lower Gar Lake outlet. Six people supported all proposed changes.

These amendments have been changed since they were published under Notice of Intended Action. Based on public input, the DNR recommends allowing anglers to fish for paddlefish on each Missouri River tributary to where it intersects its Interstate 29 bridge. The proposed amendment to subrule 81.2(4) in Item 4 allowed paddlefish fishing only on designated reaches of the Big Sioux and Missouri Rivers, and it did not specifically identify a fishing boundary line for Missouri River tributaries. The proposed amendment to paragraph 81.2(4)“a” would have caused the paragraph to read: “There shall be no open season in any Missouri River and Big Sioux River tributary streams within 200 yards immediately upstream of its confluence.” In response, two anglers requested that the DNR extend the area open to paddlefish fishing from the confluence of each Missouri River tributary to its Interstate 29 bridge. They stated that judging a tributary confluence boundary is difficult and having an obvious and permanent boundary, such as an Interstate 29 bridge, would be beneficial. Biologically there is no impact to the paddlefish population if the boundary is set at all tributary Interstate 29 bridges. DNR Law Enforcement Bureau staff agree that the rule would be easier to enforce with the change suggested by the commenters. Paragraphs 81.2(4)“a,” “b” and “e” in Item 4 and subparagraph 81.2(11)“a”(8) in Item 6 have been revised accordingly.

The DNR also recommends limiting an angler to one valid paddlefish fishing license and unused tag per year. Department staff noticed when preparing for the public hearings that the number of paddlefish fishing licenses per angler was not identified in the proposed amendment to subrule 81.2(4). Proposed subparagraph 81.2(4)“b”(4) states that licenses are available on a first-come, first-served basis which would permit an angler to purchase as many licenses as wanted until the prescribed quota is filled. The DNR’s original intent was to limit an angler to one paddlefish fishing license per year in order to create an equitable system which provides the most fishing opportunities. Therefore, a sentence has been added to subparagraph 81.2(4)“b”(4) in Item 4 to clarify the limitation. Department staff believe that eventually the number of applications will exceed the quota limit and lead the DNR to establish a drawing system that assigns preference points similar to the North Dakota Fish and Game Department process.

After analysis and review of this rule making, no impact on jobs has been found.

These amendments are intended to implement Iowa Code sections 481A.38, 481A.39, 481A.67, 481A.73, 481A.74, and 481A.76.

These amendments shall become effective December 3, 2014.

The following amendments are proposed.

ITEM 1. Amend rule 571—81.1(481A) as follows:

571—81.1(481A) Seasons, territories, daily bag limits, possession limits, and length limits.

KIND OF FISH	INLAND WATERS OF THE STATE				BOUNDARY RIVERS
	OPEN SEASON	DAILY BAG LIMIT	POSSESSION LIMIT	MINIMUM LENGTH LIMITS	MISSISSIPPI RIVER MISSOURI RIVER BIG SIOUX RIVER
Rock Sturgeon	Closed	0	0	0	Same as inland waters
Shovelnose Sturgeon	Continuous	None	None	None	Same as inland waters except no harvest allowed in the Big Sioux River and aggregate daily bag limit 10, aggregate possession limit 20, in the Missouri River
Paddlefish*	Continuous	2	4	None	Mississippi River— Same as inland waters except for an open season and length limit in the Mississippi River <u>See; see below*</u> Missouri and Big Sioux Rivers— <u>Special regulations; see below*</u>
Yellow Perch	Continuous	25	50	None	Same as inland waters except no bag or possession limit in the Missouri River
Trout	Continuous	5	10	None*	Same as inland waters
Catfish*	Continuous	8 Lakes 15 Streams	30	None	Same as inland waters except no bag or possession limit in the Mississippi River
Black Bass (Largemouth Bass) (Smallmouth Bass) (Spotted Bass)	Continuous	3 In Aggregate	6	See below*	Continuous open season; aggregate daily bag limit 5, aggregate possession limit 10 See below*
Combined Walleye, Sauger and Saugeye	Continuous*	5*	10*	None*	Continuous open season; aggregate daily bag limit 6, aggregate possession limit 12; except aggregate daily bag limit 4, aggregate possession limit 8, in the Big Sioux and Missouri Rivers See below*

KIND OF FISH	INLAND WATERS OF THE STATE				BOUNDARY RIVERS
	OPEN SEASON	DAILY BAG LIMIT	POSSESSION LIMIT	MINIMUM LENGTH LIMITS	MISSISSIPPI RIVER MISSOURI RIVER BIG SIOUX RIVER
Northern Pike	Continuous*	3	6	None	Continuous open season; daily bag limit 5, possession limit 10; except daily bag limit 6, possession limit 12, in the Big Sioux River
Muskellunge or Hybrid Muskellunge	Continuous*	1	1	40"	Same as inland waters
Crappie	Continuous	25*	None	None	Same as inland waters except 50 in possession
Bluegill	Continuous	25*	None	None	Same as inland waters except in aggregate with pumpkinseed on the Mississippi River
All other fish species*	Continuous	None	None	None	See below*
Frogs (except Bullfrogs)	Continuous	48	96	None	Same as inland waters
Bullfrogs (<i>Rana Catesbeiana</i>)	Continuous	12	12	None	Same as inland waters

*Also see 571—81.2(481A), Exceptions.

ITEM 2. Amend subrule 81.2(1) as follows:

81.2(1) Exception closed season. In Lakes West Okoboji and East Okoboji and Spirit Lake, there shall be a closed season on walleye beginning February 15 each year. The annual opening for walleye in these three lakes shall be the first Saturday in May. In these three lakes there shall be ~~a closed~~ an open season on muskellunge and tiger muskie ~~beginning December 1 each year. The annual opening for muskellunge and tiger muskie in these three lakes shall be May 21 the following year from May 21 through November 30.~~

ITEM 3. Amend subrule 81.2(3) as follows:

81.2(3) Walleye.

a. Lakes West Okoboji, East Okoboji, Spirit, Upper Gar, Minnewashta, and Lower Gar Lakes in Dickinson County, and Storm Lake in Buena Vista County, Clear Lake in Cerro Gordo County, and Big Creek Lake in Polk County. A 17-inch to 22-inch protected-slot length limit shall apply. Walleye less than 17 inches in length and walleye greater than 22 inches in length may be harvested. The daily bag limit shall be three, with a possession limit of six. No more than one walleye greater than 22 inches in length may be taken per day.

b. Clear Lake, Cerro Gordo County. A 14-inch minimum length limit shall apply. The daily bag limit shall be three, with a possession limit of six. No more than one walleye greater than 22 inches in length may be taken per day.

c. Black Hawk Lake, Sac County. A 15-inch minimum length limit shall apply. The daily bag limit shall be three, with a possession limit of six.

d. Big Creek Lake, Polk County. A 15-inch minimum length limit shall apply. The daily bag limit shall be three, with a possession limit of six. No more than one walleye greater than 20 inches in length may be taken per day.

b. Length limits. Length limits shall apply on walleye in public waters that have length limits posted or published.

e. c. Mississippi River. A 15-inch minimum length limit shall apply. All walleye from 20 inches to 27 inches in length that are caught from Mississippi River Pools 12 through 20 must be immediately released alive. No more than one walleye greater than 27 inches in length may be taken per day from Pools 12 through 20.

ITEM 4. Amend subrule 81.2(4) as follows:

81.2(4) Paddlefish snagging is permitted in all waters of the state designated in rule 571—81.1(481A), except as follows:

a. There shall be no open season above the Interstate 29 bridge in the Missouri River and Big Sioux River, nor in any tributary of these streams this stream within 200 yards immediately upstream of its a tributary confluence with the Missouri and Big Sioux Rivers.

b. Snagging for paddlefish on the Missouri and Big Sioux Rivers is limited to Iowa waters only, beginning in the Big Sioux River below the Interstate 29 bridge to the Big Sioux River's confluence with the Missouri River and in the Missouri River, including all backwaters and sloughs and any tributary of the Missouri River at its confluence and extending below its Interstate 29 bridge, beginning at the Big Sioux River confluence and extending to the Hamburg Landing boat ramp.

(1) There shall be an open season from March 1 through April 15.

(2) Snagging hours are from sunrise to sunset.

(3) The bag limit is one paddlefish per paddlefish fishing license.

(4) The paddlefish fishing license quota is 950 for resident anglers and 50 for nonresident anglers.

No one shall apply for more than one license per year. Licenses shall be issued on a first-come, first-served basis. The purchase period to obtain a paddlefish fishing license shall be from December 15 through January 31. No duplicate license or transportation tag shall be issued after the start of the season.

(5) Each angler who fishes for paddlefish on the Missouri and Big Sioux Rivers shall have a valid paddlefish fishing license and unused tag. Anglers possessing a paddlefish fishing license and unused tag shall snag fish for the purpose of catching paddlefish only. All snagged fish except for a legal paddlefish taken into possession shall immediately be released alive.

(6) Immediately upon an angler's taking into possession a legal paddlefish, a valid current year transportation tag issued with the license shall be visibly attached to the fish's lower jaw. The tag must be attached in such a manner that it cannot be removed without mutilating or destroying the tag. An angler shall not possess a paddlefish fishing license or transportation tag issued to another angler or tag a paddlefish with a transportation tag issued to another angler. The transportation tag shall be attached before the carcass can be moved in any manner from the place of harvest. The transportation tag shall remain affixed to the paddlefish until the paddlefish is processed for consumption. The paddlefish shall remain intact except for the snout in front of the eye until the fish reaches the final processing place. For the purposes of this subrule, the "final processing place" is defined as the angler's residence or the location where consumption occurs. The transportation tag shall be proof of possession of the carcass by the above-mentioned licensee. During the closed season, the possession of paddlefish on the Missouri and Big Sioux Rivers is prohibited unless the paddlefish are legally taken in Nebraska or South Dakota.

(7) No hooks larger than 5/0 treble or measuring more than 1¼ inches in length when two of the hook points are placed on a ruler are permitted when snagging.

(8) A gaffe hook or other penetrating device may not be used as an aid in the landing of a snagged fish.

b. c. Snagging for paddlefish on the Mississippi River is restricted to the area within 500 yards below the navigation dams and their spillways. No hooks larger than 5/0 treble or measuring more than 1¼ inches in length when two of the hook points are placed on a ruler are permitted when snagging. The open season on the Mississippi River is the period from March 1 through April 15.

e. d. Snagging Except during the Missouri and Big Sioux Rivers open paddlefish fishing season, snagging for paddlefish is not permitted at any time in those areas where snagging is prohibited as a method of take as listed in subrule 81.2(11).

~~d. e.~~ On the Mississippi River, a 33-inch maximum length limit shall apply; any paddlefish measuring 33 inches or more when measured from the front of the eye to the natural unaltered fork of the tail must immediately be released alive. On the Missouri and Big Sioux Rivers and on each Missouri River tributary from its confluence and extending to below its Interstate 29 bridge, a 35-inch to 45-inch protected-slot limit shall apply; a paddlefish measuring 35 inches to 45 inches when measured from the front of the eye to the natural unaltered fork of the tail shall immediately be released alive. To measure a paddlefish, the angler shall use a flexible tape and measure along and over the center line contour of the fish while it is lying flat.

ITEM 5. Amend subrule 81.2(6) as follows:

81.2(6) Exception border lakes. In Little Spirit Lake, Dickinson County; Iowa and Tuttle (Okamanpedan) Lakes, Emmet County; Burt (Swag) Lake, Kossuth County; and Iowa Lake, Osceola County, the following ~~shall apply~~ species have a continuous open season and daily bag and possession limits as set forth below:

- a. Walleye—daily bag and possession limit ~~six~~ three;
- b. Northern pike—daily bag and possession limit three;
- c. Largemouth and smallmouth bass—daily bag and possession limit ~~six~~ three;
- d. Channel catfish—daily bag and possession limit ~~eight~~. ~~Open season on the above fish shall be the Saturday nearest May 1 to February 15 each year.~~;
- e. Yellow perch, ~~white bass, and sunfish~~—daily bag and possession limit ~~30, and crappie daily bag and possession limit 15. There is a continuous open season on these species.~~ 25;
- f. Crappie species—combined daily bag and possession limit 25;
- g. Sunfish (bluegill, pumpkinseed, green sunfish, orangespotted sunfish, longear sunfish, warmouth, and hybrids)—combined daily bag and possession limit 25;
- h. White bass, yellow bass, bullhead, common carp, bowfin, suckers, sheepshead, buffalo, gar and quillback—no daily bag or possession limit;
- i. Muskellunge—daily bag and possession limit one. Open season shall be May 21 through November 30. A 40-inch minimum length limit shall apply on all border lakes;
- ~~f. j.~~ Spears and bow and arrow may be used to take carp, buffalo, ~~dogfish~~ bowfin, gar, sheepshead, and quillback carpsucker ~~from sunrise to sunset during the period from the first Saturday in May to February 15 each year in the above lakes.~~ with a continuous open season;
- k. All species not listed above are subject to the inland regulations of the state and have a continuous open season.

ITEM 6. Amend subrule 81.2(11) as follows:

81.2(11) Method of take. Artificial light may be used in the taking of any fish. The following species of fish may be taken by ~~hand fishing~~, snagging, spearing, and bow and arrow: common carp, bighead carp, grass carp, silver carp, black carp, bigmouth buffalo, smallmouth buffalo, black buffalo, quillback carpsucker, highfin carpsucker, river carpsucker, spotted sucker, white sucker, shorthead redhorse, golden redhorse, silver redhorse, sheepshead, shortnose gar, longnose gar, dogfish, gizzard shad, and goldfish. All other species of fish not hooked in the mouth, except paddlefish legally taken by snagging, must be returned to the water immediately with as little injury as possible. A fish is foul hooked when caught by a hook in an area other than in the fish's mouth. Snagging is defined as the practice of jerking any type of hook or lure, baited or unbaited, through the water with the intention of foul hooking fish. No hook larger than a 5/0 treble hook or measuring more than 1¼ inches in length when two of the hook points are placed on a ruler are permitted when snagging. Exceptions to snagging as a method of take are as follows:

- a. No snagging is permitted in the following areas:
 - ~~1.~~ (1) Des Moines River from directly below Saylorville Dam to the Southeast 14th Street bridge in Des Moines.
 - ~~2.~~ (2) Cedar River in Cedar Rapids from directly below the 5 in 1 Dam under I-380 Interstate 380 to the 1st Avenue bridge.

- ~~3.~~ (3) Cedar River in Cedar Rapids from directly below the “C” Street Roller Dam to 300 yards downstream.
4. (4) Iowa River from directly below the Coralville Dam to 300 yards downstream.
- ~~5.~~ (5) Chariton River from directly below Lake Rathbun Dam to 300 yards downstream.
- ~~6.~~ (6) Spillway area from directly below the Spirit Lake outlet to the confluence at East Okoboji Lake.
7. (7) Northeast bank of the Des Moines River from directly below the Ottumwa Dam, including the catwalk, to the Jefferson Street Bridge. Snagging from the South Market Street Bridge is also prohibited.
8. (8) Missouri River, and Missouri River tributary beginning at its confluence and extending below its Interstate 29 bridge and the Big Sioux River from the I-29 Interstate 29 bridge to the confluence with the Missouri River with the exception of snagging paddlefish and only paddlefish during the open season.
9. (9) Des Moines River from directly below the Hydroelectric Dam (Big Dam) to the Hawkeye Avenue Bridge in Fort Dodge.
- ~~10.~~ (10) Des Moines River from directly below the Little Dam to the Union Pacific Railroad Bridge in Fort Dodge.
- ~~11. Clear Lake and Ventura Marsh from the Ventura Grade, Jetty and Bridge.~~
- ~~12.~~ (11) Skunk River from directly below Oakland Mills Dam to the downstream end of the 253rd Street boat ramp.
- b. No snagging, bow and arrow fishing, or spearing of fish is permitted in the following areas:
- (1) Clear Lake and Ventura Marsh from the Ventura Grade, Jetties and Bridge.
- (2) Lost Island Lake Inlet within 300 feet of the concrete culvert and metal fish barrier.
- (3) Lost Island Lake Outlet within 300 feet of the outlet structure and metal fish barrier.
- (4) Barringer Slough Outlet within 300 feet of the outlet and metal fish barrier.
- (5) The outlet area of Lower Gar Lake beginning at 230th Avenue and extending downstream to the signed Iowa Great Lakes Sanitary District property line.

ITEM 7. Adopt the following **new** rule 571—81.3(481A):

571—81.3(481A) Trotlines and throw lines.

81.3(1) *Where permitted.* It shall be lawful to use trotlines or throw lines in all rivers and streams of the state, except in Mitchell, Howard, Winneshiek, Allamakee, Fayette, Clayton, Delaware, Dubuque, and Jackson Counties. Trotlines or throw lines may be used in the above nine counties in the following stream segments: Mississippi River; Maquoketa River, mouth to Backbone State Park Dam; North Fork Maquoketa River, mouth to Jones-Dubuque County line; Turkey River, mouth to the Elkader Dam; and Upper Iowa River, mouth to the first dam upstream in Winneshiek County.

81.3(2) *Removal of lines.* All trotlines and parts thereof shall be removed from the shore when they are not being actively fished. A trotline shall be considered actively fished if at least once daily the trotline is left with at least one baited hook in the water.

ITEM 8. Rescind and reserve **571—Chapter 85.**

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EDITOR’S NOTE: For replacement pages for IAC, see IAC Supplement 10/29/14.