Report From Agency

REPORT TO LEGISLATURE

NR 19 to 26, Wis. Adm. Code

Board Order No. FH-19-18
Clearinghouse Rule No. CR 19-016

Basis and Purpose of the Proposed Rule

Fishing regulations are implemented to help meet management goals and objectives for Wisconsin waters, such as providing a trophy walleye fishery or a bass fishery that maximizes predation on smaller fishes. The department proposes new fishing regulations on specific waterbodies when a fish population or management goal changes.

The regulation proposals included in this rule are based on surveys and analyses conducted by fish biologists, along with input from local stakeholders and the Wisconsin Conservation Congress. All proposals are reviewed for justification, enforceability, and completeness by department Bureaus of Fisheries Management, Law Enforcement, and Legal Services.

Summary of Public Comments

The department held hearings across the state and offered an opportunity to submit input online as part of the 2019 Spring Hearings. Of the department's 41 rule proposal questions, only one was not supported by the statewide in-person and online input. In addition, one question was supported statewide but not by the county for which the rule change would apply.

Written comments are summarized below.

Statewide Department Rule Proposals		Written Comments	Number of Comments Submitted
10	Alternate limits for catch-and-release bass tournaments	Suggest rewording question to allow small bass tournaments, which are generally exempt from a permit, to participate	1
11	Statewide, continuous catch-and-release bass season	Good idea, department should also include northern pike and walleye	1
12	Extend the Northern Zone musky season to Dec. 31 on open water	Support extending the musky season, but skeptical that ice fishing for musky results in higher hooking mortality. Few anglers ice fish for musky, musky anglers know how to handle them and making ice fishing for muskies illegal would be hard to enforce because anglers could say they	1

		are fishing for pike.	
16	Reduced bag limit for walleye in the Winnebago System	• Opposes lowering the bag limit, except during April to June when it could be 3 fish – rest of the season, 5 fish. • Protect spawning areas first, then open fishing on the Wolf and Fox rivers when spawning is over, before changing the bag limit. • Use a reduced bag limit prior to the main season opener to protect spawning fish, and then increase the bag limit after that for the rest of the season. • Continuous season and reduced bag limit does not help increase the walleye population by allowing more walleyes to spawn. If using a reduced limit, use it only until the general season opener – if lowered for the entire season it will never go back.	4
19	Cisco and lake whitefish statewide bag limit	• The proposed bag limit seems appropriate for whitefish, but a higher bag limit is appropriate for cisco and the current limit for cisco should be retained. • A daily bag limit of 10 is very restrictive and is already in place on waters with population concerns. Concerns about using a 5-gallon bucket to measure 25 pounds can easily be addressed without lowering the limit. Cisco are more widespread, so the bag limit of 10 should only apply to whitefish. This proposal could concentrate anglers on lakes with larger whitefish.	2
23	Mississippi River boundary waters panfish bag limit reduction	No need to reduce the bag limit, panfish populations are strong this year and higher bag limits have had no effect on the perch population. If it's necessary to reduce bag limits when fish are more concentrated during the winter, reduce bag limits only during the winter.	1
Local Department Rule Proposals		Written Comments	Number of Comments Submitted
34	Northern pike bag limit on Geneva Lake	Northern pike are rarely caught on this lake, proposed bag limit should be lower (2 or 3 instead of 5)	1

Modifications Made

After reviewing the public input and further discussing the rule proposals, the Fisheries Management program made three main changes to the rule.

The public supported the proposal for a statewide, continuous bass season with harvest allowed only during the traditional open season. This would apply on all inland waters, outlying waters, Mississippi River and Wisconsin-Michigan boundary waters since Michigan recently implemented a continuous bass season. However, the rule was modified to exclude the Wisconsin-Minnesota boundary waters of the St. Croix and St. Louis rivers since further coordination with the Minnesota DNR is necessary to avoid additional regulatory complexity between the two states.

The proposal to allow alternate size and bag limits for permitted catch-and-release bass fishing tournaments was also supported statewide both this year and also in 2018 when it appeared as an advisory question. This proposal would allow participants in a

permitted catch-hold-release bass tournament to utilize the statewide regulation of a 14-inch size limit and 5-fish daily bag limit in lieu of more restrictive regulations on the waterbody. The Fisheries Management program decided to modify the proposed rule language slightly to clarify that all tournaments that wanted to use the statewide regulation would have to apply for a permit. Furthermore, language was added specifying that such permits would be issued only for tournaments occurring during the open harvest season. Making this change helps address biological concerns regarding additional mortality of smallmouth bass, which may only be caught and immediately released in the northern bass zone until June 15.

Additionally, the proposal to revise the fish refuge season dates on the St. Louis River gained public support statewide but not at the local level in Douglas County. As a result of the local input, we decided to table this proposal until additional discussions with Minnesota could occur. Thus, the St. Louis River refuge changes were removed from the rule.

Furthermore, along with edits in response to the Legislative Council Rules Clearinghouse Report, one change was made to correct a drafting error relating to a portion of the Fox River that remains unaffected by these rules.

Finally, the Natural Resources Board amended the rule prior to adoption to remove the early catch-and-release season for muskies on the Wisconsin-Michigan boundary waters.

Appearances at the Public Hearing

A total of 10,712 people provided input on these rule proposals either in person or through the online public input option. A table of the results is provided below.

2019 DNR Spring Hearings - WCC County Meetings
Summary of Results - Overall Input by Question

4/18/2019

No.	Question Description	All Participants Online and In-person		In-Person Results including online responses with validated Random Verifiable Number (RVN)					Online results excluding response with a valid RVN	
		Yes	No	Yes	No	Counties Approving	Counties Rejecting	Counties Tie vote	Yes	No
	2019 OVERALL PARTICIPATION	**10712**		**3402**					**7310**	
1 (WM)	Allow trappers to keep raccoons incidentally trapped in beaver sets during the closed season for raccoon	7476	1253	2690	268	72	0	0	4786	985
2	Allow trapping on or within 15 feet of beaver dams on public and private land, with permission from the landowner	5894	2777	2235	687	69	2	1	3659	2090
3	Change the river otter framework from a quota/permit system to a bag limit/quota system	4402	3658	1678	1005	59	10	3	2724	2653
4	Move the close of pheasant season daily shooting hours on public properties stocked with pheasants from 2 p.m. to 12 p.m. on week days from the third day of the pheasant season through November 3	6457	1930	2043	749	67	2	3	4414	1181
5	Allow the department to regulate target shooting on department properties in Rock County	5423	1958	1710	668	68	4	0	3713	1290
6	Eliminate minimum barrel length restrictions for handguns that are used for hunting	4920	3462	1688	1174	55	17	0	3232	2288
7	Eliminate minimum caliber requirements for pellet guns for hunting certain small game species	4112	4301	1485	1390	45	24	3	2627	2911
8	Return to a three-zone framework for mink and muskrats	5071	1982	1738	690	64	6	2	3333	1292
9 (FH)	Largemouth bass - consistent Wisconsin-Michigan boundary water regulations	4854	2732	1425	986	52	16	4	3429	1746
10	Bass - Establish alternate size and bag limits for permitted, catch-and-release bass fishing tournaments	4648	3304	1417	1216	46	19	7	3231	2088
11	Bass - Establish a statewide (including Michigan boundary waters), continuous open season for bass fishing but allow harvest only during the current traditional season	4470	3229	1403	1091	54	15	3	3067	2138
12	Muskellunge – Extend the Northern Zone fishing season	5110	2586	1658	846	66	5	1	3452	1740
13	Muskellunge - Change the opening date of the muskellunge season on all Wisconsin-Michigan boundary waters from May 15 to June 1	4603	2726	1370	961	46	20	6	3233	1765
14	Muskellunge - Create a catch-and-release fishing season during the closed harvest season (January 1 to May 31, assuming the first question is supported) on all Wisconsin-Michigan boundary waters	3407	3856	975	1330	20	48	4	2432	2526
15	Muskellunge - Increase the minimum length limit for muskellunge from 40 inches to 50 inches on Wisconsin-Michigan boundary waters	4707	2755	1340	1062	44	25	3	3367	1693
16	Reduce the walleye bag limit from 5 to 3 on the Lake Winnebago system	5120	2488	1570	894	57	13	2	3550	1594
17	Walleye: 12-inch minimum length, only one over 15 inches, a daily bag of 3 on the Turtle-Flambeau Flowage	5182	1718	1525	642	68	4	0	3657	1076
18	Lake sturgeon – Define parameters for spears used in the Winnebago system sturgeon spearing fishery	5892	1207	1946	397	72	0	0	3946	810
19	Change the total daily bag limit for cisco and lake whitefish to 10 fish in combination for inland waters	6058	936	1928	353	72	0	0	4130	583
20	Pools 3 through 8 of the Mississippi River border waters—reduce the walleye/sauger daily bag limit from 6 to 4 (combined), 15-inch minimum for walleye, no minimum for sauger, but only one walleye or sauger over 20 inches per day to be implemented concurrently with Minnesota	5072	1252	1580	479	69	3	0	3492	773
21	Pools 9 through 12 of the Mississippi River boundary waters—walleye/sauger/saugeye daily bag of 6 combined, 15-inch minimum length limit for walleye, all walleye from 20 to 27 inches must be immediately released and no more than 1 walleye above 27 inches may be kept per day, no minimum size limit for sauger	5168	1107	1593	430	68	2	2	3575	677
22	Reduce the white bass daily bag limit from 25 to 10 in Pools 3 through 9 of the Mississippi River concurrently with Minnesota	4414	1934	1436	661	64	5	3	2978	1273
23	Reduce the bluegill, crappie, and yellow perch bag limits from 25 each species respectively to 15 each species respectively in pools 3-9 of the Mississippi River concurrently with Minnesota	5260	1461	1646	589	69	3	0	3614	872
24	Reduce shovelnose sturgeon daily bag from 10 to 3 in Mississippi River pools 3-9, concurrently with Minnesota	5603	773	1807	292	71	1	0	3796	481
25	Reduce the northern pike daily bag limit from 5 to 3, with only 1 pike greater than 30 inches per day in Mississippi River pools 3-9 concurrently with Minnesota	4982	1641	1580	607	67	3	2	3402	1034
26	Channel and flathead catfish - Reduce the catfish (both species combined) bag limit from 25 to 10, with only one catfish over 30 inches per day in pools 3 through 9 of the Mississippi River concurrently with Minnesota	4903	1466	1574	539	66	6	0	3329	927
27	Establish an 18-inch minimum length limit and a daily bag of 3 for walleyes in Shawano and Waupaca counties	4756	1959	1384	702	62	8	2	3372	1257

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	2019 OVERALL PARTICIPATION	**10712**		**3402**					**7310**	
28	Increase length limit for walleye, sauger and hybrids to 18 inches, reduce bag to 3; maintain the year round open gamefish season on Lake Koshkonong and the Rock River from Indianford Dam to Watertown Dam	4318	1873	1264	672	62	7	3	3054	1201
29	Apply a daily bag of 5 fish and no minimum length on largemouth bass, except all bass from 14-18 inches must be released and only 1 greater than 18 inches is allowed on Jordan, Pike, and Paya lakes	4458	1386	1364	493	68	1	3	3094	893
30	No minimum length for bass with a 14 to 18-inch protected slot and one fish at least 18 inches on Smoky Lake	4161	1544	1227	534	66	0	6	2934	1010
31	Establish an 18-inch minimum length limit and daily bag of one fish for bass on Hatch Lake	4046	1457	1117	548	56	8	8	2929	909
32	Establish a 5-fish daily bag and no minimum length limit for bass on Roberts and Wheeler lakes	4252	1345	1354	401	71	0	1	2898	944
33	Establish 18-inch minimum length limit, one fish daily bag limit for smallmouth bass on Pipe/North Pipe lakes	4086	1343	1173	519	59	7	6	2913	824
34	Establish a dive fish daily bag limit and no minimum length limit on northern pike in Geneva Lake	4435	1179	1371	364	71	0	1	3064	815
35	Establish a 32-inch minimum length limit, a daily bag of one for northern pike in Amery Pond and Mason Lake	4054	1367	1162	533	61	8	3	2892	834
36	Establish a daily bag of 5 fish and no minimum length for northern pike, however all pike from 25-35 inches must be released on Dutch Hollow and Mirror lakes	4142	1312	1252	466	70	2	0	2890	846
37	Establish a daily bag of 2 fish and no minimum length for northern pike, however all pike from 25-35 inches must be released on Lake Emily, Big Cedar, Gilbert, Okauchee, and Upper Oconomowoc lakes, and Little Lake Butte de Morts	4411	1370	1329	526	63	5	4	3082	844
38	Establish a 50-inch minimum length limit for muskellunge for the Rainbow Flowage, Minocqua Chain, and White Sand Lake	4193	1972	1189	765	50	14	8	3004	1207
39	Change the panfish regulations to a daily bag limit of 10 fish in total with no size limit for Sherwood, Clark, Paya, Virginia, and Long lakes, Lake Emily, and Iola Millpond	4703	1335	1415	531	66	5	1	3288	804
40	Change the lake sturgeon regulation on Lake Superior from a 50-inch minimum size and one per year to a 60-inch minimum size and one per year	4625	1490	1422	587	65	4	3	3203	903
41	Trout - Apply a 8-inch minimum length limit and a 3-fish daily bag limit for all trout on specified waters	4665	723	1483	289	72	0	0	3202	434
42	Trout - No minimum length limit and a 5-fish daily bag limit on Plum Run below CTH U and Devils Creek	3677	1426	1192	464	71	1	0	2485	962
43	Brook trout catch and release on native broodstock streams – Harker and Lowery creeks, Iowa County	3812	1266	1219	428	68	3	1	2593	838
44	Trout - Apply a 12-inch minimum length limit and a 2-fish daily bag limit with bait allowed, Castle Rock Creek	3343	1072	1182	421	68	2	2	2161	651
45	Trout - Changing the bag limit from 3 to 5 with a 12-inch maximum size limit on specified streams.	3356	1671	1154	509	68	2	2	2202	1162
46	Trout - Change the daily bag limit from 3 to 1 with a 18-inch minimum size limit on Black Earth Creek	3626	1441	1073	579	54	15	3	2553	862
47	Fish Refuge - St. Louis River, Douglas County	3586	1389	1118	510	66	4	2	2468	879
48	Fish refuge – Mink River, Door County	4173	1027	1275	374	70	2	0	2898	653
49	Fish Refuge – Fox River, Brown County	4452	1221	1375	448	70	1	1	3077	773
50 (WCC)	Increase setback from fields to streams to 30 feet (530218) (requires legislation)	7217	840	2472	383	72	0	0	4745	457
51	Reduce daily bag limit on long-tailed ducks to three (680118)	5869	1152	1957	501	72	0	0	3912	651
52	Conducting a pilot CWD Payment for Positives program in 2019 (330118) (requires legislation)	4408	3265	1457	1286	39	29	4	2951	1979
53	Prohibit the use of underwater cameras as an aid in spearing Lake Sturgeon during the sturgeon spearing season on the Winnebago System (080318)	5418	2138	1845	824	61	8	3	3573	1314
54	Prohibit the use of any electronic fish locator/fish finder equipment as an aid in spearing Lake Sturgeon during the sturgeon spearing season on Winnebago System (080318)	4773	2750	1631	1013	54	17	1	3142	1737
55	Restore deer tagging requirements in statute (041018, 050418, 060418, 090318, 131618, 160518, 180418, 240418, 270218, 280118, 340118, 350418, 380318, 400118, 440118, 450418, 490218, 560518, 640218, 641018, 660118, 670418) (requires legislation)	5826	2237	2219	719	71	1	0	3607	1518

Changes to Rule Analysis and Fiscal Estimate

The plain language analysis was revised for specific sections of the rule that changed as described above. No changes were made to the fiscal estimate.

Response to Legislative Council Rules Clearinghouse Report

The Legislative Council Rules Clearinghouse submitted comments on form, style and placement in administrative code and clarity, grammar, punctuation and use of plain language.

Changes to the proposed rule were made to address all recommendations by the Legislative Council Rules Clearinghouse, except for those discussed below.

The suggestion for clarifying the language in section 2.g. of the report was not needed because that section was removed from the rule.

Final Regulatory Flexibility Analysis

The proposed rule would not impose any reporting requirements on small businesses, nor are any design or operational standards contained in the rule. The rule would not allow for the potential to establish a reduced fine for small businesses, nor would it establish "alternative enforcement mechanisms" for "minor violations" of administrative rules made by small businesses.