

Report From Agency

REPORT TO LEGISLATURE

NR 20, Wis. Adm. Code

Board Order No. FH-08-20
Clearinghouse Rule No. 21-038

Basis and Purpose of the Proposed Rule

Under existing rules, licensed guides in the Great Lakes are required to report fish harvests, but the exact data requested and form of submission are not clear and the current rules create challenges for effective enforcement. Section NR 20.65, Wis. Admin. Code, requires all guides operating in the outlying waters of Lake Superior, Lake Michigan, and Green Bay to report the quantity and variety of fish taken and other information relating to fishing activities, as required by the department. The rule requiring Great Lakes licensed fishing guides to report as required by the department has been in place since 1974, but never included specific details on the types of information that the department requires, timelines for reporting, or methods for reporting.

Summary of Public Comments

The department received both written and spoken comments on this rule. Comments were generally supportive or neutral on the rule. The comments and responses are summarized below.

The department said that this rule doesn't impact reporting by charter captains. All Green Bay guides have to have a U.S. Coast Guard license, which makes them charter captains. So that would exclude everyone in Green Bay from this rule.

Federal and state laws classify charter captains differently. Under federal rules, all people carrying passengers for hire on the Great Lakes are considered to be charter captains. However, under state law, charter captains and guides are licensed under two separate sections of statutes, and likewise, the reporting requirements for charter captains vs. fishing guides are contained in two separate sections of administrative code.

U.S. Coast Guard operator license – required to operate a vessel carrying passengers for hire or guide in federally navigable waters (includes the Great Lakes).

State charter captain license (per s. 29.514 (1), Stats.) – required to guide for compensation in sport trolling for trout and salmon in the outlying waters.

State guide license (per s. 29.512 (1), Stats.) – required to guide for compensation for species other than trout and salmon, and to guide for trout and salmon other than by trolling in the outlying waters.

Any person that guides, directs or assists a person in fishing for compensation or reward is required to obtain a guide license, regardless of the other license types that person may already possess. This rule pertains to fishing guides licensed under s. 29.512 (1), Stats. This rule does not make any changes to the existing reporting requirements for charter captains licensed under s. 29.514 (1), Stats., but charter captains that are also licensed fishing guides do have to report in accordance with this rule when guiding for species and methods other than sport trolling for trout and salmon. Any charter captain that focuses solely on sport trolling for trout and salmon in outlying waters will see no changes to reporting under this rule.

So to rent out a shack but not provide any other fishing assistance, a fishing guide license is not required? If the person renting the shack assists the angler in some other way, they would need a fishing guide license?

Yes – if the person is not actively assisting the angler, only provides the shack, and the angler fishes in the shack completely independently, the person renting out the shack is not guiding. This rule will help clarify what is considered to be guiding to improve reporting consistency.

The rule would bring more clarity to what is considered a guide. However, there should be more restrictions on licensed fishing guides, similar to sport trolling charter captains having more stringent reporting requirements, proof of insurance, etc. Reporting should also be considered statewide.

While some changes to the guide license (license fee, requiring proof of insurance, etc.) would require legislation, the proposed rule would improve the information that the department receives in guide reports and will make fishing guide reporting requirements more similar to the system already in place for charter captains.

Modifications Made

The department added some definitions to better clarify what is considered “guiding,” “directing,” and “assisting,” adjusted language to account for situations in which multiple fishing guides are involved in a fishing trip to prevent submittal of duplicate reports, and provided an option for employers that are licensed as fishing guides to submit reports on behalf of their employees (that are also licensed as fishing guides), which will provide more flexibility to the fishing guide community. The department also removed the requirement for fishing guides to notify the department when they are unable to access the electronic guide reporting system and will be recording the information on paper report forms, which is not necessary for enforcement purposes, and specified that the information from paper report forms must be entered electronically within 48 hours after the fishing trip. The department also narrowed the retention timeline for any paper reports completed when the fishing guide is unable to access the electronic reporting system so that fishing guides only need to retain the paper records for 5 years (instead of indefinitely).

Additionally, the Natural Resources Board amended the rule to require guides to submit their reports within 24 hours of completion of the fishing trip rather than ½ hour after completion of the fishing trip, to allow guides more flexibility in submitting their reports.

Appearances at the Public Hearing

One person attended the public hearing and provided comments:

Jerry Fetterer (representing self)

Changes to Rule Analysis and Fiscal Estimate

Changes to the rule analysis included further clarifying who is required to report, specifying that guides do not need

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, adequacy of reference to related statutes, rules and forms, 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.

Final Regulatory Flexibility Analysis

This rule will have a minimal economic impact, if any, on licensed guides and guiding businesses. The types of information required to be reported under the proposed rule would not generate any costs. The method for reporting (electronic submission) may minimally impact some guides under mandatory electronic reporting if those guides do not already possess an electronic device such as a computer or cell phone to enter the reporting information.

This rule will not contain any design or operational standards, but will contain new reporting requirements that will apply to licensed fishing guides, including those who guide in trolling for species other than trout and salmon.

This rule will provide much-needed data on guided fishing trips and recreational fish harvest to complement data from commercial fishing operations in the Great Lakes.

Response to Small Business Regulatory Review Board Report

The Small Business Regulatory Review Board did not prepare a report on this rule proposal.