

Report to
Legislative Council Rules Clearinghouse
NR 26, Wis. Adm. Code
Natural Resources Board Order No. FH-10-22

Wisconsin Statutory Authority

Section 23.09 (2) (c), Stats., provides that the department may designate fish refuges to secure the perpetuation and adequate supply of any species of fish and provide safe retreats in which fish may breed and replenish adjacent fishing waters.

Section 29.014, Stats., “rule-making for this chapter,” grants the department the authority to establish and maintain open and closed seasons, bag limits, size limits and other conditions that will conserve fish populations and provide good fishing opportunities for the citizens of the state.

Section 29.041, Stats., provides that the department may regulate fishing on and in all interstate boundary waters and outlying waters.

Section 29.053 (2), Stats., provides that the department may establish conditions governing the taking of fish for the state as a whole, for counties or parts of counties, or for waterbodies or parts of waterbodies.

Federal Authority

No federal regulations apply. States retain management authority over the fish and wildlife resources within state boundaries provided that state regulations do not conflict with regulations established in the Federal Register. None of these rule changes violate or conflict with the provisions established in the Federal Code of Regulations.

Comparison of Adjacent States

Fisheries management rules are generally similar in the states surrounding Wisconsin. Specific regulations may differ for species among the surrounding states, but the general principles are similar. Michigan and Minnesota also utilize fish refuges or fish sanctuaries to protect fish in sensitive areas.

Court Decisions Directly Relevant

None apply.

Analysis of the Rule - Rule Effect - Reason for the Rule

This rule will create fish refuges around fish passages and spawning areas that are expected to lead to increased concentrations of fish, resulting in increased vulnerability of these fish to angler harvest. The objective of these refuges is to protect fish populations from overharvest when they are concentrated, as well as to minimize fishing-related disturbances to spawning fish in these areas. The refuges may also protect public safety in areas where fishing near dams or related structures would present safety hazards. This rule also creates a mechanism for the department to more easily establish temporary fish refuges to protect fish in

areas where they have become concentrated due to emerging conditions. Fish refuges help ensure an adequate population of fish and provide a place for fish to reproduce and replenish the population in adjacent fishable waters.

Agency Procedures for Promulgation

The department will hold a public hearing on this rule in February 2024 and request rule adoption by the Natural Resources Board in February 2024, followed by a request for the Governor’s approval and legislative review.

Description of any Forms (attach copies if available)

None apply.

Name and Telephone Number of Agency Contacts

Processing:	Emma Esch, 608-266-1959
Technical:	Meredith Penthorn, 608-316-0080