

Report From Agency

REPORT TO LEGISLATURE

NR 19, 20, 21, 22, & 23
Board Order No. FH-18-09
Clearinghouse Rule No. 09-051

Basis and Purpose of the Proposed Rule

The Department recommends that the minor “housekeeping” revisions to the Administrative Code proposed in FH-18-09 be adopted. These proposals were suggested by the Bureaus of Fisheries Management and Law Enforcement to address fisheries management and law enforcement issues related to management of recreational fishing on Wisconsin’s outlying, inland and boundary waters. The proposals were developed with input from the Bureau of Legal Services, and are limited to clarifications of existing code or changes to pieces of code which do not accurately reflect the intent of rules previously adopted by the Natural Resources Board. Fisheries-related housekeeping of Administrative Codes last occurred in 2004.

Summary of the Rule

The attached rule contains the following proposed modifications to Administrative Code:

1. Rules that clarify that turtle traps may not be set within 200 feet of any fishway, lock, or dam, and that a person may not use hook-and-line, setlines, or bank poles for taking turtles in a manner, an area, or during a season in which fishing is prohibited.
2. A clarification that the possession limit for inland trout is 10 fish (of which no more than 5 may be a combined total of brown and rainbow trout), and is separate from the possession limit for Great lakes trout and salmon.
3. A clarification related to rules which prohibit tagging and releasing of fish by persons who do not hold a permit issued by the Department.
4. Modifications to code to resolve conflicts between code and statute related to fishing with a bow and arrow at night. The statute provides that the Department shall allow bowfishing at night wherever bowfishing is permitted during daylight hours.
5. Corrections to rules for harvest of flathead and channel catfish in Winnebago system waters. Code presently incorrectly lists a closed season for channel catfish in this system, and incorrectly states that 2, rather than 1, flathead catfish from Winnebago system waters may be possessed.
6. Clarification that dip netting for cisco and whitefish are permissible at any time of day in Keyes lake (Florence county), Trout and Palette lakes (Vilas county), and in all other waters not specifically listed in the county and statewide table in NR 20.20. The rule also clarifies that seining for smelt is permissible any time of day on Lake Superior.
7. Deletion of redundant, improperly placed code related to walleye harvest regulations for Enterprise lake (Langlade county).

8. Correction of an omission that occurred in the drafting of rules which extended the open season for muskellunge in waters south of Highway 10 from November 30 to December 31. The later season-ending date applies to Winnebago system waters.
9. Correction of the effective end date for bag limit adjustments made in the Wisconsin Ceded territory in response to tribal declarations and harvest. Code states March 1, the previous closing date of the open angling season, rather than the first Sunday in March, and language which resolves inconsistency in rules that apply to readjustments of bag limits after spring tribal harvest.
10. Clarification of license requirements for anglers fishing in the Wisconsin-Iowa boundary waters.
11. Correction of omissions made when rules governing the harvest of lake sturgeon from Wisconsin-Michigan boundary waters were adopted.

Summary of Public Comments

A public hearing was held Friday August 14, 2009. No members of the public appeared. One inquiry was made by the Wisconsin Bowfishing Association regarding content of the rule, for information only.

Final Regulatory Flexibility Analysis

The proposed rules do not impose any compliance or reporting requirements on small businesses nor are any design or operational standards contained in the rule.