

## **Report From Agency**

### **REPORT TO LEGISLATURE**

NR 20, 23, 26, Wis. Adm. Code  
Fishing regulation changes presented at the  
2011 Spring Fish and Wildlife Rules Hearings

Board Order No. FH-03-11  
Clearinghouse Rule No. 11-006

#### Basis and Purpose of the Proposed Rule

The Department of Natural Resources annually submits rule change proposals to address issues related to management of recreational fishing in Wisconsin's inland, outlying, and boundary waters. The proposals were developed by the Bureaus of Fisheries Management and Law Enforcement with input from the Bureau of Legal Services and considerable public input. Representatives of both the Wisconsin Conservation Congress and the Great Lakes Indian Fish and Wildlife Commission were part of discussions regarding advancement of these proposals. The statewide Spring Fish and Wildlife Rule Hearings were the vehicle for citizen input. The rule change proposals originated from Department staff or Conservation Congress advisory questions from the prior year's Spring Rule Hearings that were forwarded by the Congress' Executive Council. The following provisions and changes are implemented through the proposed rules:

- 1) Define a quick-strike rig and circle hooks and require their use when fishing with an 8-inch or longer minnow as bait.
- 2) Increase the statewide minimum size restriction to 40 inches for muskellunge on all waters currently at a 34-inch minimum size restriction except English and Mineral lakes (Ashland county), Bearskin, Booth, and Squaw lakes (Oneida county), Julia lake (Oneida and Forest counties), Butternut and Solberg lakes (Price county), Spider lake (Sawyer county), and Upper Gresham lake (Vilas county). The minimum size limit for muskellunge on these ten slow-growth lakes will decrease to 28 inches. As a result, approximately 600 waters would have a 40-inch minimum size restriction, 20 waters would have a 28-inch minimum size restriction and 20 waters would continue to have a 45- or 50-inch minimum size restriction.
- 3) Eliminate the minimum size restriction for largemouth and smallmouth bass in all waters of Burnett County except Namekagon, St. Croix, and Totagatic rivers which would retain a minimum size restriction of 14 inches, and all waters of Washburn County except Balsam, Birch, Red Cedar and Shell lakes, Trego Flowage, and Namekagon and Totagatic rivers which would retain a minimum size restriction of 14 inches. The minimum size restriction is eliminated for all Burnett and Washburn county border boundary lakes and flowages, and the dates of the open seasons do not change.
- 4) Increase the minimum size restriction from 40 to 50 inches for muskellunge in Rice and Stump lakes (Barron county).
- 5) Establish a protected slot size for largemouth and smallmouth bass in Lilly lake (Brown county) that allows hook and line fishing from the first Saturday in May to the first Sunday in March, a daily bag limit of 3 in total, and no minimum length, except the possession of fish from 14 through 18 inches is prohibited and only 1 may be longer than 18 inches.
- 6) Reduce the daily bag limit from 25 to 10 fish in aggregate for panfish in Lilly lake (Brown county).

- 7) Eliminate the 15-inch minimum size restriction on walleye, sauger, and hybrids in the Lower Fox river (Brown county) to make regulations consistent with the adjacent waters of the Lower Fox river (Outagamie and Winnebago counties).
- 8) Modify hook and line fishing for catfish in all waters of Green Lake and Marquette counties to make fishing for catfish consistent with rules in Lake Winnebago system waters. The rule includes a current continuous open season for channel catfish and establishes an open season from the first Saturday in May to September 30 for flathead catfish; a daily bag limit of 25 catfish in total remains in effect but only 1 may be flathead catfish regardless of whether caught on hook and line, set or bank pole, or setline; and no minimum size restriction except 30 inches for flathead catfish and possession of flathead catfish from 36 to 42 inches is prohibited.
- 9) Re-establish an open area for set or bank pole and setline fishing for catfish on the Fox river (Green Lake and Marquette counties) 500 feet above the first dam upstream from Princeton to Wicks Landing at Fox River Drive from the Saturday nearest May 20 to September 30. There will be no bag limit, but only 1 may be a flathead catfish regardless of whether caught on hook and line, set or bank pole, or setline, and no minimum size restriction except 30 inches for flathead catfish and possession of flathead catfish from 36 to 42 inches is prohibited.
- 10) Increase the minimum size restriction from 40 to 50 inches for three spotted muskellunge brood stock lakes: Archibald and Anderson lakes (Oconto county), and Big Elkhart lake (Sheboygan county).
- 11) Eliminate the current 14-inch minimum size restriction for largemouth and smallmouth bass in the Minocqua Chain (Oneida county).
- 12) Increase the minimum size restriction from 15 to 18 inches and decrease the daily bag limit from 5 fish to 3 fish for walleye, sauger, and hybrids in the Minocqua Chain (Oneida county).
- 13) Add the Appleton Memorial pond (Outagamie county), the Kohler-Andrae State Park pond (Sheboygan county), and the Delafield Rearing pond (Waukesha county) to the State's urban fishing program. The program creates a continuous open season but only persons under 16 years of age or disabled pursuant to s. 29.193 (3) (a), (b) or (c), Stats., may fish from the second Saturday in March to but not including the last Saturday in April. Waters in the program have daily bag limits of 1 largemouth bass, smallmouth bass, northern pike, walleye, sauger or hybrid in total; 10 panfish and bullheads in total; 3 trout and salmon in total, and an unlimited number of rough fish.
- 14) Increase the minimum size restriction from 40 to 50 inches for muskellunge in Redstone lake (Sauk county).
- 15) Decrease the minimum size restriction from 28 to 18 inches and increase the daily bag limit from 1 fish to 3 fish for walleye, sauger, and hybrids in Black Dan and Island lakes (Sawyer county).
- 16) Establish a protected slot size for largemouth and smallmouth bass in Glen and Squaw lakes (St. Croix county) that allows hook and line fishing from the first Saturday in May to the first Sunday in March with a bag limit of 3 fish in total and no minimum length, but the possession of fish from 14 through 18 inches is prohibited, and only one may be longer than 18 inches.
- 17) Establish a continuous hook and line fishing season for cisco (lake herring), whitefish, and hybrids in the Wisconsin-Michigan boundary waters with a possession and daily bag limit of 10 in total and no size limit. Michigan has agreed to pursue a similar change to its regulations which will make Wisconsin and Michigan rules consistent.

18) Establish a year-round fish refuge in the Milwaukee river within the fishway at the Thiensville-Mequon dam, located at river mile 20 (Ozaukee county).

19) Alter the boundaries of an existing fish refuge on the Peshtigo river (Marinette county) because the existing privately-owned foot bridge boundary marker will be removed, and extend the end date of the fish refuge from May 15 to May 31.

#### Summary of Public Comments

A public hearing was held in each county of the state on April 11, 2011. Public input was collected through electronic ballots distributed at each meeting and also through written comments received by the Bureau of Fisheries Management before April 12, 2011. Hearing attendance statewide was 5,575. The next page summarizes the voting results related to fisheries hearing proposals.

In addition to the vote tallies from the spring hearings, the Department received written comments. One commenter was concerned about the rule proposal that would increase the minimum size limit of walleye, sauger, and hybrids in 19 southern Wisconsin counties because of the potentially greater amount of mercury in an 18-inch or larger walleye.

Another commenter noted opposition to the proposal to require quick-strike rigs when fishing with a 10-inch or longer minnow as bait because he did not want to use a required type of rig and wanted the option to use circle hooks, he questioned how the term "immediately set the hook" would be enforced, and he wanted the rule to specify 8-inch or longer minnows. Department legal and law enforcement staff noted that the term immediately means "without unnecessary delay" and is already used when attaching a tag to a turkey, bear, or other animal when hunting. Also, s. NR 20.05(7), Wis. Adm. Code, requires anglers to release fish immediately if they are not to be considered part of their daily bag. "Immediately" would be under a warden's discretion.

Q#	Question Description	Statewide Votes Yes	% of Total	Statewide Votes No	% of Total	Statewide Result	Result By County (Y/N/Tie)	Local County Votes (Yes/No)	Local County Result	Department Recommendation
<b>Statewide Fisheries Rule Changes</b>										
1	Require quick-strike rigs with minnows larger than 10 inches	3,547	76.5%	1,091	23.5%	Yes	72/0/0			Advance with amendments: quick-strike or circle hooks, 8" minnows, immediate set
2	40" musky minimum size limit on most waters statewide	3,221	68.4	1,485	31.6	Yes	64/8/0			Advance
3	Cisco, whitefish, and hybrids 10 bag limit in WI-MI boundary waters	3,471	83.0	713	17.0	Yes	72/0/0	(65/20 in Vilas County)		Advance
4	Walleye, sauger, and hybrid 18"-3bag in 19 counties	2,459	57.0	1,856	43.0	Yes	51/17/4			Do Not Advance - mixed results, local opposition
<b>Local Fisheries Rule Changes</b>										
5	Musky from 40" to 50" on Rice and Stump lakes, Barron County	2,112	62.8	1,249	37.2	Yes	55/14/3	42/11	Yes	Advance
6	Large and smallmouth bass protected slot size on Lilly Lake, Brown County	2,122	73.4	769	26.6	Yes	69/3/0	87/14	Yes	Advance
7	Panfish bag limit from 25 to 10 on Lilly Lake, Brown County	2,124	72.4	809	27.6	Yes	67/4/1	90/13	Yes	Advance
8	Eliminate minimum size limit for walleye, sauger, and hybrids on Lower Fox River, Brown County	2,157	72.6	815	27.4	Yes	71/1/0	73/27	Yes	Advance
9	Eliminate minimum size limit for large and smallmouth bass in all waters of Burnett County	1,898	69.8	823	30.2	Yes	66/2/4	16/2	Yes	Advance

10	Hook and line catfish rules in Green Lake and Marquette counties	2,021	80.1	503	19.9	Yes	69/2/1	63/14	Yes	Advance - Yes (38/12) in Green Lake, Yes (25/2) in Marquette
11	Re-establish a closed area for set or bank pole and setline fishing for catfish from Lake Butte des Morts upstream to Eureka Dam, Winnebago County	1,570	62.9	926	37.1	Yes	60/6/6	43/44	No	Do Not Advance - No (43/44) in Winnebago, No (20/30) in Green Lake, Yes (25/2) in Marquette
12	Re-establish an open area for set or bank pole and setline fishing for catfish on a section of the Fox River, Green Lake and Marquette counties	1,643	69.2	732	30.8	Yes	65/5/2	56/17	Yes	Advance - Yes (31/16) in Green Lake, Yes (25/1) in Marquette
13	Peshtigo River fish refuge, Marinette County	2,029	78.2	566	21.8	Yes	66/2/4	38/12	Yes	Advance
14	Musky from 40" to 50" on Anderson and Archibald lakes, Oconto County	1,790	64.3	994	35.7	Yes	61/9/2	30/28	Yes	Advance
15	Minocqua Chain bass and walleye limits, Oneida County	1,739	60.0	1,158	40.0	Yes	55/12/5	58/55	Yes	Advance
16	Designate Appleton Memorial Park Pond as urban fishing water, Outagamie County	2,034	82.4	433	17.6	Yes	67/1/4	88/8	Yes	Advance
17	Thiensville-Mequon Dam fish refuge, Ozaukee County	1,883	77.6	544	22.4	Yes	64/5/3	62/12	Yes	Advance
18	Musky from 40" to 50" on Redstone Lake, Sauk County	1,695	62.3	1,025	37.7	Yes	54/13/5	51/19	Yes	Advance

19	Walleye, sauger, and hybrids 28"-1bag to 18"-3bag on Black Dan and Island lakes, Sawyer County	2,006	77.8	572	22.2	Yes	69/1/2	72/8	Yes	Advance
20	Musky from 34" to 50" on Big Elkhart Lake, Sheboygan County	1,751	65.6	920	34.4	Yes	59/9/4	103/42	Yes	Advance
21	Designate Kohler-Andrae State Park Pond as urban fishing water, Sheboygan County	2,086	83.2	422	16.8	Yes	69/1/2	131/13	Yes	Advance
22	Large and smallmouth bass protected slot size on Glen Lake, St. Croix County	1,656	70.1	705	29.9	Yes	61/5/6	48/5	Yes	Advance
23	Large and smallmouth bass protected slot size on Squaw Lake, St. Croix County	1,649	69.5	724	30.5	Yes	64/4/4	48/6	Yes	Advance
24	Eliminate minimum size limit for large and smallmouth bass in all waters of Washburn County	1,821	71.9	713	28.1	Yes	66/5/1	31/4	Yes	Advance
25	Designate Delafield Rearing Pond as urban fishing water, Waukesha County	1,995	81.4	456	18.6	Yes	67/3/2	140/25	Yes	Advance

### Modifications Made

Statewide votes from hearing attendees favored all of the Fisheries Management Bureau proposals, however, two proposals presented at public hearing were not recommended for adoption because of mixed local support. The Department is not advancing its proposal to implement an 18-inch minimum size limit and daily bag limit of 3 fish for walleye, sauger, and hybrids in 19 southern Wisconsin counties and Lake Michigan tributaries and waters south of the City of Manitowoc. Statewide, there was a narrow margin of support, 57% of votes, to advance the rule. However, 7 of the 19 affected counties voted against the regulation change, as shown below.

Results from the 19 counties affected by the walleye, sauger, and hybrids  
18" minimum/3 daily bag limit proposal

	<b>Counties</b>	<b>Votes</b>	<b>Percentage</b>
Yes	11	958	53.3%
No	7	841	46.7%
Tie	1		
Total	19	1,799	100%

Among the 19 affected counties there was a patchwork of support and opposition. The Department plans to review this proposal again to best meet management objectives for walleye fisheries in southern Wisconsin and determine methods to create a more simplified and publicly-supported regulation.

The Department is also not advancing its proposal to re-establish a closed area for set or bank pole and setline fishing for catfish from Lake Butte des Morts upstream to Eureka Dam because of opposition from hearing attendees in Winnebago and Green Lake counties.

The Bureau has also made amendments to other elements of this rule proposal after staff discussions, talks with commenters, and ideas proposed at the Wisconsin Conservation Congress 2011 Convention. With amendments, the rule would now require the use of a quick-strike rig that anglers immediately attempt to hook in the mouth of a fish or the use of one or more circle hooks when fishing with a minnow 8 inches or longer. In general, the circle hook shape is designed to prevent hooking a fish in the gut or throat and to embed itself in the jaw or in the corner of the fish's mouth. The original rule proposal was designed to reduce delayed mortality in muskellunge that often occurs after the fish swallow lures, and allowing the use of circle hooks will also help to meet that goal.

### Appearances at the Public Hearing

Statewide attendance at public hearings held April 11, 2011, was 5,575 and public input was collected through electronic ballots distributed at each meeting.

### Changes to Rule Analysis and Fiscal Estimate

The rule analysis was revised to reflect modifications made to the rule. The fiscal effect remains the same.

### Response to Legislative Council Rules Clearinghouse Record

All Clearinghouse comments that have not become moot have been incorporated in the final version of the rule.

### Final Regulatory Flexibility Analysis

These rules are applicable to individual sport anglers and do not impose any compliance or reporting requirements on small businesses nor are any design or operational standards contained in the rule. Therefore, under s. 227.19(3m), Wis. Stats., a final regulatory flexibility analysis is not required.