Report From Agency

REPORT TO LEGISLATURE

NR 19-21 and 26, Wis. Adm. Code

Board Order No. FH-14-14
Clearinghouse Rule No. CR15-023

Basis and Purpose of the Proposed Rule

With this rule, the department will make changes to fish size limits, bag limits, seasons, and other regulations related to fishing in inland, outlying, and boundary waters. Fishing regulations are in place to help meet management goals and objectives for waters and their fish species, such as providing a trophy walleye fishery or a bass fishery that maximizes predation on smaller fishes. The regulation proposals included in this rule are based on surveys and analyses conducted by fish biologists and input from local stakeholders and the Wisconsin Conservation Congress.

Summary of Public Comments

See the attached summary sheet for results.

A majority of the written comments were related to the proposal to apply new panfish daily bag limits to approximately 100 lakes in order to evaluate angler acceptance and the extent to which each regulation improves panfish average size. All of these regulations will sunset on March 1, 2026.

- 25/10 - a total of 25 panfish may be kept per day but no more than 10 of any one species
- Spawning season 15/5 – a total of 25 panfish may be kept per day except during May and June when a total of 15 panfish may be kept per day, but no more than 5 of any one species
- 15/5 - a total of 15 panfish may be kept per day, but no more than 5 of any one species year round

Statewide votes for the panfish proposal, presented as a package to the public, was 2,481 people and 66 counties in support, 1,183 people and 4 counties opposed, and 2 counties with tie votes. Although most people only indicated support with their vote, the Department also received 46 written comments in support of the proposal as well as suggestions to lower panfish daily bag limits statewide. Sixty-four comments indicated that they preferred the panfish bag limits to remain the same. Twenty-five additional people made suggestions for different bag limits or panfish size limits to be used instead; 9 people were opposed to restricting harvest by panfish species, noting that limits of 5 per day is not adequate and would waste additional fish that are hooked and thrown back; and another 49 people made lake-specific comments or comments not related to the rule as proposed.

The lake-specific comments were discussed by the Department's Panfish Team - a group of biologists, researchers, and Conservation Congress members - and the Fisheries Management Policy Board who **suggested only making the following changes to the Board Order**:

- Langlade County, Upper and Lower Post Lakes – **remove** from proposal. While there was majority support for the package at the county level, some enough concerns were raised that the team decided to remove.
- Lincoln County, Lake Clara (T35N R07E S14) – **remove** from proposal. No longer has public access.
- Price County, Phillips Chain – **change** from 15/5 to 25/10. Substantial opposition from comment cards about economic implications, but stated they are alright with 25/10.
- Price County, Solberg – same as Phillips Chain.
- Taylor County, Rib Lake – same as Phillips Chain. Lake association wrote resolution requesting change to 25/10.
- Vilas County, Big Sand Lake – **add** to the 5 sunfish over 7" regulation (25 panfish of any size may be kept per day except only 5 or fewer sunfish -bluegill and pumpkinseed- may be over 7 inches). This was part of the original proposal but inadvertently left off the spring hearing questionnaire, and Vilas County supported the addition when discussed at the hearing.

The panfish team discussed three additional lakes that received comments, but decided to **keep them in the proposal as is**. The comments were a small percentage of total voters in each county.

- Kenosha County, Paddock Lake, Seasonal 15/5 - 9 comments in favor and 18 comments opposed of 70 attendees; county vote 31-31. The local biologist wants to keep it in the panfish proposal because there are only a small number of lakes within the panfish proposal in the southern part of Wisconsin. He had already reduced the number of lakes from the original proposal in order to continue to provide panfishing opportunities during the study period. The three lakes he chose to keep in the study, including Paddock Lake, meet all the study criteria and are all very similar in levels of fishing pressure and size. A couple attendees spoke at the Racine County hearing and provided inaccurate information, likely affecting the county vote.
- Marinette/Oconto Counties, Caldron Falls Reservoir, 25/10 - 5 comments in favor and 8 opposed; Marinette vote 15-24, Oconto County vote 21-16. The local biologist wants to keep it in the panfish proposal because it is the only lake in the study in Marinette or Oconto counties and it meets all the study criteria. In particular, surveys of Caldron Falls in 2006 and 2012 both showed that panfish were abundant, but that there are very few large fish.
- Shawano County, White Clay Lake, 25/10 - 6 comments in favor and 7 comments opposed of 77 attendees; county vote 38-30. The local biologist wants to keep it in the panfish proposal because the White Clay Lake Sportsman's Club and local constituents he talked with in advance of the hearings were strongly in support.

Several comments were also submitted to the Department about the statewide trout regulations and seasons update. Statewide votes at the public hearings for the trout proposals were:

Question Number	Question Description	Statewide Votes Yes	Percentage of Total	Statewide Votes No	Statewide Result - all Yes	Counties Approving	Counties Rejecting	Counties Tie
11	Trout - inland lake and pond seasons, length limits and daily bag	2941	85.0%	517	Yes	72	0	0
12	Trout - inland stream seasons	2260	64.9%	1222	Yes	66	5	1
13	Trout - inland stream length limits and daily bag	2674	78.0%	755	Yes	71	0	1

Most comments "support the enhanced rules for trout" and "applaud the trout fishing regulation changes," while a smaller number said they had concerns about impacts to trout if the season is extended to October 15 and that the regulations are still too complicated and will discourage participation. A few other comments were directed at specific trout stream regulations and all were discussed by the Department's Trout Team. The Team and the Fisheries Management Policy Board **suggested only making the following changes to the Board Order**:

- Vernon County, Bishops Branch tributaries (Cook Creek, Maple Dale Creek, Pine Hollow Creek, and Bishops Branch Tributary) and Creek 18-13 - **change** from a daily bag limit of 5 trout at no minimum size limit to "all brook trout shall be immediately released and 5 brown and rainbow trout in total may be kept with no minimum length" based on public comment for additional brook trout protection
- Vernon County, Seas Branch - **change** from a requirement that all trout caught must be immediately released to "all brook trout shall be immediately released and 5 brown and rainbow trout in total may be kept with no minimum length"
- Ashland and Bayfield counties, Marengo River - **change** from a daily bag limit of 3 fish, brown and rainbow trout minimum size limit of 12" and brook trout minimum size limit of 8" on the entire stretch upstream from highway 13 in Ashland County to keeping that regulation from highway 13 upstream to the Bayfield County line and then the regulation would change to the county base regulation of a daily bag limit of 5 trout at no minimum size limit.

One other change to the Board Order concerns the Wisconsin-Minnesota boundary waters. The Department has proposed to make muskellunge, lake sturgeon, and shovelnose sturgeon regulations on the boundary waters the same as those in Minnesota. The rule would allow catch and release angling for lake sturgeon on the St. Louis River and Mississippi River downstream from Red Wing Dam from June 16 through April 14. It was noted at the public hearings that the catch-and-release season should also apply to the Nemadji River in Douglas County because, although it is not a border water with Minnesota, it has matched the St. Louis River border water regulations for consistency and enforcement reasons.

No changes are recommended for the proposal to update the list of fish refuges statewide, but the Department did receive comments on specific refuge changes, below. The statewide vote on the refuge proposal was 1,840 in support, 1,125 opposed.

- The Department is planning to extend the Wingra Creek refuge in Dane County to the Arboretum Drive bridge instead of using a buoy to mark the boundary. The votes in Dane County were 94 in support, 105 opposed. One submitted written comment stated support for the Wingra Creek refuge change, while one other said extending the refuge east to the bridge would unduly impinge on the enjoyment of fishers (mostly low income) who fish there now. The local biologist and law enforcement staff suggest continuing with the refuge change as proposed. Wardens get many calls about people fishing for game fish out of season in the current refuge and there are a significant number of muskies that use the refuge area. People who are legitimately fishing for panfish year-round can move a small distance downstream and still have plenty of fishing opportunity.
- A comment from Milwaukee County suggested keeping the Oconomowoc River refuge in Waukesha County the same. However, no comments came in from Waukesha County and that county's vote was 61-39 in support.
- Four Price County comments (from residents on the river) were submitted to keep the refuge on Elk River below Jobes Dam, but the county vote was 24-18 in favor of the overall refuge proposal. The local biologist suggests continuing with refuge removal as proposed.

Modifications Made
Noted above. All modifications were approved by the Natural Resources Board.

Appearances at the Public Hearing
A total of 4,610 people attended the Spring Fish and Wildlife Public Hearings held in each county on April 13, 2015. Attendees were given a questionnaire with background information on each regulation proposal, ballots to indicate their support or opposition, and additional Fisheries comment cards to provide specific comments on species- or water-specific regulations of interest. The Fisheries experts at each hearing collected the comment cards. Along with the overall spring hearing votes, all written comments were compiled and discussed by the Fisheries Bureau's species teams and Management Board. A small number of written comments were also sent directly to the Department in advance of the hearings.

Changes to Rule Analysis and Fiscal Estimate
No changes were made to the Rule Analysis or the Fiscal Estimate in response to public comments. Clarifications were made to the plain language description of the rule to note the minor modifications made in the rule language.

Response to Legislative Council Rules Clearinghouse Report

The Legislative Council Rules Clearinghouse submitted comments on Form, Style, and Placement in Code and Clarity, Grammar, 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
It is not expected that there will be any economic impact or change directly related to these rule changes. The proposed rule will primarily affect sport anglers. Regulations are already in place and this rule is intended to continue protection and enhancement of the State's fish resources.

The proposal to require that Asian carp are dead and unrevivable before transporting in or through Wisconsin could affect fish haulers from other states and potentially commercial fishers in Wisconsin if Asian carp numbers increase. There is only a small number of Asian carp in Wisconsin waters so far and this proposal is intended to keep it that way by educating fishers and haulers on safe methods for transporting the invasive species.

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

Response to Small Business Regulatory Review Board Report

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