

Report From Agency

REPORT TO LEGISLATURE

NR 20 and 23, Wis. Adm. Code

Board Order No. FH-18-14
Clearinghouse Rule No. CR 15-042

Basis and Purpose of the Proposed Rule

This rule is needed to create consistent walleye daily bag limits in the Ceded Territory of Wisconsin. Pursuant to treaties signed between the six Wisconsin bands of Lake Superior Ojibwe and the United States and affirmed by *Lac Courte Oreilles v Voigt*, 700 F. 2d 341 (7th Cir. 1983), the bands have the right to harvest fish from off-reservation waters using efficient methods such as spearing and netting. The current model of reducing angling bag limits in response to annual tribal declarations to ensure a sustainable walleye harvest has become increasingly unpredictable in recent fishing seasons, and angling harvest management may be better accomplished with a stable set of regulations that achieve results similar to annual bag limit adjustments.

This rule would prevent the need to make adjustments to daily bag limits and size limits for walleye in the Wisconsin Ceded Territory. Instead, all lakes, rivers, and streams in the Ceded Territory would have a daily bag limit of 3 walleye (walleye, sauger, or hybrids). The 3-fish daily bag limit and size limits would be applied to specific waters to prevent a total harvest (tribal and non-tribal) of more than 35% of the adult walleye population in those waters, which preserves a sustainable walleye fishery.

Summary of Public Comments and Appearances at the Public Hearing

The Department held three public hearings in June 2015 regarding this rule and collected written comments during a 6-week period between May and June 2015.

No comments were received at the Madison hearing on Wednesday June 10. No members of the public attended.

Eight people attended the June 11 hearing in Hayward; three registered in support, no one registered as opposed, and 5 did not indicate support or opposition. One individual recommended an alternative size limit for Sand Lake, Sawyer County, on behalf of the Sand Lake Shoreowners' Association. After reviewing population data for Sand Lake and discussing the issue with the Shoreowners' Association, the department recommended a size limit for the permanent rule that differed from the emergency rule currently in place and the rule that was proposed at the public hearings.

Four individuals attended the June 12 hearing in Minocqua. Three did not indicate support or opposition and one registered in opposition, commenting that he felt a three-walleye bag limit did not protect lakes with "limited walleye resources." The 3-fish daily bag limit is actually a reduction from a statewide 5-walleye bag limit, and appropriate harvest will be achieved through application of length limits. The proposed rule has the potential to apply more consistent and fine-tuned protection to lakes with "limited walleye resources" than the department was able to achieve under the previous Ceded Territory walleye management system.

Six written comments were also submitted, 4 in favor. The single opposed angler was frustrated by the large numbers of 13-14.5 inch and 22-23 inch walleye he has caught and was compelled to release in Lake Chippewa because of the 15 inch minimum and 20-24 inch protected slot put in place by the current emergency rule. After several years of troubling population decline, Lake Chippewa walleye are showing signs of recovery, and the 15 inch minimum plays a critical role in preventing exploitation of sub-adult walleye as that recovery continues. The sixth comment received was from Dairyman's, Inc., a club that controls land around 5 lakes in northern Wisconsin. There is no public access to these lakes; access is for club members only. Dairyman's, Inc., requested to be exempted from the change in state regulations and retain a 5-walleye daily bag limit with no minimum length restriction. That change is not recommended, as the Department has refrained from making special exemptions in waters that do not have public access and it does not want to create a precedent for this type of regulation exemption. Staff time is typically not spent on waters without

public access and the proposed regulation is designed to be sufficiently protective for the walleye populations in those lakes.

Modifications Made

As noted above, after reviewing population data for Sand Lake in Sawyer County and discussing it with the Shoreowners' Association, the department changed the size limit from an 18 inch minimum size limit to no minimum size limit but only one fish may be harvested over 14 inches.

In addition, the fisheries biologist in Oneida County talked with an angler who submitted a citizen resolution at the Fish and Wildlife Spring Hearings to change the walleye size and daily bag limits on 99-acre Bird Lake. The resolution received 60 votes in support and 4 votes in opposition at the Spring Hearings. Bird Lake was proposed to have the 15 inch minimum size, 20-24 inch protected slot limit, but the biologist agrees that an 18 inch minimum size limit is also appropriate for Bird Lake. The change was made in the rule.

Also in Oneida County, Sevenmile Lake was originally proposed in the rule to have an 18 inch minimum size limit. The fisheries biologist received comments from the Sevenmile Lake Association and several individuals opposed to that regulation. Based on those comments and agreement by the biologist, Sevenmile Lake is now proposed to have the 15 inch minimum size, 20-24 inch protected slot limit.

Changes to the rule language were also made to clarify the boundaries of river segments on which individual 3-fish daily bag limits will be applied. These changes are based on comments from fisheries management and law enforcement staff and provide additional opportunities for people to fish. The boundaries clarify where a person may catch up to 3 walleye - the daily bag limit for each segment of water - and then travel to another area of a river to catch up to 2 more walleye to reach the total daily bag limit.

Changes to Rule Analysis and Fiscal Estimate

No changes were made to the rule analysis or the fiscal estimate.

Response to Legislative Council Rules Clearinghouse Report

The Legislative Council Rules Clearinghouse submitted comments on form, style, and placement in code and grammar and punctuation. Changes to the proposed rule were made to address all recommendations by the Legislative Council Rules Clearinghouse.

Final Regulatory Flexibility Analysis

The rule change would impact sport anglers. It is not expected that there will be any effect on small business directly related to these rule changes. The rule does not impose any 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.