

Report From Agency

REPORT TO LEGISLATURE

NR 20, Wis. Adm. Code

Board Order No. FH-16-21
Clearinghouse Rule No. CR 22-057

Basis and Purpose of the Proposed Rule

This rule requires sport trolling licensees (charter captains guiding anglers in trolling for trout and salmon on the outlying waters of Lake Michigan (including Green Bay) or Lake Superior) to submit their fishing trip reports electronically, provides for a method of reporting in the unlikely event that the electronic reporting system is not in operation, and includes updated details on the information required on the report form. In addition, this rule maintains existing reporting timelines, which are also compatible with reporting through electronic means.

Summary of Public Comments

The department held a comment period on the economic impact analysis from July 12 – 26, 2022 and received 19 comments, mostly on the rule itself (12 in favor, 3 opposed, 4 not stating a position). Subsequently, the department held a public hearing on this rule on Sept. 19, 2022 with an accompanying comment period running through the end of that day, and received 7 spoken or written comments (2 in support, 3 opposed, 2 neutral or not stating a position). Nine people, not including DNR staff, attended the public hearing. The comments and department responses are summarized below.

Electronic reporting works very well and automatically fills in some of the information that you have to enter by hand on the paper files. It should be kept simple moving forward (simplified list of species, grids most relevant to charter captains, etc.).

The electronic reporting form is currently under development, but will be tailored to the types of information that charter captains are required to report. Additionally, the department will ask for volunteer charter captains to help test and refine the reporting form.

Can two electronic forms (for two different states/programs) be stored on one phone?

Yes; the survey application allows multiple forms for different programs to be downloaded and utilized through the single application.

Electronic reporting makes it easier to overbag or not report harvest (lower compliance), similar to deer registration. This could result in the department setting future harvest limits much higher than they should be.

Under the current paper reporting system for charter captains, they are required to record their fishing trip information within 1/2 hour of reaching the dock or shore after the trip, and then send in a monthly paper report form of all fishing trips by the 10th day of the following month. Under the proposed rule, along with adhering to the same trip reporting deadlines, the electronic reporting system would require charter captains to indicate the months during which they did not conduct chartered fishing trips to distinguish lack of activity from noncompliance. Also, because there are far fewer charter captains in operation than deer hunters, the department's Fisheries Management and Law Enforcement staff are able to efficiently follow up with any charter captains that have not submitted timely reports under the current and proposed systems.

Furthermore, chartered trip reports are only one piece of the overall dataset used to manage trout and salmon fisheries. Other data sources include creel and boat surveys and trout and salmon sampling for population monitoring. These multiple data sources provide a better picture of the status of the fishery than reliance on one form of reporting.

Some charter captains start their day very early in the morning and finish the day after dark, with multiple back-to-back trips. It would be challenging for some information (i.e. fin clips) to be reported right after the trip due to fishing trip logistics. Less frequent reporting (within 24 hours of the trip, every other day, once per week, 10th or 15th of each month, end of the month, etc.) would be more feasible for captains.

The reporting timeline in the original draft of the rule, which required the information to be reported before returning to the dock or shore, aimed to minimize recall bias of trip information in order to provide the most accurate information for fisheries management. However, based on public input from the public hearing and comment periods, the department adjusted the proposed rule to maintain the existing administrative code reporting deadlines in the electronic reporting framework. Even the current 1/2 hour reporting period has posed some challenges for conservation wardens in terms of enforcing the reporting rule because of the inability to verify information, as charter captains and fishers on their boats usually leave the dock or shore within the 1/2 hour reporting window.

Electronic reporting will save the DNR time from entering reports manually, and should improve accuracy, while also being convenient for charters. It should be monitored to ensure accuracy and reporting consistency and there should be a plan for improving the system if it does not go as planned.

Charter captains are currently required to manually fill in and mail the paper reporting forms, and department Fisheries staff manually enter reports from over 15,000 chartered fishing trips each year, so electronic reporting will be much more efficient and accurate for the charter fleet and the department overall. Department staff receive paper reports on a monthly basis, but with electronic reporting, staff would have access to the reporting data more quickly and could thus better monitor the harvest as it occurs. The department will work with charter captains to test the new system and make improvements if needed.

Many charter captains operate without a crew, and requiring them to file a report while on the water can pose safety concerns when the captain's attention is on the report rather than obstacles in the water or at times of limited visibility.

Based on the recent implementation of electronic guide reporting in the Great Lakes, the charter fishing reports will likely take only a minute to complete. In addition, because the trip information can be entered and saved for later access, charter captains can enter in much of the information prior to leaving the dock, leaving the number of fish harvested and possible adipose fin clip information as the only additional information to enter. However, based on public input, the department is maintaining the current reporting timeline in the proposed rule, requiring most information to be entered within ½ hour of returning to the dock or shore after completion of fishing activities.

Cell service may not be available on the water except in busier areas, which would make it difficult and unsafe to enter reports while on the water.

The electronic reporting form can be used even without internet or cell service access, enabling charter captains to fill in the information and save it, and then submit it once cell service or internet access is restored.

Laws require a paper copy of fishing licenses while on the Great Lakes, rather than allowing cell phone use, so it seems inconsistent to require a cell phone for entering reports.

The Great Lakes are shared waters between states, and law enforcement of other states do not have access to Wisconsin's licensing system, thus requiring Wisconsin fishers to carry a paper copy of their license. In contrast, other states do not need access to Wisconsin's charter reports as data sharing between states occurs on a less granular level.

The electronic reporting system seems easier than paper reporting, but additional columns should be added for data points such as lampreys and fin clips.

These types of information can be included during testing of the reporting application with input from charter captains. We will work with self-identified charter captain testers and other stakeholders on the information required for the fishing trip compared to voluntary information.

Charter captains that do not use computers/similar technology will not find this change as efficient as paper reporting.

While those that do not currently use technology may experience a period of adjustment to the new system, the majority of charter captains do use technology and will be able to enter the reports more quickly and efficiently. Paper reporting requires some of the same information (name, license number, etc.) to be filled out on each fishing trip report rather than this static information already being "autofilled" on the report, as it would be in the electronic form.

Information on the report should just reflect fisheries management needs if the purpose is to improve lake management.

The report will focus on information needed for management needs, such as fishing effort, fish harvested and location.

Most charter captains use some form of technology, and use of a cell phone would allow input of information in a timely manner to provide data on trout and salmon regulations that can help improve equitable access between shore fishers, river fishers and lake fishers.

Data from the charter reports is one component used to manage Great Lakes trout and salmon fishery. Electronic reporting will provide timelier and more accurate data relating to the charter harvest component of the fishery. Any subsequent regulations stemming from the full complement of trout and salmon data would go through a public input process involving multiple stakeholder groups prior to implementation.

The reporting data from this system should be accessible to the public so those interested can view the daily harvest information.

This suggestion has been shared with the team working on the reporting application. However, information provided on a daily basis is probably not feasible at this time. Alternately, annual information from the reports will be made available.

Would the charter reporting app work on a flip phone?

The app would need to be downloaded onto the phone and reports submitted when the phone can access cell service or wifi. If a flip phone supports applications like Survey123 then it is possible but untested.

Will this data be used to determine stocking levels, and is something similar being considered for the private fishery to get a better idea of what's being taken out on the lake?

This data is one component of the sport fishing data used to determine stocking levels, along with other trout and salmon population parameters; the other components of the sport fishing data include creel surveys and moored boat surveys. The number of charter trips taken in September and October each year is one of the parameters used to determine Chinook salmon stocking numbers by location.

For non-charter anglers, staff conduct a Lake Michigan comprehensive survey route along the shoreline, which includes angler counts and interviews, with the goal of creating county-based estimates. The department also uses moored boat surveys for private marinas which encompasses a survey for a two-week period with information similar to the charter reports. The department has discussed developing an angler report form, but one issue would be that only successful anglers would likely submit reports unless this was mandatory.

The rule should retain the requirement to report within 30 minutes of returning to the dock or shore, as it would provide more flexibility to captains and there could be multiple captains trying to get into the system at once, which could bog down the system.

The proposed rule will retain the 30 minute reporting timeline. However, it is important to note that the reporting application will be loaded onto the captain's cell phone and reports can be entered even with wifi and cell phone data turned off or multiple people using the application. Once the cell phone is connected to wifi or data, the forms can be submitted to the department.

GIS may not always work or be user-friendly. Is there a backup system (i.e. paper) in case reporting data from multiple trips is lost (i.e. if the phone falls overboard)?

In all cases, the application will work for entering reports even without wifi or cell service access unless the phone is not working or for some reason the application is corrupted. Any reports submitted once the cell phone is connected to the internet will go to the cloud and be retrievable.

If the charter captain's cell phone isn't working or the survey isn't working, the captain would record the information onto paper. However, if the cell phone is lost and any reports have only been entered and not sent, those reports would not be retrievable and the charter captain would need to enter the reports onto a paper form and retroactively enter the reports electronically once the charter captain's access to the electronic system is restored.

Modifications Made

The original draft of this rule required fishing trip information to be recorded into the electronic reporting system before the charter captain returned to the dock or shore to provide the most timely and accurate information for each fishing trip. On-the-water reporting minimizes the potential for recall bias, which would be more of a concern for charter captains conducting multiple fishing trips per day. Following the public hearing and comment period, the rule was revised to mirror current administrative code language, which requires most fishing trip information to be entered within ½ hour of returning to the dock or shore, with all information recorded by 11:59 p.m. the day of the fishing trip. The department also made minor changes to the rule language to increase clarity following recommendations from the Legislative Council Rules Clearinghouse.

Appearances at the Public Hearing

Mark Van Elsen
Chuck Elliot
Victor Novak
Gary Dieck
Eric Hauke
Brian Haydin
Kurt Johnson
Aaron Nusbaum
Cody Lukes

Changes to Rule Analysis and Fiscal Estimate

Changes included updating the language relating to the electronic reporting timeline, allowing fishing trip information to be recorded within ½ hour of reporting to the dock or shore. The economic impact analysis was also updated accordingly, and one error in the anticipated cost of compliance with the rule was corrected (for a slightly lower anticipated cost overall).

Response to Legislative Council Rules Clearinghouse Report

The Legislative Council Rules Clearinghouse submitted comments on September 12, 2022 on form, style and placement in administrative code, adequacy of references to related statutes, rules and forms, and clarity, grammar, punctuation and use of plain language.

Changes to the proposed rule were made to address comments recommended by the Legislative Council Rules Clearinghouse.

Final Regulatory Flexibility Analysis

Small charter fishing businesses in Lake Michigan and Lake Superior (those holding sport trolling licenses for outlying waters) may be minimally impacted only if they do not already possess an electronic device capable of entering and submitting the trip reports. In that case, these licensees may need to purchase a basic smartphone and data plan to submit the reports. With the initial cost of a basic smartphone and prepaid data plan estimated at \$120 to \$240 annually per licensee and 51 licensees or less currently without a smartphone, the total cost of compliance with this rule is not likely to exceed the range of \$6,120 to \$12,240.

Response to Small Business Regulatory Review Board Report

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