

## **Report From Agency**

### REPORT TO LEGISLATURE

NR 20, Wis. Adm. Code  
The 2009 Annual Spring Hearing Rule relating to fishing and  
clamming in inland and outlying waters.  
Board Order No. FH-01-09  
Clearinghouse Rule No. 09-018

#### Basis and Purpose of the Proposed Rule

Annually, the department submits rule change proposals relating to recreational fishing and recreational and commercial clamming in inland, outlying, and boundary waters. The statewide Spring Fish and Wildlife hearings are the vehicle for citizen input. The origins of these rule change proposals are either from department staff or Conservation Congress advisory questions from the previous year that were forwarded by the Congress' executive council. The proposed rules will:

1. Allow the department to conduct criminal history background checks on individuals who want to serve as a department sponsored volunteer angler education instructor or a mentor as part of a department sponsored or approved learn-to-hunt program. These instructors often and primarily serve as instructors for youth. This proposal would also remove the condition that a mentor for fishing programs may not serve as a mentor for more than 3 anglers and clarify that the applicant, instructors and mentors need to possess a valid fishing license. This will also reduce the 30 day advanced notice for applications for fishing programs to 15 days.
2. Correct an administrative error which was included in the recently adopted rules regarding minnow harvest and possession, as related to concerns regarding containing the spread of Viral Hemorrhagic Septicemia.
3. Clarify legality of using a small remote controlled boat or similar device with a piece of line and hook attached for the purpose of catching fish in Wisconsin. Our interpretation of the law is that these devices when used for fishing, if not tethered back to the boat, pier or shore where the person operating it is located, is not allowed under our "jug-fishing" rule in NR 20.06(10).
4. Clarify that either a small game license or a fishing license is sufficient approval for a person 16 years or older to take crayfish in Wisconsin.
5. Clarify boundaries of large rivers and their tributaries.
6. Repeal the barbless hooks requirement for early trout season.
7. Prohibit collection of live mussels or dead shell from the St. Croix River National Scenic Riverway, and eliminate commercial mussel harvest in the St. Croix River where it forms the boundary between Wisconsin and Minnesota (the activity is already prohibited by National Park Service rules), and in the St. Louis River where it forms the boundary between Wisconsin and Minnesota.
8. Set a minimum length restriction for walleye in Upper Clam lake (Ashland county) of 15 inches.
9. Increase the minimum length restriction for walleye in Beaver Dam lake (Barron county) from 15 inches to 18 inches, and reduce the daily angler bag limit for walleye from 5 fish to 3 fish.
10. Create an annual open season for trout in Beaver, Little Star, Nymphia, and Overby (Blaisdell) lakes (Bayfield county), where the seasons in these lakes are currently closed every other year. The annual open season in the other waters will be between the first Saturday in May and September 30.
11. Remove the 14 inch minimum length restriction for largemouth and smallmouth bass in Lake 26 (Burnett county).

12. Extend the end of open season for trout in Anderson lake (Douglas county) from September 30 to the first Sunday in March.
13. Set a minimum length restriction for walleye in Bearskull, Fisher, Owl, and Upper and Lower Springstead lakes (Iron county) of 15 inches.
14. Increase the minimum size restriction for northern pike in Silver lake (Manitowoc county) from 26 to 32 inches and reduce the daily angler bag limit from 2 to 1.
15. Correct an administrative error which improperly lists the minimum length restriction for walleye in the Wisconsin river downstream from the St. Regis dam in Rhinelander (Oneida county) as none rather than 15 inches.
16. Increase the minimum length restriction for largemouth and smallmouth bass in Burrows lake (Oneida county) from 14 inches to 18 inches, and decrease the daily angler bag limit from 5 to 1.
17. Increase the minimum length restriction for walleye in Big Round lake (Polk county) from 15 inches to 18 inches, and reduce the daily angler bag limit for walleye from 5 fish to 3 fish.
18. Replace the current 9 inch minimum length restriction for trout in Manley creek (Sauk county) with a 9 inch maximum size restriction. This rule will expire 10 years after implementation.
19. Increase the minimum size restriction for muskellunge in Big Sand, Kentuck, and Long lakes (Vilas county) from 34 inches to 50 inches.
20. Set a minimum size restriction for walleye in Dead Pike lake (Vilas county) of 18 inches, and reduce the daily angler bag limit from 5 to 3.
21. Remove the current 15 inch minimum size restriction for walleye in North Twin and South Twin lakes (Vilas county), but stipulate that walleye between 14 and 18 inches may not be kept and only 1 walleye larger than 18 inches may be part of an angler's 3 fish daily bag limit.
22. Increase the minimum length restriction for walleye in White Sand (T42 N R7E S27,) and Long lakes (Vilas county) from 15 inches to 18 inches, and reduce the daily angler bag limit for walleye from 5 fish to 3 fish, and also correct an administrative error which improperly lists the closing date of the open angling season for walleye as March 1 rather than the first Sunday in March.
23. Add Regner (Washington county) and Foxbrook (Waukesha county) ponds to the state's urban fishing program, in which there would be 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, and in which persons may possess 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.
24. Correct an administrative error regarding bag limits for walleye, sauger, and their hybrids in Lake Winnebago. Current rules allow 5 walleye and 1 sauger or walleye/sauger hybrid, but the bag limit should be 5 walleye/sauger/ hybrids in total, only 1 of which may be a sauger or walleye/sauger hybrid.

### Summary of Public Comments

On Monday April 13, 2009 a hearing was conducted in each county of the state. Statewide attendance was 7,939. Hearing attendees had the opportunity to register support or opposition by voting on individual proposals in this package of rules. The following two pages summarize voting activity.

**2009 Spring Hearings - Results for Fisheries Management Proposals**

Question Description	Supporting	Not Supporting	Statewide Support	County Results (Yes/No/Tie)	Local Support
Do you favor requiring background checks on individuals who wish to serve as department-sponsored volunteer angler education instructor or a mentor as part of a department-sponsored or approved learn-to-hunt program?	5960	844	Yes	72/0/0	
Do you support allowing an instructor of a fishing program to mentor more than 3 anglers, clarifying that instructors need a fishing license, and shorten the advanced notice requirement for a fishing program from 30 days to 15 days?	5381	1201	Yes	72/0/0	
Do you favor correcting the walleye and sauger bag limit for Lake Winnebago to read "5 walleye/ sauger/ walleye-sauger hybrids in total, of which only 1 may be a sauger or walleye-sauger hybrid?"	4632	1071	Yes	72/0/0	
Do you favor a rule a change in the daily bag limit for minnows in non-VHS waters to "600 minnows in total, including, but not limited to, suckers" from the current "600 suckers in total," thereby correcting an administrative error which inadvertently restricts anglers?	5260	781	Yes	72/0/0	
Do you favor a rule clarifying language in Administrative Code that explicitly states that when an angler is using a small remote controlled boat or similar device with a piece of line and hook attached for the purpose of catching fish in Wisconsin, that boat or device	5094	1165	Yes	72/0/0	

must be tethered so that an angler may retrieve the device immediately?					
Do you support allowing the use of barbed hooks during the early catch-and-release trout season in Wisconsin?	3379	3032	Yes	43/27/2	
Do you favor clarifying that a fishing or small game license is required and an appropriate approval for an individual 16 years old or older to harvest crayfish in Wisconsin?	3552	2701	Yes	55/16/1	
Do you favor clarifying the boundary of the Wisconsin River to include only the portion of sloughs, bayous and flowages upstream to the first dam, highway bridge or other specific location for the purpose of designating fishing seasons, size and bag limits?	4242	1179	Yes	72/0/0	
Do you favor clarifying that the boundaries of the: Chippewa, East Fork of the Chippewa, Flambeau, North and South Forks of the Flambeau, LaCrosse, Lemonweir, and Yellow rivers in Adams, Ashland, Juneau, LaCrosse, Lincoln, Portage, Marathon, Monroe, Oneida, Price, Rusk, Sawyer and Wood counties extend to connected sloughs, bayous and flowages upstream to the dam, highway bridge or other specified location for the purpose of designating open seasons, size and bag limits?	4180	1113	Yes	71/1/0	
Do you favor changing the Wisconsin mussel harvest regulations for the St. Croix National Scenic Riverway where it forms the boundary between Wisconsin and Minnesota from the current 50 pounds of live mussels per day by	3036	2044	Yes	57/14/1	

licensed anglers to no live harvest and no collection of dead shells, and to prohibit commercial mussel harvest from those waters, and to prohibit collection of dead shell from inland portions of the Riverway, and to prohibit commercial mussel harvest from the St. Louis River where it forms the boundary between Wisconsin and Minnesota?					
Do you favor increasing the minimum length limit from 15 inches to 18 inches and reducing the daily bag limit from 5 five to 3 in total for walleye on Beaver Dam Lake in Barron County?	3263	1825	Yes	67/4/1	Supported in Barron and surrounding Counties.
Do you favor increasing the minimum length limit from 15 inches to 18 inches and reducing the daily bag limit from 5 to 3 in total for walleye on Long Lake in Vilas County?	3245	1966	Yes	63/9/0	Supported in Vilas, Oneida, Iron, and Price Counties; not supported in Forest, Langlade, and Lincoln Counties.
Do you favor increasing the minimum length limit from 15 inches to 18 inches and reducing the daily bag limit from 5 five to 3 in total for walleye on Dead Pike Lake in Vilas County?	3156	1930	Yes	64/7/1	Supported in Vilas, Oneida, Iron, Price, Forest, and Lincoln Counties, not supported in Langlade County.
Do you favor changing the one-over-14 regulation to the statewide minimum length limit of 15 inches for walleye on Upper Clam Lake in Ashland County and Bearskull, Owl, Fisher, and Upper and Lower Springstead lakes in Iron County?	2633	1132	Yes	67/4/1	Supported 28-9 in Ashland and 21-11 in Iron Counties. Also supported in Price (23-5) and Vilas (54-31) Counties.
Do you support changing the trout fishing regulations from alternate year open fishing season to an annual open fishing season for four managed trout lakes (Nymphia, Overby, Little Star and Beaver lakes) in Bayfield	2432	994	Yes	68/3/1	Supported 41-3 in Bayfield County, 29-7 in Ashland County, and 19-5 in Douglas County.

County?					
Do you favor a no minimum size, 5 fish daily bag limit for bass on Twenty-Six Lake?	2414	1006	Yes	69/3/0	Supported 31-7 in Burnett Co., 18-1 in Washburn Co. and 66-5 in Polk Co.
Do you favor extending the end of the open season for trout in Anderson Lake from September 30 to the first Sunday in March?	2139	1011	Yes	68/2/2	Supported 19-11 in Douglas Co., 17-6 in Bayfield, and 15-3 in Washburn Counties.
Do you favor changing the northern pike size and bag limit on Silver Lake, Manitowoc County from a 26-inch minimum size limit with a 2 fish per daily bag to a 32-inch minimum size limit with a daily bag limit of 1 fish?	1982	1411	Yes	53/18/1	Supported 105-39 in Manitowoc County and 43-30 in Calumet County, 60-38 in Brown County, and 28-25 in Kewaunee County, but failed 62-92 in Sheboygan County.
Do you favor increasing the minimum length limit from 14 inches to 18 inches and reducing the daily bag limit from 5 to 1 in total for bass on Burrows Lake, Oneida County?	1862	1390	Yes	51/18/3	Supported 60-31 in Oneida County and 48-38 in Lincoln, 39-36 in Vilas and 10-7 in Price Co.. Not supported in Langlade (10-14) or Forest (6-12) Counties.
Do you favor correcting walleye regulations in Wisconsin Administrative Code to a 15-inch minimum length limit for the Wisconsin River, downstream from the St. Regis Dam in Rhinelander to the Oneida-Lincoln County line? Rules for walleye harvest in Lincoln County are printed correctly.	3010	738	Yes	70/1/1	Supported 76-22 in Oneida County.
Do you favor an 18-inch minimum length limit with a daily bag limit of 3 for walleye in Big Round Lake?	2264	1070	Yes	62/9/1	Supported 70-13 in Polk County, 37-9 in Barron, and 25-8 in Burnett Counties.
Do you favor changing the 9-inch minimum size limit, 3 fish daily bag limit to a 9-inch maximum size limit with a 5 fish daily bag limit	1986	1085	Yes	60/10/2	Supported 40-15 in Sauk Co. and 32-22 in Columbia, 131-47 in Dane, and 13-3 in Juneau

on Manley Creek, for a period of 10 years to allow evaluation?					Counties.
Do you favor increasing the minimum length limit from 34 inches to 50 inches for muskellunge on Big Sand and Long Lakes in Vilas County?	2296	1709	Yes	52/18/2	Supported 92-83 in Vilas Co., 53-48 in Oneida Co., and 9-6 in Price Co. Failed 14-24 in Forest Co.. Not supported, 13-14 in Iron Co., 15-20 in Florence, 40-41 in Lincoln, and 12-20 in Langlade Counties.
Do you favor increasing the minimum length limit from 40 inches to 50 inches for muskellunge on Kentuck Lake in Vilas County?	2228	1733	Yes	46/22/4	Not supported in Vilas Co. (82-101). Not advanced for adoption.
Do you favor removing the 14- to 18-inch protected slot and setting the minimum length limit at 18 inches in total length and keeping the daily bag limit of 3 fish in total for walleye on White Sand Lake (T42N R7E Sec 27) in Vilas County?	2259	1219	Yes	64/6/2	Supported 85-56 in Vilas County, and 57-29 in Oneida, 15-14 in Langlade, 30-25 in Lincoln, and was supported 14-11 in Forest Co.
Do you favor removing the minimum length limit of 15 inches and replacing it with no minimum size limit, but fish 14 to 18 inches in total length may not be kept, and only one fish over 18 inches is allowed and reducing the daily bag limit from 5 to 3 in total for walleye on North and South Twin lakes in Vilas County?	2094	1411	Yes	57/15/0	Not supported in Vilas Co. (74-82). Not advanced for adoption.
Do you support adding Regner (Washington) and Foxbrook (Waukesha) ponds to the state's urban fishing program?	2378	840	Yes	66/5/1	Supported 187-44 and 159-23 in Washington and Waukesha Counties, respectively, and 89-37 in Milwaukee County.

Statewide attendance – 7,939

### Modifications Made

Rule change proposals affecting muskellunge regulations in Kentuck lake (Vilas County) and affecting walleye regulations in North and South Twin Lakes (Vilas County) were not supported in Vilas or many of the counties neighboring Vilas County, and thus are not recommended for adoption.

Concerns were raised regarding proposed language clarifying the boundaries of larger rivers in Sawyer and Juneau Counties, and the Department made minor modifications to the language of these sections.

### Appearances at the Public Hearing

Statewide attendance at public hearings held April 13, 2009 was 7,939. No written comments were received regarding any portion of this rule.

### Changes to Rule Analysis and Fiscal Estimate

The rule analysis was revised to reflect modifications made to the rule. There were no changes made to the fiscal estimate.

### Response to Legislative Council Rules Clearinghouse Report

All recommendations made in the attached Legislative Clearinghouse report have been incorporated in the final version of the rule.

### Final Regulatory Flexibility Analysis

These rules are applicable to individual sportspersons and do not impose any compliance or reporting requirements on small businesses nor are any design or operational standards contained in the rule. The rule will eliminate the opportunity for commercial clamming operations in the St. Louis River. However, National Park Service rules already prohibit commercial clamming in the St. Croix River where it forms the boundary between Wisconsin and Minnesota, and there have never been commercial clam operators in the St. Louis River. Therefore, under s. 227.19(3m), Stats., a final regulatory flexibility analysis is not required.