

Report From Agency

REPORT TO LEGISLATURE

NR 19, Wis. Adm. Code

Board Order No. WM-06-21
Clearinghouse Rule No. 21-103

Basis and Purpose of the Proposed Rule

Since 1964, certain prominent wild rice harvesting waters have been formally regulated by a date opening through administrative rule. However, the list of date-regulated wild rice harvesting waters has not changed since 1985. The purpose of date regulation has been to protect the most critical and popular wild rice waters from premature harvest and damage to the beds of wild rice, and to inform harvesters of when the resource is mature and ready for harvest. Over time, changes to long-term wild rice abundance and corresponding harvest activities have occurred on certain waters. Wild rice has been completely absent or significantly diminished on several waters that are currently date-regulated under portions of s. NR 19.09(4) for several years. This rule amends the list of date-regulated wild rice harvesting waters. Thirty-eight waters are removed from the list and four new waters are added. It also amends the spelling of two lakes in code.

Summary of Public Comments

The department also received seven written comments during the public comment period. Four individuals wrote in support of this rule. The Lac Du Flambeau tribe also wrote in support of the rule changes. The tribe also commented that they conduct their own tribal wild rice management planning, regulation and restoration activities within their reservation and supported not including any of their reservation wild rice lakes within any proposed state regulations regarding wild rice. Two individuals commented against the rule changes. One person felt that the department was only proposing the rules to save on administrative costs rather than protecting the wild rice. The other individual felt that keeping the rules unchanged is necessary to protect the resource.

Modifications Made

The department made minor edits to the rule after the public hearing to clarify the names of the lakes listed in code based on public testimony that was received.

Appearances at the Public Hearing

A virtual public hearing on WM-06-21 was held on Wednesday January 14, 2022 at 3:00 p.m. Nine members of the public attended the hearing with three choosing to make an oral statement. The oral statements were as follows:

- A representative from the Great Lakes Indian Fish and Wildlife Commission (GLIFWC) gave a brief history. He testified that these new rules will allow regulations to be focused on the most harvested waters while reducing the costs of regulations. He also provided clarification on the names for a few of the lakes listed in code.
- One person testified twice, once on behalf of the Wisconsin County Forest Association (WCFA) as again as an individual. First, the WCFA did not express any concerns but did want to raise the point

that date regulated waters may have an impact on smaller boat landings for lakes. As an individual, this person did testify that he believes there is no scientific evidence that the rules protect unripe beds since some lakes take a long time to ripen due to characteristics of the water body. He also expressed concern about regulating the harvest on the Minong Flowage due to the fact that some rice beds are on private holdings.

- A member of the Lac du Flambeau tribe thanked everyone for coming up with the new list of lakes and was happy that some lakes were included. He also asked for clarification of waters that are on the reservation.

Changes to Rule Analysis and Fiscal Estimate

No changes were made to the rule analysis or fiscal estimate through the public comment process.

Response to Legislative Council Rules Clearinghouse Report

The Legislative Council Rules Clearinghouse submitted comments on December 17, 2021.

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

Final Regulatory Flexibility Analysis

These rules, and the legislation which grants the department rule making authority, do not have a fiscal effect on the private sector or small businesses. These rules are applicable to individual wild rice harvesters and impose no compliance or reporting requirements for small business, nor are any design or operational standards contained in the rule.

These rules are not expected to significantly affect currently available outdoor opportunities and no impacts to the economic activities of hunters, trappers, or outdoor recreation enthusiasts are expected.

Response to Small Business Regulatory Review Board Report

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