



Public Comment on MDNR Fish Division's Proposal to Modify Trout Stream Regulations

To: Todd Grischke, Dr. Kelley Smith, Director Rebecca Humphries, and all other pertinent MDNR staff

The following comments are provided in response to the MDNR's proposal to modify trout stream regulations, as received on May 5, 2009.

General Comments

Modifying our regulation framework is an important opportunity to enhance our fisheries. In the nine years since the existing framework was enacted, we have not learned enough about the effectiveness of these regulations. Regulations are one of three primary tools for manipulating a fishery and are as such, an incredibly important tool for our use. We should strive to understand their use better than we understand it currently, and should continually seek to fine-tune them. We must always be cognizant of the balance between optimizing our fisheries through highly specific regulations and keeping the regulations easy enough to understand; and in order to do this we must also understand who our anglers and stakeholders are and what their attitudes and preferences are towards fisheries and regulations. We currently do not understand this aspect of regulations well enough either.

Stream trout fisheries can be managed for three basic objectives:

- 1) Maximum sustainable harvest. This involves managing for those whose primary desire is to harvest as much fish as possible.
- 2) Maximum catch. This involves managing for those whose primary goal is to just catch a fish, or to catch a large number of fish – regardless of size. This would involve managing for maximum density of fish present.
- 3) Trophy or quality fisheries. This involves managing for those whose primary goal is to be able to catch large fish, or to sustain/enhance the tourism economy of the communities surrounding fisheries – by attracting those who are interested in trophy/quality fisheries.

With 8,000 miles of trout streams in Michigan – we have enough water to accomplish each of these objectives in a balanced way, statewide. Currently however, the vast majority of waters are

managed only for the first objective. We would like to see a better balance achieved. We believe this will better serve the diverse fishing interests of the state, while allowing the full benefits of our fisheries to be realized – for the good of Michigan’s economy.

According to the Michigan Tourist Council, Michigan has moved from manufacturing, as its number one economy to agriculture and then tourism – with tourism rapidly closing in on agriculture as Michigan’s number one economy. A major portion of Michigan's tourism dollars is generated by sport fishing - nearly 7 billion dollars annually. Take Manistee County for example, 30% of Manistee County’s economy is produced by sport fishing. According to the Pure Michigan campaign, supported by public funds, for every dollar we spend promoting Michigan recreation the State receives three dollars back in tax revenue. This is big business and a serious economic asset to the State. We are facing the worst economy in Michigan’s history and we need to nurture any potential economic assets we have. We believe that our state’s stream fisheries have not been managed to maximize this benefit to the entire public. We believe that the existing regulations and the ones presently proposed overemphasize management for maximum sustainable harvest of fish, at a cost to quality and trophy fisheries management. Quality and trophy fisheries are desired by resident anglers and they are the fisheries that attract tourism to our state from around the country and world. To achieve more diverse fisheries and to maximize the benefit of these resources for greater benefit to all citizens of the state, we are requesting a greater prioritization of management of our trout streams for these objectives. We think that our comments will help the MDNR achieve a better balance.

Specific Comments

- I. Inadequate evaluation of existing trout stream regulation framework provided. The existing trout stream regulation framework was enacted in April 2000, at which time the Fisheries Division of the Michigan DNR “made a commitment to evaluate the effects of these regulations on trout fisheries” (from the MDNR Proposal). Nine years later, this proposal presents the public with only an evaluation of the Type 2 regulation. This regulation was only one of seven types, and the evaluation of it was not properly designed to allow confident conclusions to be drawn from it. Worse though, is that no evaluation is presented for the remaining six types of regulations. This lack of information makes it difficult for the public to objectively, critically and confidently review the new modifications currently being proposed.
- II. All types of size restrictions considered. The proposal discusses the use of size restrictions, but limits its discussion to minimum size limits only. Maximum size limits and slot limits are two other forms of size restrictions used by fisheries managers. Many stream trout fisheries match the biological criteria where these other tools could be productive. Furthermore, these other forms of size restrictions offer a situation that is attractive for managing for multiple fishery objectives and minimizing social conflicts simultaneously (harvest opportunities and trophy potential). It would be desirable for the Fisheries Division to

explore the feasibility of these other options, either in this proposal or on an experimental basis in the future.

- III. Size limits for brook and brown trout in Type 1 streams. The proposal provides adequate logic in proposing a 7" minimum for brook trout. The 7" minimum is not appealing to those fishermen who value catching a larger brook trout greater than the ability to harvest one at 7". However, the logic and evidence provided supports the idea that a 7" minimum size limit will ensure sufficient reproduction to keep these fisheries self-sustaining. It does so by stating; that most brook trout (80% of females) will be sexually mature at 1 year of age, and the statewide average length of brook trout is 6.4 inches during the first fall of spawning. This should allow most fish the opportunity to spawn once before becoming vulnerable to harvest. However, an 8" minimum for brown trout is then proposed. The report states "Most female brown trout in MI streams do not mature until they are 3 years old." The DNR Special Report #25, Chapter 9, states that the statewide average length of brown trout going into the fall of their first spawning (3 years of age) is 12.9 inches. If the same logic and spawning protection afforded brook trout is to be applied to brown trout – the minimum length being proposed should be 13". We would recommend that it be set at least at 12" for Type 1 streams. This would be consistent with the Fisheries Division's logic in setting brook trout size limits, and would be consistent with its statement from the proposal that "Perhaps the most important biological objective of recreational fisheries regulations for stream trout is to make certain that angler harvest does not impair reproduction so that fish populations are sustained and protected."
- IV. Elimination of Existing Type 2 Regulations. The evaluation of Type 2 regulation effectiveness was not sufficiently informative to support the strong conclusions stated in the MDNR proposal, "almost all evaluations of Type 2 regulations showed that they did not significantly increase the abundance of larger brook trout or brown trout compared to pre-2000 standard trout regulations". The evaluation relied upon 7 sites, non-randomly selected from the state. In most of these cases no angler-use data were provided; this data is fundamental to interpreting regulation appropriateness and effectiveness. Three out of seven streams, or 43%, showed improvement in trout under Type 2 regulations. Despite this, the MDNR report states that habitat improvements occurred in these streams during the same time period – and attributes the improvement in trout to habitat improvements instead of the regulations. However, the evaluation lacked sufficient controls to support this conclusion, or detailed information about the nature of the habitat improvements to state this, and thus provides only unsupported speculation.

Given this lack of certainty in the evaluation and interpretation of the Type 2 regulation evaluation, we are concerned about the deletion of this class of regulation. Given that Type 2 did show improvements for 3 of the 7 waters evaluated – our memberships are concerned where the Type 2 waters will be reverted to if Type 2 is omitted. Specific information was just recently provided by the MDNR on the fate of Type 2 waters' future designations. The majority of the existing Type 2 waters will be placed into either Type 1 or Type 3 regulations

– with a minimum size limit of 8” and 10” for brown trout, respectively; which as discussed does not allow protection of the fish through their first opportunity to reproduce. As this information was just recently provided, our groups will provide separate, detailed comments in regards to the future designations of particular Type 2 waters. As the proposal indicates certain waters that will be considered for future gear restrictions – our groups request that the agency use its Coldwater Regulations Advisory Committee to gain our involvement in these decisions.

- V. The newly proposed Type 2 and 3 regulations (existing types 3 & 4). No evaluation of the effectiveness of either of these regulation classes was provided. Given that, it is difficult to state with confidence whether, in the balance between regulation specificity versus simplicity, these two categories are as valuable as they could be. Our organizations have several ideas for how these two categories might be altered to maximize their utility, while offering some suggestions for simplifying the entire regulation framework. One such recommendation would be to increase the utility of the proposed new Type 3 regulation. In most cases it is highly similar to Type 1 regulations, with the only differences being the “open season”, and the brook and brown trout minimum size limits. The 10” min. size limit for brown trout in this category is too small given the logic presented previously. We suggest that this regulation be altered to use size restrictions and creel restrictions to support a “trophy” or “quality” fishery objective. Higher minimum size limits (e.g., 18”) and reduced creel limits could be used without gear-restrictions to achieve fisheries that satisfy anglers looking for these qualities or to enhance recreational tourism to our state. Other suggestions for the new Type 2 & 3 proposed regulations might include: making rainbow trout minimum lengths consistent across all regulation categories for simplification (i.e., 10” or 12”); eliminating the Atlantic Salmon column in the regulation chart, and making all salmon 15” minimum length and all in one column of the chart (Pacific salmon between 10” and 15” in trout streams should be uncommon and inconsequential to harvest in streams). The utility of Type 2 could be expanded by altering the Possession Season to include a closure on brook trout from September 1 through the normal trout opener. This could possibly lend itself to use on rivers with spawning runs of adfluvial brook trout.
- VI. New proposed gear restricted category. Our groups support the MDNR proposal to create a “gear restricted” category and eliminate the constraints of Type 5, 6, and 7 regulations. This proposal is productive in that it will allow greater specificity of gear-restricted regulations, while simultaneously making the regulations easier to understand. Had this framework been in place last year, conflict over the appropriate regulations for the Mio/Au Sable Trophy Waters could have been avoided. This should allow optimal regulations for future gear restricted waters. Also of concern on this issue however, is the effort towards and basis for, adding to the 97 miles of gear-restricted waters (where 212 miles is allowable). There has not been a concerted effort to help increase gear-restricted waters in Michigan, and we believe that for the sake of balancing fishery objectives and types statewide – there should be. We also believe that the criteria laid forth in Fisheries Order 213 is not objective

or quantifiable – and that this may lead to conflicts in the near future. We are requesting to work with the Fisheries Division in clarifying these and preventing future conflicts regarding them. We suggest the Coldwater Regulations Advisory Committee be used towards this end.

Thank you for reviewing and considering our comments. This matter is at the focus of the missions' of our organizations. We hope our comments will be helpful to you in altering the proposal to modify Michigan's trout stream regulations. We are willing and eager to work with the MDNR in improving these proposed regulations.

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