STATE OF MICHIGAN

DEPARTMENT OF NATURAL RESOURCES

LANSING

RICK SNYDER
GOVERNOR

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DIRECTOR

SUBMITTED: September 14, 2015

MEMORANDUM TO THE NATURAL RESOURCES COMMISSION

Subject: Fisheries Order 213.15
Criteria for Selection of Trout Streams with Gear Restriction Regulations
FOR INFORMATION ONLY

Authority:

The Natural Resources and Environmental Protection Act, 1994 PA 451, authorizes the Director and the Commission to issue orders to regulate the taking of fish in the waters of this state.

Discussion and Background:

In 2002, PA 434, MCL 324.48701, went into effect which mandated that the Department develop a set of criteria to evaluate potential streams for applications of gear restriction regulations. This Order fulfills that obligation. Several years ago, the Department conducted a multiyear review of potential trout streams to expand the list of waters with gear restrictions. Managers utilized the criteria listed in this Order to determine potential trout stream candidates where new gear restriction fishing opportunities could be implemented. Upon the conclusion of the Department's review, the number of trout streams with gear restrictions doubled, thus increasing angler opportunities. This Order is up for renewal and is recommended to be renewed as written with immediate effect.

Issue Pros and Cons
Renewal of the Order will result in maintaining the Order as mandated by the Legislature in MCL 324.48701. Gear restrictions allow managers to develop a wide variety of different angling opportunities for anglers who fish in Michigan. One con is that some anglers, who fish primarily with live or natural bait, may feel that their preferred way to fish on some trout streams is being taken away from them.

Biological
Biological information is the primary component managers use to determine whether a stream would be a good candidate for gear restrictions.

Social
Some anglers are highly supportive of gear restrictions while others are not. Anglers who fish primarily with artificial lures for trout are very supportive. Anglers who prefer to fish with natural or live bait are generally not as supportive of gear restrictions. Anyone can fish in gear restricted waters; however, it comes down to personal preference whether or not an angler wants to fish as prescribed by law for that section of stream.

Economic
The Department does not expect the proposed renewal of the Order to have any significant budgetary or personnel implications.

Recommendation:

This Order is being submitted for information and consideration. This item appears on the Department's September 2015 calendar and may be eligible for approval on November 5, 2015.

James Dexter, Chief
Fisheries Division

Gary Hagler, Chief
Law Enforcement Division

for Russ Mason, Ph.D., Chief
Wildlife Division

for Bill O'Neill, Chief
Forest Resources Division

for Ronald A. Olson, Chief
Parks and Recreation Division

for William E. Moritz, Ph.D.
Natural Resources Deputy

FISHERIES ORDER

Criteria for Selection of Trout Streams with Gear Restriction Regulations Order 213.15

By authority conferred on the Natural Resources Commission and the Department of Natural Resources by Part 487 of 1994 PA 451, MCL 324.48701 to 324.48740, it is ordered on November 5, 2015, the following section(s) of the Fisheries Order shall read as follows:

Introduction

Michigan can boast of 36,000 miles of rivers, streams and creeks, of which over 12,000 miles harbor significant populations of trout. In the early 1950's, Dr. Albert Hazzard, well-known fisheries researcher and then head of Michigan's Institute for Fisheries Research, inventoried these trout streams and identified those that were "the best" and suitable for "flies only" regulations. To qualify, the streams needed to have strong, self-sustaining trout populations, have good insect hatches, and be wadeable and wide enough to permit fly-casting. Hazzard found approximately 1,200 miles that met these criteria.

Prior to 2002, fisheries managers were restricted to 100 miles of trout streams on which gear restrictions could be applied. The restriction, contained in 1994 PA 451, had been in place for many years, dating back to the early 1970s. This changed in 2002 when PA 434 went into effect. Among other provisions, PA 434 increased the number of available miles from 100 to 212 and mandated that the Department prepare a set of criteria to evaluate potential streams for application of gear restriction regulations. This document fulfills that obligation and provides a process and a set of criteria that will be used to 1) evaluate existing waters in the Gear Restricted Streams category and 2) evaluate potential streams for inclusion in the restricted category.

The information presented here was developed as a tool for fisheries managers to use in the evaluation of trout streams, and to help decide whether gear restriction regulations may be appropriate on those streams. By design, biological and physical conditions of the streams form the basis of the criteria. However, it is clearly recognized that other aspects such as social, geographical, and even political issues must be considered prior to making a final decision on a particular waterway. Those involved with the development of the criteria understood that it was important to set up strict enough guidelines to narrow the scope of potential/satisfactory streams, while still allowing managers some flexibility in their decision making.

History of Criteria

The "origin" for the criteria dates back to the 1980s when Fisheries Division collaborated with constituent groups in an effort to develop a user-friendly Blue Ribbon Trout Streams brochure. At the time, virtues such as stream productivity, fishability, access, and wadeability were identified as some of the more important features of streams commonly considered "blue ribbon" quality. Efforts to develop criteria were renewed during the 1998 Inland Trout/Salmon regulation review process as the Division worked with the external Coldwater Steering Committee (Anglers of the Au Sable, Trout Unlimited, Michigan United Conservation Clubs, Michigan Steelhead and Salmon Fisherman's Association, Federation of Fly Fishers, Michigan River Guides Association, and others). Starting with the "rough" framework of criteria mentioned above, the Committee produced several drafts over the course of the following 2-3 years. Anticipating a legislative attempt to modify the number of miles available for gear-restriction regulations, the Division shaped the set of criteria in 2001 into its current form. Reviewed several times both internally (Fisheries Division biologists) and by constituent groups (Coldwater Steering Committee), the draft criteria were presented in October 2002 at the statewide Biologist Meeting in Grayling. The Internal Coldwater Steering Committee met in December 2002 to incorporate comments from the October meeting into the final draft and prepare a final set of conditions for evaluation.

Philosophy of Gear Restricted Waters

In 2000 Fisheries Division implemented a set of significant changes to inland trout and salmon regulations. The supporting documentation that accompanied the changes included background information defining the categories (Types) of streams and the rationale for each Type. Representing a small yet highly significant portion of the total trout stream mileage, the gear restricted categories included a general philosophy behind the use of gear restrictions in fisheries management. Following are excerpts from that document, which are applicable to this discussion:

> *Public values concerning angling appear to have evolved considerably since Michigan's fishing regulations were last thoroughly reviewed in the late 1970s and early 1980s. [More] anglers fish primarily for the recreation. These anglers release all or most of the fish they catch even when harvest is legal. These practices are widely associated with organized trout and bass anglers, but are also practiced by other anglers. Catch and release fishing has become more popular for species such as stream trout, bass, muskellunge, northern pike, and stream-run steelhead.*
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> *More anglers also appear to have increased their emphasis on catching large fish. Amongst some anglers, there appears to be a greater emphasis on challenge and excitement as important benefits of the angling experience. Both higher catch rates (quantity) and larger fish sizes (quality) seem to be key factors in enhancing challenge and excitement. Consequently, because angler values are more diverse than ever before, Fisheries Division is committed to providing diverse fishing opportunities for all types of anglers.*
>
> *Recreational fishing gear and methods are generally restricted for one of three reasons:*

- *To enforce principles of fair chase by assuring that fish are captured individually and with sufficient difficulty;*
- *To prevent the spread of bait species into waters where they may be undesirable;*
- *To reduce mortality of fish which may not be legally harvested.*

Fisheries Division is committed to the long-term protection of rare and valuable resources and to identifying those streams that can produce "exceptional" fisheries. It is generally accepted that some combination of gear restrictions, season restrictions, and reduced possession limits are critical to the success of these efforts. In looking at available state resources, certainly Fisheries Division strives to develop those waters with stable, naturally-reproduced fisheries. Still, other waters in varying stages of rehabilitation may provide exceptional fisheries without natural reproduction (relying on stocking to produce expected fishery). These are unique resources that have most of the characteristics necessary to produce an exceptional fishery, and long-term protection would be desirable in these situations.

Special regulations waters are not only very popular, they can substantially increase the public value generated from Michigan's outstanding array of trout streams. However, the response of the trout populations of any of these streams to special regulations will be governed to a large degree by a set of key biological conditions. It is important that these biological considerations be carefully weighed in the designation process because if they are not appropriate, they will likely fall short of meeting public expectations for improvement in trout size and abundance. Only a portion of these possess biological conditions favorable for substantial improvement in trout size and abundance. Many are as good as they can be, or nearly so, under the protection of our current trout fishing rules.

The biological criteria that need to be considered are simple and common to nearly all animal populations. They include rates of reproduction and recruitment, growth, and mortality (both natural and fishing). Before selecting any waters for special regulations, no matter how popular or well suited they may seem on the surface, those waters shall be screened by these important biological criteria. Only in that way can appropriate regulations be imposed to produce desired changes and outcomes.

Applying the Criteria

As previously mentioned, the purpose of this Order is to assist fisheries managers in their evaluation of streams for inclusion in the gear restricted category. It is proposed that Fisheries Division personnel solicit candidate waters that not only qualify as productive and appealing trout streams, but whose trout populations would likely prosper under certain special regulations because of favorable rates of growth, survival, and recruitment.

The criteria are set up as a narrative and accompanying flowchart. Each "step" of the flowchart presents a question to be answered about an individual stream/reach. The first four (4) questions represent biological conditions/factors that pertain to the respective stream. Depending on the response to each question, managers will advance to the next question or to a "STOP" command. The "STOP" command means that the stream does not meet the minimum criteria and should not be considered as an option. The exceptions to this rule are if Natural Mortality is high, or if Fishing Mortality is low. In these cases, other considerations (such as geographical, political, or social factors) may be considered before deciding whether to move the stream forward in the screening process. Managers must first decide whether a stream meets the Phase 1 and Phase 2 criteria. If so, other issues should then be taken into account, and these are described in further detail in the narrative portion that accompanies the flowchart.

Other Considerations

Social and Political Concerns

Aside from the biological and physical factors that must be considered in determining whether or not a stream should be included in the gear restricted category, there are other issues that are important, even critical, to the discussion. Political realities and social pressures/nuances at the local, regional, or state level are non-tangible criteria that factor into the equation. Certain user groups, and many anglers, in general favor the concept of moving additional waters into the categories that have gear restriction regulations. For others, further restricting fishing opportunities based on tackle type is considered unfair, overzealous, and/or not necessary to "protect" any fisheries.

This last point has some validity. During the 1998-2000 review of Inland Trout/Salmon regulations, Fisheries Division made it clear to anglers, that for all practical purposes, existing trout/salmon regulations on inland streams protect trout biologically. We suggested that by placing more restrictive regulations on stream reaches (gear restrictions), unique and diverse fishing opportunities could be enhanced throughout the state. This concept is actually part of the philosophical argument for gear restricted categories

While the philosophy is sound, not all anglers support or agree with it. For example, take a stream reach that traditionally has been "all tackle" and/or supported a fishery for a certain species. If the stream reach meets the established biological criteria and a manager proposes to include that reach in the gear restricted category, the proposal may spark local or regional opposition simply based on it moving into a restricted gear status. Or, due to the nature of the regulation (i. e., catch and release) anglers may oppose it on the grounds that the harvest restriction is extreme.

Once a stream is identified as a candidate for the gear restricted category, opposition may be anticipated from riparian landowners living along all-tackle streams. This occurred in 2000 when Fisheries Division proposed flies "only" designation for the upper Manistee River. While riparian landowner interests/comments/rights carry no more significance than the general public, reaction at some level should be anticipated.

Managers also should be aware of politically sensitive areas. A good example is the decision to apply gear restrictions to Johnson's Creek, Wayne County. Prior to PA 434 of 2002, Johnson's Creek would

not have been placed in this category strictly on the basis of biological criteria. However, recent legislation mandated that the stream be placed in the gear restricted category.

Geographical Diversity

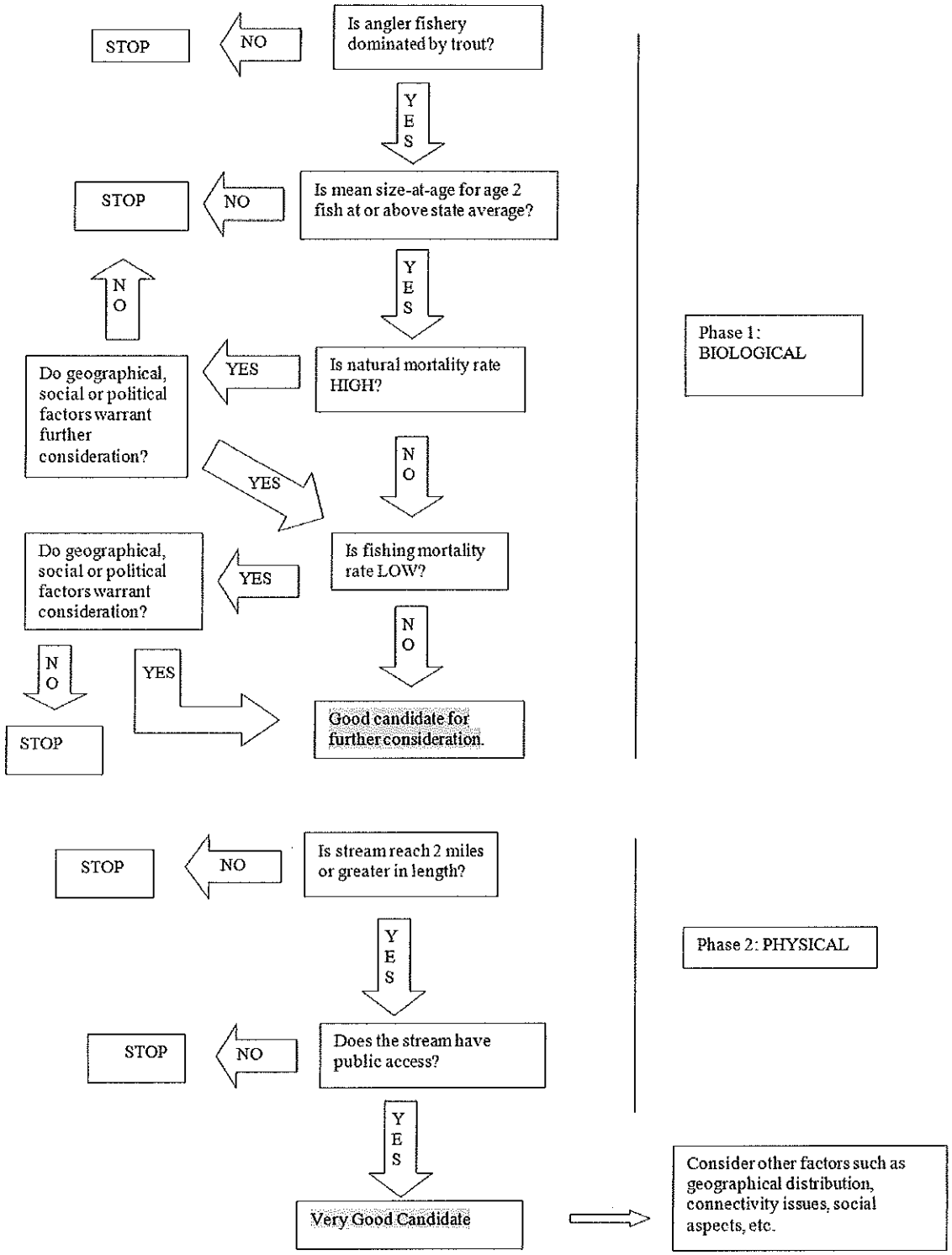
Michigan is blessed with an abundance of cold waters, and anglers recreate in all corners and latitudes of the state, despite a population centered in southeast Lower Michigan. Geographical diversity should be considered when establishing additional gear-restricted trout fishing opportunities, both regionally (within a particular Management Unit) and on a statewide basis. Thus, as managers evaluate streams within their respective Units, the decision-making process should take into account such things as the number of gear-restrictions already established within the Unit and the potential use (increase/decrease) of the stream under the proposed regulation. The consideration of geographical distribution of streams with gear restrictions should not drive the decision; rather, it should be used only after the biological and physical criteria have been weighed and when deciding among multiple streams within a given area/Unit.

Connectivity

Regulations that are more restrictive than those for Type 1 trout waters are unlikely to generate desired changes in trout populations and angling quality if trout in the stream reach are exposed to significant increases in angling mortality when they emigrate to waters with less restrictive regulations. Seasonal movements of trout within streams may be extensive depending upon their needs for foraging, spawning, thermal refuge, or other life history requirements. The length of stream on which more restrictive regulations are applied should be large enough to buffer effects of angling mortality on trout whose range of movement exposes them to higher angling mortality in adjacent stream reaches.

Trout less than 12 inches long generally move less than one mile during the summer months, when most angling mortality occurs. By contrast, the summer range of movement for trout larger than 12 inches is frequently greater than one mile. Fall and winter ranges of movement are usually substantially larger than in summer. Therefore, Fisheries Division recommends that stream sections where more restrictive regulations are applied should be a minimum of two miles long, and segments that are at least five miles long are even more likely to buffer effects of angling mortality in adjacent stream reaches.

Criteria For Selection of Trout Streams With Gear Restriction Regulations



This Order shall be assigned number FO-213.15, and is entitled "Criteria for Selection of Trout Streams with Gear Restriction Regulations."

This Order supersedes the order entitled "Criteria for Selection of Trout Streams with Gear Restriction Regulations," effective April 1, 2010, and assigned number FO-213.10.

This Order shall take immediate effect on November 5, 2015 and shall remain in effect until amended/rescinded.

Issued on this 5th day of November, 2015.

Approved as to matters over which the Natural Resources Commission has authority.

John Matonich, Chairman
Natural Resources Commission

Approved as to matters over which the Director has authority.

Keith Creagh
Director