

ONTARIO FEDERATION OF ANGLERS & HUNTERS

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Ontario Conservation Centre

OFAH FILE: 422

April 11, 2023

Mr. Dan Taillon
MNRF - Fish and Wildlife Policy Branch - Fisheries Section
300 Water Street
5th Floor, North tower
Peterborough, Ontario
K9J 3C7

Dear Dan:

Subject: Consultation on potential revisions to the rules for catch and release of fish during recreational fishing

The Ontario Federation of Anglers and Hunters (OFAH) is Ontario's largest, non-profit, fish and wildlife conservation-based organization, representing 100,000 members, subscribers and supporters, and 725 member clubs. We would like to commend the Ministry of Natural Resources and Forestry (MNRF) on taking steps to revise the rules for catch and release of fish during recreational fishing and offer the following for consideration.

At present, Section 12 of the *Ontario Fishery Regulations (OFR)*, 2007, requires anglers to immediately release any fish where the retention or possession is prohibited and, if the fish is alive, to release it in a manner that causes the least harm to that fish.

Fish that would currently be unlawful to retain or possess include fish that are out of season, over daily catch or possession limits, of a restricted size, and fish that were improperly hooked. The current wording of the rule means that any activities that delay the release of these fish such as taking photographs, measuring, or weighing, may be considered in contravention of the regulations.

The OFAH supports the MNRF's proposed changes that would:

1. Allow anglers to delay the release of a fish caught during the open season for that species only long enough to photograph, measure and weigh, if the fish is of a restricted size or over daily catch and possession limits; and
2. Require the immediate release of fish that are out of season, are species at risk or are otherwise prohibited under the existing recreational fishing rules.

The OFAH recommends maintaining the legislative wording '*immediately return*' after photographing, measuring, or weighing during the open season and under the above circumstances (i.e., restricted size, over daily catch and possession limits). Similarly, the latter part of Section 12, should be kept in that, if the fish is alive, it must be released in a manner that causes the least harm to that fish. These approaches will help ensure the new rule remains consistent with the original intent of Section 12. We also request the MNRF share a draft version of Section 12 with the OFAH prior to engaging with Fisheries and Oceans Canada on the proposal.

Survey – Release of Fish

Public consultation for this proposal consists of a survey. The first section is designed to gather information about individual anglers and their experiences (i.e., questions 1 to 9), thus, is inappropriate for the OFAH to complete. That said, the information being collected is valuable and we are interested in seeing the results and suggest publicly posting them to the fishing notices and updates page or, at the very least, supplying us with the information.

Question 10 - *Please tell us how much you oppose or support the following scenarios where an angler could delay the immediate release of a caught fish.*

The OFAH ***strongly supports*** the following scenarios:

1. Fish that are of a prohibited size, but caught during the open season, may be handled only long enough to photograph, weigh, and/or measure.
2. Fish that exceed the daily limit, but caught during the open season, may be handled only long enough to photograph, weigh, and/or measure.

The OFAH is ***neutral*** on the following scenario:

3. Handling a fish that is in season and of a permitted size, but exceeds the daily catch limit, only long enough to exchange that fish with another in your livewell.

Question 11 – *If you selected ‘oppose’ or ‘strongly oppose’ to any of the above statements, could you please expand on your answer. Please do not include personal information in your response.*

Although the OFAH **does not** ‘oppose’ or ‘strongly oppose’ the third scenario provided in Question 10, we would like to expand on our answer.

Section 23 of the OFR (Angling From a Fishing Vessel) details rules for the exchange of one or more live fish that a person has caught for another of the same species and includes Largemouth Bass, Smallmouth Bass, Walleye or Northern Pike. There has been confusion around the application of this rule, particularly when the exchange occurs after an angler’s daily catch limit has been reached. Providing greater clarity on the selective live release of fish, as explained in scenario 3, will help remove some of the longstanding confusion around this rule.

If the MNRF is considering changes to Section 12 and possibly Section 23, this would be an opportune time to remove conflicting subsections like Section 23 (2), which states: “A person who is fishing under a sport fishing licence may hold in the livewell no more than an aggregate of six largemouth bass or smallmouth bass.” This can be an issue in management zones like FMZ 14, where the catch limit is less than six fish. Removing this subsection and providing greater clarity for anglers on the exchange of fish would be a step in the right direction.

Section 23 requires fish that are released will survive after release and must be released into the waters from which they were caught, and that fish must be kept in a mechanically aerated livewell. Unfortunately, the fate of these fish is not clearcut. Research indicates that long periods of time in a livewell, overcrowded spaces, and in elevated water temperatures, can have significant negative and cumulative impacts on fish. Furthermore, the long-distance transport of fish in livewells and eventual release of these fish into new locations within the waterbody from which they were caught, is a conservation concern.

We feel it is important to consider how both scenario 3 of Question 10 and Section 23 of the OFR apply to competitive fishing events. Although the OFAH appreciates clarity on the application of Section 23, we also recognize a need for better oversight of competitive fishing events in order to reduce stress and other negative biological impacts on fish populations.

Question 12 – Below are a number of scenarios where delaying the release of a fish would not be permitted under the proposal. Anglers would have to follow the guidance in each scenario to comply with the proposed rules. For clarity, selecting 'Support' or 'Strongly Support' means you agree with the requirements in the scenario.

The OFAH **strongly supports** all of the scenarios outlined in Question 12.

Question 14 – How important are the following reasons for delaying the release of a fish?

Of the provided reasons for delaying the release of a fish, the OFAH most values the following:

- Measuring length with respect to size limits.
- Allowing the fish to recover prior to release.
- Documenting a 'trophy' catch (e.g., length, girth, pictures).
- Personal documentation (e.g., photo, measurement) of non-trophy fish.
- Participating in a community science program (e.g., angler diary).

Question 16 – Based on your experience and knowledge, how important are the following factors in ensuring a fish can survive after being caught?

Of the provided factors for ensuring a fish survives after being caught, the OFAH most values the following:

- Air exposure (time out of the water).
- Hooking location (e.g., lip, gills, body).
- Bait type (e.g., natural, artificial).
- Air temperatures and weather conditions.
- Water temperature.
- The depth the fish is angled from.
- Containment (e.g., livewell, bucket, stringer).
- Vertical hold or other improper handling.

Additional considerations

The MNRF is proposing to work with the federal government to establish existing prohibitions under the OFR as contraventions not currently identified in the *Contraventions Regulations* so that tickets can be issued, including Section 12. Whether it is the current version of Section 12 or a future iteration, we are interested in how the Kienapple principle has been considered.

This rule prohibits a person from being convicted of two offences that are as a result of the same act. It is our understanding that Conservation Officers receive training on the Kienapple principle but how would this translate to a ticketable system for Section 12. For example, if an angler was to have an overlimit of fish and also failed to immediately release fish, what actions (if any) would be taken to prevent officers from issuing multiple charges for the same offence? On the other hand, would this be a nonissue because it wouldn't be brought to the attention of the courts because the offence would now be ticketable.

Closing remarks

The proliferation of size-based regulations and increased use of cell phone cameras are a significant contributor to the present need for an evolution in Ontario's rules around the release of fish. The MNRF's proposal has real potential to improve the overall angling experience in Ontario, provide opportunities to facilitate participation with community science programs, and allows for catch-photo-release style competitive fishing events while avoiding regulatory workarounds for Section 12.

Fishing tournaments are on the rise across the province and, with clear linkages to these events, this proposal also opens up the discussion around their oversight and management to ensure they remain sustainable and continue to be an important socio-economic fixture in Ontario.

The OFAH has done an extensive review of fishing tournaments across the province, how they are operated, their biological impacts, as well as conducting a jurisdictional scan of how other agencies manage them. We would like to explore sustainable strategies with the MNRF while ensuring these events remain an important part of the fishing experience in Ontario now and into the future. Thank you for consideration of our comments and recommendations.

Yours in Conservation,

A handwritten signature in black ink, appearing to read 'A. Weir', with a stylized flourish at the end.

Adam Weir
Fisheries Biologist

AW/jb

cc: OFAH Board of Directors
OFAH Fisheries Advisory Committee
Angelo Lombardo, OFAH Executive Director
Matt DeMille, OFAH Director, Policy & Programs
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