

1997-98 SESSION
COMMITTEE HEARING
RECORDS

Committee Name:

Joint Committee For
Review of Administrative
Rules (JCR-AR)

Sample:

Record of Comm. Proceedings ... RCP

- 05hrAC-EdR_RCP_pt01a
- 05hrAC-EdR_RCP_pt01b
- 05hrAC-EdR_RCP_pt02

➤ Appointments ... Appt

➤ **

➤ Clearinghouse Rules ... CRule

➤ 97hrJCR-AR_Crule_98-086

➤ Committee Hearings ... CH

➤ **

➤ Committee Reports ... CR

➤ **

➤ Executive Sessions ... ES

➤ **

➤ Hearing Records ... HR

➤ **

➤ Miscellaneous ... Misc

➤ **

➤ Record of Comm. Proceedings ... RCP

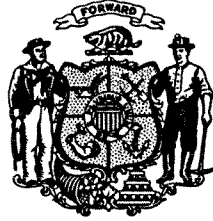
➤ **

98-086 - NR 20 - WALLEYE LIMITS
(EMERGENCY RULE)

RULES CLEARINGHOUSE

Ronald Sklansky
Director
(608) 266-1946

Richard Sweet
Assistant Director
(608) 266-2982



David J. Stute, Director
Legislative Council Staff
(608) 266-1304

One E. Main St., Ste. 401
P.O. Box 2536
Madison, WI 53701-2536
FAX: (608) 266-3830

CLEARINGHOUSE REPORT TO AGENCY

[THIS REPORT HAS BEEN PREPARED PURSUANT TO S. 227.15, STATS. THIS IS A REPORT ON A RULE AS ORIGINALLY PROPOSED BY THE AGENCY; THE REPORT MAY NOT REFLECT THE FINAL CONTENT OF THE RULE IN FINAL DRAFT FORM AS IT WILL BE SUBMITTED TO THE LEGISLATURE. THIS REPORT CONSTITUTES A REVIEW OF, BUT NOT APPROVAL OR DISAPPROVAL OF, THE SUBSTANTIVE CONTENT AND TECHNICAL ACCURACY OF THE RULE.]

CLEARINGHOUSE RULE 98-086

AN ORDER to amend NR 20.037 (2), relating to readjustment of daily bag limits for walleye in response to tribal harvest.

Submitted by **DEPARTMENT OF NATURAL RESOURCES**

06-09-98 RECEIVED BY LEGISLATIVE COUNCIL.

07-02-98 REPORT SENT TO AGENCY.

RNS:GAA:kjf:jt

LEGISLATIVE COUNCIL RULES CLEARINGHOUSE REPORT

This rule has been reviewed by the Rules Clearinghouse. Based on that review, comments are reported as noted below:

1. STATUTORY AUTHORITY [s. 227.15 (2) (a)]

Comment Attached YES NO

2. FORM, STYLE AND PLACEMENT IN ADMINISTRATIVE CODE [s. 227.15 (2) (c)]

Comment Attached YES NO

3. CONFLICT WITH OR DUPLICATION OF EXISTING RULES [s. 227.15 (2) (d)]

Comment Attached YES NO

4. ADEQUACY OF REFERENCES TO RELATED STATUTES, RULES AND FORMS
[s. 227.15 (2) (e)]

Comment Attached YES NO

5. CLARITY, GRAMMAR, PUNCTUATION AND USE OF PLAIN LANGUAGE [s. 227.15 (2) (f)]

Comment Attached YES NO

6. POTENTIAL CONFLICTS WITH, AND COMPARABILITY TO, RELATED FEDERAL
REGULATIONS [s. 227.15 (2) (g)]

Comment Attached YES NO

7. COMPLIANCE WITH PERMIT ACTION DEADLINE REQUIREMENTS [s. 227.15 (2) (h)]

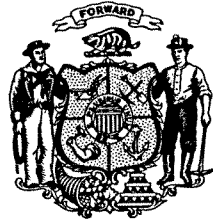
Comment Attached YES NO

WISCONSIN LEGISLATIVE COUNCIL STAFF

RULES CLEARINGHOUSE

Ronald Sklansky
Director
(608) 266-1946

Richard Sweet
Assistant Director
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David J. Stute, Director
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CLEARINGHOUSE RULE 98-086

Comments

[NOTE: All citations to "Manual" in the comments below are to the Administrative Rules Procedures Manual, prepared by the Revisor of Statutes Bureau and the Legislative Council Staff, dated October 1994.]

5. Clarity, Grammar, Punctuation and Use of Plain Language

The word "the" should be inserted before the first "actual" in the new material.

ORDER OF THE STATE OF WISCONSIN NATURAL RESOURCES BOARD
AMENDING RULES

The Wisconsin Natural Resources Board proposes an order to amend NR 20.037(2) relating to readjustment of daily bag limits for walleye in response to tribal harvest

FH-41-98

Analysis prepared by the Department of Natural Resources

Statutory authority: ss. 29.174(3) and 227.11(2)(a), Stats.
Statutes interpreted: s. 29.174(1) and (2), Stats.

This order allows the secretary to readjust the daily bag limits for walleye or the minimum size limits for muskellunge after the spring spearfishing season, based on anticipated tribal harvest. If the actual tribal walleye harvest subsequently exceeds anticipated levels, the daily bag limit or minimum size limit will be adjusted the next year to reflect both the actual harvest from the previous year and the harvest goal for the next year.

SECTION 1. NR 20.037(2) is amended to read:

NR 20.037(2) READJUSTMENT. ~~If the Chippewa bands inform the department that they have completed harvesting and their goal has not been reached,~~ After May 30 of each year, the secretary may raise the daily bag limit or reduce the minimum size limit to the limit specified as appropriate using the percent of the safe harvest level expected to be harvested through March 1 of the next year as indicated in sub. (1). ^{Re?} If actual harvest subsequently exceeds the expected harvest level, the daily bag limit may be reduced the following year to reflect the actual harvest for that year and the harvest goals of the Chippewa bands for the next year. If a new population estimate is made, the safe harvest level shall be changed accordingly and the secretary may adjust the daily bag limit or minimum size limit according to the percentage of the new safe harvest level that is expected to be harvested as indicated in sub. (1), where deemed necessary to remain consistent with the safety factors established under *Lac Courte Oreilles v. State of Wis.*, 707 F. Supp. 1034 (W. D. Wis. 1989). The readjusted daily bag and size limits shall be in effect until March 1 of the year following the tribal harvest.

The foregoing rule was approved and adopted by the state of Wisconsin Natural Resources Board on _____.

The rule shall take effect on the first day of the month following publication in the Wisconsin administrative register as provided in s. 227.22(2)(intro.), Stats.

Dated at Madison, Wisconsin, _____.

STATE OF WISCONSIN
DEPARTMENT OF NATURAL RESOURCES

By _____
George E. Meyer, Secretary

(Seal)

ORDER OF THE STATE OF WISCONSIN NATURAL RESOURCES BOARD
AMENDING RULES

The Wisconsin Natural Resources Board adopts an emergency order to amend NR 20.037(2) relating to readjustment of daily bag limits for walleye in response to tribal harvest

FH-42-98 (E)

021 Analysis prepared by the Department of Natural Resources

Statutory authority: ss. 29.174(3), 227.11(2)(a) and 227.24, Stats.

Statutes interpreted: ss. 29.174(1) and (2), Stats.

This order allows the secretary to readjust the daily bag limits for walleye or the minimum size limits for muskellunge after the spring spearfishing season, based on anticipated tribal harvest. If the actual tribal walleye harvest subsequently exceeds anticipated levels, the daily bag limit or minimum size limit will be adjusted the next year to reflect both the actual harvest from the previous year and the harvest goal for the next year.

SECTION 1. NR 20.037(2) is amended to read:

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Finding of Emergency

The Department of Natural Resources finds that an emergency exists and the foregoing rule is necessary for the immediate preservation of the public health, safety or welfare. A statement of facts constituting the emergency is:

The Chippewa bands set harvest goals for walleye on several waters each year prior to the spring spearing season. The Department then reduces daily bag limits on individual waters for anglers in response to these harvest goals. Frequently, the Chippewa harvest goals are not met on many waters and notification that harvesting is complete is not given to the Department. The unused tribal harvest results in unnecessarily low walleye bag limits for anglers. On waters where Chippewa harvest goals are established but not met, the resulting reduced bag limits are not needed to protect walleye populations. Walleye bag limits lower than 3 per day result in reduced fishing opportunities and have led to tensions between anglers and the Chippewa tribes. The reduced daily bag limits also result in hardships on businesses dependent upon tourism and sportfishing in the ceded territory. The foregoing rule will allow the Department of Natural Resources to increase the walleye daily bag limits for anglers on waters where the Chippewa harvest goals are not met.

The foregoing rule was approved and adopted by the state of Wisconsin Natural Resources Board on May 27, 1998.

The rule shall take effect upon publication in the official state newspaper as provided in s. 227.24(1)(c), Stats.

Dated at Madison, Wisconsin,

May 28, 1998

STATE OF WISCONSIN
DEPARTMENT OF NATURAL RESOURCES

By

George E. Meyer
George E. Meyer, Secretary

(Seal)

ORIGINAL UPDATED
 CORRECTED SUPPLEMENTAL

FISCAL ESTIMATE
DOA-2048 N(R10/94)

Subject Mid-season readjustments of walleye and muskellunge daily bag limits and size limits in the ceded territory

Fiscal Effect

State: No State Fiscal Effect

Check columns below only if bill makes a direct appropriation or affects a sum sufficient appropriation.

Increase Costs - May be possible to Absorb Within Agency's Budget Yes No

- Increase Existing Appropriation Increase Existing Revenues
- Decrease Existing Appropriation Decrease Existing Revenues
- Create New Appropriation

Decrease Costs

Local: No local government costs

- 1. Increase Costs
 Permissive Mandatory
- 2. Decrease Costs
 Permissive Mandatory

- 3. Increase Revenues
 Permissive Mandatory
- 4. Decrease Revenues
 Permissive Mandatory

5. Types of Local Governmental Units Affected:

- Towns Villages Cities
- Counties Others _____
- School Districts WTCS Districts

Fund Sources Affected

GPR FED PRO PRS SEG SEG-S

Affected Ch. 20 Appropriations

Assumptions Used in Arriving at Fiscal Estimate

SUMMARY OF BILL - The rule being promulgated is based on biological and sociological findings and public comments and will have no adverse impact on the fisheries of the state. This proposal contains rule changes approved by the Natural Resources Board and the rules themselves will have no fiscal impact on either state or local units of government.

The procedures required to implement these rules have been budgeted for and will have a minor fiscal effect on state government due to one-time costs for travel to hearings and printing hearing materials within current budget.

The following assumptions were made in order to arrive at the fiscal estimate for this rule change:

1. The proposed rules do not affect relations with local units of government or other state agencies.
2. No liability or revenue fluctuations are anticipated.
3. No staffing is required by state or local units of government.
4. State DNR law enforcement personnel will enforce these rules during the normal course of their duties.
5. No fee collection is involved with these rule changes.

FISCAL IMPACT - None anticipated.

Long-Range Fiscal Implications

None.

2

Agency/Prepared by: (Name & Phone No.)

Joe Polasek, 266-2794

Authorized Signature/Telephone No.

Date

5-6-98

FISCAL ESTIMATE WORKSHEET

1998 Session

Detailed Estimate of Annual Fiscal Effect
DOA-2047 (R10/94)

ORIGINAL UPDATED
 CORRECTED SUPPLEMENTAL

LRB or Bill No./Adm. Rule No.
NR 20

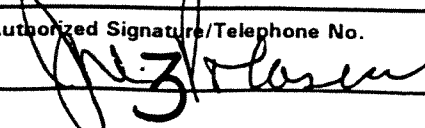
Amendment No.

Subject: Mid-season readjustments of walleye and muskellunge daily bag limits and size limits in the ceded territory

I. One-Time Costs or Revenue Impacts for State and/or Local Government (do not include in annualized fiscal effect):
Approximately \$100.

II. Annualized Costs:	Annualized Fiscal impact on State funds from:	
A. State Costs by Category	Increased Costs	Decreased Costs
State Operations - Salaries and Fringes	\$ 0	\$ 0
(FTE Position Changes)	0 (FTE)	0 (-FTE)
State Operations - Other Costs	0	0
Local Assistance	0.0	0
Aids to Individuals or Organizations	0	0
TOTAL State Costs by Category	\$ 0	\$ 0
B. State Costs by Source of Funds	Increased Costs	Decreased Costs
GPR	\$ 0	\$ 0
FED	0	0
PRO/PRS	0	0
SEG/SEG-S	0	0
III. State Revenues:	Increased Rev.	Decreased Rev.
<small>Complete this only when proposal will increase or decrease state revenues (e.g., tax increase, decrease in license fee, etc.)</small>		
GPR Taxes	\$ 0	\$ 0
GPR Earned	0	0
FED	0	0
PRO/PRS	0	0
SEG/SEG-S	0	0
TOTAL State Revenues	\$ 0	\$ 0

	<u>STATE</u>	<u>LOCAL</u>
NET CHANGE IN COSTS	\$ 0	\$ 0
NET CHANGE IN REVENUES	\$ 0	\$ 0

Agency/Prepared by: (Name & Phone No.) Joe Polasek, 266-2794	Authorized Signature/Telephone No. 	Date 5-6-98
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State of Wisconsin
Department of Natural Resources

027 0 13

**NOTICE TO PRESIDING OFFICERS
OF PROPOSED RULEMAKING**

Pursuant to s. 227.19, Stats., notice is hereby given that final draft rules are being submitted to the presiding officer of each house of the legislature. The rules being submitted are: 3

Natural Resources Board Order No. FH-41-98

Legislative Council Rules Clearinghouse Number 98-086

Subject of Rules Readjustment of daily bag limits
for walleye in response to tribal harvest

Date of Transmittal to Presiding Officers September 28, 1998

Send a copy of any correspondence or notices pertaining to this rule to:

**Carol Turner, Rules Coordinator
DNR Bureau of Legal Services
LC/5, 101 South Webster**

266-1959

REPORT TO LEGISLATURE

NR 20.037(2), Wis. Adm. Code
Readjustment of daily bag limits for walleye
in response to tribal harvest

Board Order No. FH-41-98
Clearinghouse Rule No. 98-086

Statement of Need

Current code regulations require notification of the Department by the Chippewa bands that they have completed harvesting on lakes and are releasing their remaining harvest quotas before the Secretary may readjust bag and size limits. The original purpose of this code was to provide additional opportunities for anglers once the bands had completed their harvest. When originally written it was assumed that significant tribal harvest under the quota system would also occur in the summer and fall through gill netting and/or spearing. The bands have not harvested a significant number of fish after the spring spearing season since the off-reservation harvest began in 1985 (1992 was the highest year for harvest after the spring season and 262 walleye out of 21,575 were taken after the spring season.)

The proposed order would authorize the Secretary to raise the bag or size limits on waters declared by the bands based on the actual spring harvest and our expectation of harvest during the rest of the year. There are typically a large number of lakes declared for harvest at a 2-bag level under s. NR 20.037(1). For those waters that are declared but not harvested, or that are harvested below the actual declaration and below the levels established in s. NR 20.037(1), the Department seeks to establish a 3-bag limit for state anglers at the conclusion of the spring spear fishing season. If actual tribal harvest subsequently exceeds the expected harvest level, the daily bag limit for the following year may be adjusted to account for the actual harvest that year and the harvest goal for the next year.

Modifications as a Result of Public Hearing

No modifications were made as a result of the public hearing.

Appearances at the Public Hearing and Their Position

No appearance slips were filed at the public hearing.

Response to the Legislative Council Rules Clearinghouse Report

The recommendations were accepted.

Final Regulatory Flexibility Analysis

The proposed revision affects individual sport anglers in the ceded territory. This action does not directly affect small business; therefore, no final regulatory flexibility analysis is required.

ORDER OF THE STATE OF WISCONSIN NATURAL RESOURCES BOARD
AMENDING RULES

The Wisconsin Natural Resources Board proposes an order to amend NR 20.037(2) relating to readjustment of daily bag limits for walleye in response to tribal harvest

FH-41-98

Analysis prepared by the Department of Natural Resources

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Statutes interpreted: s. 29.174(1) and (2), Stats.

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(W. D. Wis. 1989). The readjusted daily bag and size limits shall be in effect until March 1 of the year following the tribal harvest.

The foregoing rule was approved and adopted by the State of Wisconsin Natural Resources Board on September 23, 1998

The rule shall take effect on the first day of the month following publication in the Wisconsin administrative register as provided in s. 227.22(2)(intro.), Stats. 3

Dated at Madison, Wisconsin, _____.

STATE OF WISCONSIN
DEPARTMENT OF NATURAL RESOURCES

By _____
George E. Meyer, Secretary

(SEAL)