

01-037

State of Wisconsin
Department of Natural Resources

**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:

Natural Resources Board Order No. FH-12-01

Legislative Council Rules Clearinghouse Number 01-037

Subject of Rules Sport fishing and commercial
fishing for yellow perch in Green Bay

Date of Transmittal to Presiding Officers November 6, 2001

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

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

Telephone: 266-1959
e-mail: turnec@dnr.state.wi.us

An electronic copy of the proposed rule may be obtained by contacting Ms. Turner

REPORT TO LEGISLATURE

NR 20 and 25, Wis. Adm. Code

Sport fishing and commercial fishing for yellow perch in Green Bay

Board Order No. FH-12-01

Clearinghouse Rule No. 01-37

Statement of Need

Estimates of yellow perch abundance and natural reproduction in Green Bay indicate a declining population and suggest that action is needed to protect the remaining yellow perch and maximize the likelihood of an early recovery. An emergency order effective on July 1, 2001 reduced the sport bag limit from 25 to 10 and reduced the annual commercial harvest limit from 200,000 pounds to 20,000 pounds. The proposed rule will keep these reduced limits in effect for 2 years.

Yellow perch abundance in Green Bay declined over 90% between 1988 and 2000. The estimated total weight of all yellow perch in Green Bay dropped from over 10,000,000 pounds in 1988 to under 500,000 pounds in 2000. Since 1990 the annual sport fishing harvest has declined similarly, from over 3,000,000 fish in 1990 and 1991 to fewer than 200,000 fish in 2000. Periodic reductions in total allowable commercial harvests, along with declining yellow perch abundance and interference from the abundance white perch, have caused commercial harvests to decline during this period also.

Modifications as a Result of Public Hearing

No modifications were made as a result of public hearing. A two year sunset was added to the proposed rule at the Natural Resources Board meeting.

Appearances at the Public Hearings and Their Position

May 21, 2001 – Peshtigo

In support:

Ronald H. Vanlerberghe, M.B.K. Sport Shop, W5971 Hwy. 180, Marinette, WI 54143

Phillip C. Klumb, 1517 17th Avenue, Menominee, Michigan 49858

Glenn O. Yeazel, N3126 River Bend Drive, Peshtigo, WI 54157

In opposition:

Robert J. Kuntze, R.S. Fish LLP, N7360 Hwy. M35, Cedar River, MI 49813

Francis D. Erickson, 2920 Taylor Street, Marinette, WI 54143

Dick Doeren, 107 Smith Avenue, Oconto, WI 54153

John Kulpa, 2609 County O, Two Rivers, WI 54241

Jennifer Benson, N1068 Shore Drive, Marinette, WI 54143

Dean Swaer, 616 N. Fisk, Green Bay, WI 54303

Wesley R. LaFever, 609 Baxter Street, Marinette, WI 54143

Sherry & Jim Benson, N1068 Shore Drive, Marinette, WI 54143

Kent Kostelecky, 112 Williams Street, Marinette, WI 54143

Ellis Mercier, Oconto Harbor Commission, 125 Washburn Avenue, Oconto, WI 54153
Ken Vieth, 828 Jackson Street, Marinette, WI 54143
John R. Ihde, 3822 N. River Road, Oconto, WI 54153
Thomas Heindel, 100 Brazeau Avenue, Oconto, WI 54153
Charles Nylund, 543 Dousman Street, Marinette, WI 54143

As interest may appear:

Norbert Swaer, 3050 Fish House Road, Oconto, WI 54153
James W. Kadlec, 226 4th Street, Oconto, WI 54153
David A. Swaer, 4109 Pen. Bayshore Road, Oconto, WI 54153
Joe Schroedle, President, Portfield Sportsman Club, W2340 Twin Pine Lane, Portfield, WI 54159
Russell E. Miller, N2001 Kutz Road, Marinette, WI 54143
Len Sadowski, W4059 Peters Road, Marinette, WI 54143
James Benson, N1068 Shore Drive, Marinette, WI 54143
David Thibodeau, Peshtigo Times, N1780 Dahl Road, Marinette, WI 54143
Walter Wood, N4636 West Townline Road, Marinette, WI 54143
Beaumia Robert, 219 S. Franklin, Oconto Falls, WI 54154
Roger Miller, 2313 14th Avenue, Menominee, MI 49858
Norbert Moliar, 332 5th Avenue, Menominee, MI 49858
Robert Laabs, 2045 County J, Little Suamico, WI 54141
David Lee Polzin, N1952 County BB, Marinette, WI 54143
Terry Dooley, 3974 Airport Road, Oconto, WI 54153
Dan Rhode, 6120 Bayshore Road, Oconto, WI 54153

May 21, 2001 - Green Bay

In support:

Frank Herres, Wisconsin Wildlife Federation, 2230 Ledvina Circle, Green Bay, WI 54313
Billy R. Willis, 2405 Pecan Street, Green Bay, WI 54311
David Bottoni, 2516 Bittersweet, Green Bay, WI 54301
Tom Kores, 2291 Saint Kilian Road, New Franken, WI 54229
Todd Mahlik, 1331 Bellevue, Lot 103, Green Bay, WI 54302
Leland Marcelle, 2771 Sherry Lane, Green Bay, WI 54302
John Van Beek, 1263 Bayshore Road, Brussels, WI 54204
Jerry Rozell, 1129 Brosig Street, #B, Green Bay, WI 53204
Ron Roskoski, 212 S. Locust Street, Green Bay, WI 54303
Theresa Alexander, 1262 Bayshore Road, Brussels, WI 54204
Joseph Collin, 833 Harvey Street, Green Bay, WI 54302
Cyril E. Thyriion, 2363 N. 9th Street, Green Bay, WI 54304
Ron Thyriion, 2363 9th Street, Green Bay, WI 54304
Dennis L. Counard, 230 Lau Street, Green Bay, WI 54302
Allen Alexander, 1262 Bayshore Road, Brussels, WI 54204
Richard L. DeRoach, 2121 Bethany Place, Green Bay, WI 54304
Tom Jenquin, 1249 County Road C, Brussels, WI 54204
Jeff LaPlante, 1200 Desnoyers Street, Green Bay, WI 54303
Ben Englebert, 400 Newhall Street, Green Bay, WI 54302
Robert Lenz, 1659 Loretta Lane, Green Bay, WI 54302
Wayne Federspiel, P.O. Box 8032, Green Bay, WI 54308

In opposition:

Charlie Henriksen, Wis. Commercial Fishing Assn., 1597 Birch Road, Baileys Harbor, WI 54202
Gerald J. Renier, 3288 Peterson Road, Green Bay, WI 54311
Doug Tahlman, 1337 Rhode Island, Sturgeon Bay, WI 54235
Jack Schmitz, 3816 Cottage Row, Suamico, WI 54173
Robert E. Schmitz, 1736 Carroll Avenue, Green Bay, WI 54304
Bill Kust, N8859 Wellers Lane, Luxemburg, WI 54217
Robert J. Dumovich, 627 Hobon Avenue, Sheboygan, WI 53081
Don Deviley 1517 Leo Street, Green Bay, WI 54303
Tom Peters, 2684 Lakeview Drive, Suamico, WI 54173
Al Jaecks, 4613 Broadway Street, Manitowoc, WI 54220
Russ Hermsen, Chairman, Suamico Harbor Commission, 1075 Riverside Drive, Suamico, WI 54173
Joel McOlash, 825 Delaware Street, Sturgeon Bay, WI 54235
Mark R. Maricque, 628 Floral Drive, Green Bay, WI 54301
Michael M. Zettel, 140 Berber Street, Green Bay, WI 54302
Herm Frederick, P.O. Box 156, Denmark, WI 54208
Wayne DeGroot, N8849 Weller Lane, Luxemburg, WI 54217
John Josephs, 906 Eastman, Green Bay, WI 54935
Nanette E. Jameson, 2979 Sandia Drive, Green Bay, WI 54313
Peggy Beaumier, 1157 N. Taylor Street, Green Bay, WI 54303
Robert Appleton, 119 Service Road, Oneida, WI 54155
Duane M. Reha, 3743 Heron Lane, Green Bay, WI 54311
Tom Drzewiecki, 4120 BaySide Road, Suamico, WI 54173
Val Drzewiecki, 1355 Starview Lane, Green Bay, WI 54313
Eugene Marks, 1249 Crestwood Drive, Green Bay, WI 54313
Michael Hermes, 2780 Harbor Lights Lane, Suamico, WI 54173
Al DeBauche, 1706 Harold Street, Green Bay, WI 54302
Harold Rose, 101 S. Webster, DePere, WI 54115
Tom Herrera, 2034 Harold Street, Green Bay, WI 54302
Roger Mleziva, E373 JJ Road, Luxemburg, WI 54217
Patrick O'Donnell, 1130 Elizabeth Street, R7L3, Green Bay, WI 54302
Everett Marks, 2621 Shade Tree Lane, Green Bay, WI 54313
Tom Hermes, 1016 McDonald Street, Green Bay, WI 54303
Heather Hermes, 2008 Memorial Drive, #204, Green Bay, WI 54303
Carol Schmitz, 3816 Cottage Row, Suamico, WI 54173
Leon Maccaux, 1210 Sandstone Place, Green Bay, WI 54313
Paul M. Brunette, 310 N. Oakland Avenue, Oconto Falls, WI 54154
Charles Denk, 1807 Badger Street, Green Bay, WI 54303

As interest may appear:

Charles C. Weier, 358 22nd Street, Two Rivers, WI 54241
Ken Murray, 490 Stella Vista Drive, Green Bay, WI 54302
Pete Petrouske, 1498 Ponderosa Avenue, Green Bay, WI 54313
Tim Loritz, 341 Van Caster Drive, Green Bay, WI 54311
Larry Freitag, 1610 South 11th, Sheboygan, WI 53081
Don Stiller, 4919 Ball Park Road, Little Suamico, WI 54141
Ralph R. Zellner, 1771 Scray Hill Road, DePere, WI 54115
Bernie Skaletski, 1121 Grignon Street, Green Bay, WI 54301
Todd A. Teletzke, 3385 Wiggins Way, Green Bay, WI 54311
William Kreuser, 1695 Biemeret Street, Green Bay, WI 54304

Dan DeBauche, 1940 Farlon, Green Bay, WI 54302
James DeBrout, 2765 Glendale, Green Bay, WI 54303
Bob VanderLoop, 2121 Orrie Lane, Green Bay, WI 54304
Phil Moy, 705 Viebahn Street, Manitowoc, WI 54220
Alvin Gehrke, 1451 Liberty, Green Bay, WI 54304

Response to Legislative Council Rules Clearinghouse Report

The recommendation was accepted.

Final Regulatory Flexibility Analysis

No additional compliance or reporting requirements will be imposed on commercial fishers as a result of these rule changes. No additional skills are required.

ORDER OF
THE STATE OF WISCONSIN NATURAL RESOURCES BOARD
AMENDING RULES

The Wisconsin Natural Resources Board adopts an order to amend NR 20.20(73)(j)1.a. and 3.a. relating to sport fishing for yellow perch in Green Bay and its major tributaries and NR 25.06(2)(b)1. relating to commercial fishing for yellow perch in Green Bay.

FH-12-01

Analysis Prepared by Department of Natural Resources

Statutory authority: ss. 29.014(1), 29.041, 29.519(1) and 227.11(2)(a), Stats.

Statutes interpreted: ss. 29.014(1), 29.041 and 29.519(1), Stats.

SECTION 1 of the order reduces the sport fishing daily bag limit for yellow perch caught in Green Bay and its tributaries to 10. Currently the daily bag limit is 25 in total for panfish, including yellow perch. The reduced daily bag limit for yellow perch will expire June 30, 2004. The daily bag limit will then revert to the current daily bag limit.

SECTION 2 of the order reduces the annual total allowable commercial harvest of yellow perch from zone 1 (Green Bay) from 200,000 pounds to 20,000 pounds. The reduced annual total allowable commercial harvest will expire June 30, 2004. The annual total allowable commercial harvest will then return to the current 200,000 pounds.

SECTION 1. NR 20.20(73)(j)1.a., as affected by Clearinghouse Rule 01-12 (Natural Resources Board order number FM-08-01), and 3.a. are amended to read:

NR 20.20(73) SPECIES OR WATERS NOT LISTED IN SUBS. (1) TO (72)

COUNTY AND SPECIES	WATERS	AUTHORIZED METHODS	OPEN SEASON (both dates inclusive)	DAILY BAG LIMIT	MINIMUM LENGTH OTHER SIZE RESTRICTIONS (INCHES)
(j) Panfish	1. Green Bay and major Green Bay tributaries	a. Hook and line	Continuous, but the open season for yellow perch is May 20 to March 15	25 in total <u>but from the effective date of this rule ...</u> [Revisor insert date] to June 30, 2004, only <u>10 may be yellow perch</u>	None
	3. All other tributary streams, rivers and ditches to	a. Hook and Line	Continuous, but the open season for yellow perch is May 20 to March 15	25 in total <u>but from the effective date of this rule ...</u> [Revisor insert	None

Green Bay
upstream to
the first
dam or lake

date] to June
30, 2004, only
10 may be
yellow perch

SECTION 2. NR 25.06(2)(b)1. is amended to read:

NR 25.06(2)(b)1. The total allowable commercial harvest in zone 1 for any license year may not exceed 200,000 pounds, except that from the effective date of this rule ... [Revisor insert date] to June 30, 2004, the total allowable commercial harvest in zone 1 for any license year may not exceed 20,000 pounds.

The foregoing rules were approved by the State of Wisconsin Natural Resources Board on October 24, 2001.

The rules contained herein 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 _____
Darrell Bazzell, Secretary

(SEAL)



WISCONSIN LEGISLATIVE COUNCIL RULES CLEARINGHOUSE

Ronald Sklansky
Clearinghouse Director

Richard Sweet
Clearinghouse Assistant Director

Terry C. Anderson
Legislative Council Director

Laura D. Rose
Legislative Council Deputy Director

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 01-037

AN ORDER to amend NR 20.20 (73) (j) 1. and 2. and 25.06 (2) (b) 1., relating to sport fishing and commercial fishing for yellow perch in Green Bay.

Submitted by **DEPARTMENT OF NATURAL RESOURCES**

04-06-01 RECEIVED BY LEGISLATIVE COUNCIL.

04-30-01 REPORT SENT TO AGENCY.

RS:MCP:jal

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 RULES CLEARINGHOUSE

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CLEARINGHOUSE RULE 01-037

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 September 1998.]

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

“Length” is misspelled in the column heading.