

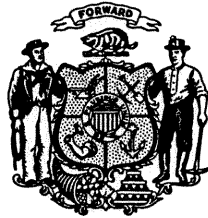
JUL 19 2000

LCRC
FORM 2

WISCONSIN LEGISLATIVE COUNCIL STAFF

RULES CLEARINGHOUSE

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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 00-102

AN ORDER to amend NR 25.02 (25) and 25.05 (1) (d), relating to commercial fishing for chubs on Lake Michigan.

Submitted by **DEPARTMENT OF NATURAL RESOURCES**

06-09-00 RECEIVED BY LEGISLATIVE COUNCIL.

07-06-00 REPORT SENT TO AGENCY.

RNS:DLL:jal;rv

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)]

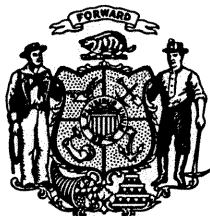
Comment Attached YES NO

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CLEARINGHOUSE RULE 00-102

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.]

2. Form, Style and Placement in Administrative Code

a. The rule contains two errors of amending current text. First, in the sixth line of s. NR 25.02 (25), at the beginning of the last set of stricken material, the notation "~~and,~~" should be replaced by "~~except that.~~" Second, in the last phrase of the entry under "Lake Michigan" in s. NR 25.05 (1) (d), the word "deeper" should not be underscored.

b. The cross-references at the end of the entry under "Lake Michigan" in s. NR 25.05 (1) (d) should be omitted; since chub fishing on Lake Michigan is subject to the cross-referenced sections regardless of s. NR 25.05 (1) (d), the cross-references are superfluous.

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

The analysis should state that SECTION 1 of the rule expands the area of the southern chub fishing zone. The rule does not expand the area of Lake Michigan.

ORDER OF
THE STATE OF WISCONSIN NATURAL RESOURCES BOARD
AMENDING RULES

The Wisconsin Natural Resources Board adopts an order to amend NR 25.02(25) and 25.05(1)(d) relating to commercial fishing for chubs on Lake Michigan

FH-26-00

Analysis Prepared by Department of Natural Resources

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

SECTION 1 of the order expands the area of Lake Michigan by amending the definition of the "southern chub fishing zone". By revising the definition, it allows chub fishing during the winter periods in water 60 fathoms deep or deeper north of the current southern chub fishing zone but south of a line extending east of the entrance of Algoma harbor. *oh, yeah?*

SECTION 2 of the order permanently opens waters of the northern chub fishing zone shallower than 60 fathoms but deeper than 55 fathoms to chub fishing during the winter period. Under current rules, fishing in the 55 to 60 fathom depth was allowed only during the current and previous license years. Without this amendment, the rule will revert on July 1, 2000 to the former restriction that no commercial chub fishing may occur at depths less than 60 fathoms during the winter fishing period, January 16 through the end of February.

SECTION 1. NR 25.02(25) is amended to read:

NR 25.02(25) "Southern chub fishing zone" means those waters of Lake Michigan lying south of a line extending east from the entrance of Kewaunee harbor to its intersection with the 45 fathom (270 feet) depth contour, then proceeding northerly along the 45 fathom depth contour to its intersection with 44°32' north latitude, then proceeding east along 44°32' north latitude a line extending east from the entrance of Algoma harbor, then proceeding east along a line from the entrance of Algoma harbor to its intersection with the Wisconsin-Michigan state line and, from January 16 to the end of February during the 1998-1999 and 1999-2000 license years; "southern chub fishing zone" means those waters of Lake Michigan lying south of a line extending east from the entrance of Kewaunee harbor to its intersection with the 45 fathom (270

*same?
no*

except that

Algoma harbor (according to Bob Gurdin): 5
break water 44°36'24"
natural ... 44°36'30"

feet) depth contour, then proceeding northerly along the 45 fathom depth contour to its intersection with a line extending east from the entrance of Algoma harbor, then proceeding east along a line from the entrance of Algoma harbor to its intersection with the Wisconsin Michigan state line.

SECTION 2. NR 25.05(1)(d) is amended to read:

| Species | A Green Bay | B Lake Michigan | C Lake Superior |
|-----------|----------------|---|--------------------|
| (d) Chubs | No open season | In the northern and southern chub fishing zones from March 1 to January 15. In the northern and southern chub fishing zones from January 16 to the end of February in water 60 fathoms deep or deeper subject to ss. NR 25.06(2)(a), 25.07(2)(a) and 25.09. From January 16 to the end of February in the 1998-1999 and 1999-2000 license years, a) in the northern chub fishing zone in waters 55 fathoms deep or deeper and b) in the southern chub fishing zone in water 60 fathoms deep or deeper subject to ss. NR 25.06(2)(a), 25.07(2)(a) and 25.09. | At all times |

no under score

-omit x-ref.

The foregoing rules were approved by the State of Wisconsin Natural Resources Board on _____.

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 _____
George E. Meyer, Secretary

(SEAL)

6

OCT 05 2000

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-26-00

Legislative Council Rules Clearinghouse Number 00-102

Subject of Rules Commercial fishing for chubs on
Lake Michigan

Date of Transmittal to Presiding Officers October 4, 2000

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 25.02 and 25.05, Wis. Adm. Code
Commercial fishing for chubs on Lake Michigan

Board Order No. FH-26-00
Clearinghouse Rule No. 00-102

Statement of Need

Two years ago, the Natural Resources Board expanded commercial chub fishing opportunities on a trial basis for the winters of 1999 and 2000. The proposed rule makes those temporary changes permanent. The rule opens waters of the northern chub fishing zone shallower than 60 fathoms but at least 55 fathoms deep to chub fishing. It also expands the area open to chub fishing to the north of the current southern chub fishing zone. By revising the definition of the southern chub fishing zone, it allows chub fishing during the winter periods in water 60 fathoms deep or deeper north of the current southern chub fishing zone, but south of a line extending east of the entrance of the Algoma harbor.

Modifications as a Result of Public Hearing

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

Appearances at the Public Hearings and Their Positions

July 14, 2000 – Sturgeon Bay

In support:

Charles Henriksen, Wis. Commercial Fishermens Association, 1597 Birch Road, Baileys Harbor, WI

In opposition – none

As interest may appear – none

July 14, 2000 – Sheboygan --- There were no appearances

Response to Legislative Council Rules Clearinghouse Report

The recommendations were accepted.

Final Regulatory Flexibility Analysis

The proposed rule would directly affect commercial chub fishers by permanently expanding winter chub fishing opportunities. No new reporting requirements are involved and no additional skills are required.

ORDER OF
THE STATE OF WISCONSIN NATURAL RESOURCES BOARD
AMENDING RULES

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Analysis Prepared by Department of Natural Resources

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

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

SECTION 1 of the order expands the area of Lake Michigan open to chub fishing by amending the definition of the "southern chub fishing zone". By revising the definition, it allows chub fishing during the winter periods in water 60 fathoms deep or deeper north of the current southern chub fishing zone but south of a line extending east of the entrance of Algoma harbor.

SECTION 2 of the order permanently opens waters of the northern chub fishing zone shallower than 60 fathoms but deeper than 55 fathoms to chub fishing during the winter period. Under current rules, fishing in the 55 to 60 fathom depth was allowed only during the current and previous license years. Without this amendment, the rule will revert on July 1, 2000 to the former restriction that no commercial chub fishing may occur at depths less than 60 fathoms during the winter fishing period, January 16 through the end of February.

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~~feet) depth contour, then proceeding northerly along the 45 fathom depth contour to its intersection with a line extending east from the entrance of Algoma harbor, then proceeding east along a line from the entrance of Algoma harbor to its intersection with the Wisconsin-Michigan state line.~~

SECTION 2. NR 25.05(1)(d) is amended to read:

| Species | A Green Bay | B Lake Michigan | C Lake Superior |
|-----------|----------------|--|--------------------|
| (d) Chubs | No open season | In the northern and southern chub fishing zones from March 1 to January 15. In the northern and southern chub fishing zones from January 16 to the end of February in water 60 fathoms deep or deeper subject to ss. NR 25.06(2)(a), 25.07(2)(a) and 25.09. From January 16 to the end of February in the 1998-1999 and 1999-2000 license years, a) in the northern chub fishing zone in waters 55 fathoms deep or deeper and b) in the southern chub fishing zone in water 60 fathoms deep or deeper. | At all times |

The foregoing rules were approved by the State of Wisconsin Natural Resources Board on September 27, 2000.

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 _____
George E. Meyer, Secretary

(SEAL)