

State of Wisconsin
Department of Natural Resources

MAR 2 1999

**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. LE-49-98

Legislative Council Rules Clearinghouse Number 98-150

Subject of Rules Wisconsin - Michigan boundary waters

Date of Transmittal to Presiding Officers March 1, 1999

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 20.02(2) and 23.02, Wis. Adm. Code
Wisconsin-Michigan boundary waters

Board Order No. LE-49-98
Clearinghouse Rule No. 98-150

Statement of Need

Historically the water that lies beyond the mouth of the Menominee River out to the end of the 2 breakwalls has been considered boundary waters for the purposes of fishing license reciprocity, season and bag limits. Both Wisconsin and Michigan conservation wardens have advised anglers that all Menominee River boundary water regulations apply. Last spring, a Michigan angler successfully challenged this interpretation. It was determined that this water in fact was part of Green Bay for which each state has different seasons and bag limits and to which license reciprocity does not apply.

The proposed rule extends the definition of the Wisconsin-Michigan boundary waters to include the waters of the Bay of Green Bay between and out to the end of the breakwalls at Marinette/Menominee. This portion of Green Bay will be subject to the same rules as the Menominee River. Corresponding rule changes are currently underway in Michigan so their rules will be similar for seasons, bag limits and license reciprocity.

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 one appeared at the public hearing.

Response to Legislative Council Rules Clearinghouse Report

The recommendations have been accepted.

Final Regulatory Flexibility Analysis

Although this rule will have no direct effect on small business, guides, bait shops and other tourism business will benefit from uniform regulations.

**ORDER OF THE STATE OF WISCONSIN
NATURAL RESOURCES BOARD
AMENDING AND CREATING RULES**

.....
The Wisconsin Natural Resources Board proposes an order to amend NR 20.03(15) and NR 23.02(10)(I) and create NR 23.02(4m) relating to Wisconsin-Michigan boundary waters.
.....

LE-49-98

Analysis Prepared by the Department of Natural Resources

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

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

In this order, SECTION 1 amends NR 20.03(15) to exclude a small portion of Green Bay water between the breakwalls off the mouth of the Menominee river from being regulated under ch. NR 20 for purposes of angling as part of Green Bay waters. SECTION 2 creates a definition for the Menominee river in ch. NR 23 as Wisconsin-Michigan boundary water and includes the small portion of Green Bay water between the breakwalls off the mouth of the Menominee river as a part of that boundary water for purposes of ch. NR 23. SECTION 3 of the Order amends NR 23.02(10)(I) to delete language made unnecessary by the definition of "Menominee river" created in SECTION 2 of the order.

SECTION 1. NR 20.03(15) as created by CHR 98-148 is amended to read:

NR 20.03(15) "Green Bay" means those waters of Lake Michigan located to the west of the Green Bay – Lake Michigan line. For the purposes of s. NR 20.20, Green Bay shall mean Green Bay, Sturgeon Bay, Sawyer's Harbor, the Sturgeon Bay ship canal from Sturgeon Bay to a line located in the NE¼ of the NW¼, section 22, T27N, R26E, Door county, commencing at a point on the southwest shore of the Sturgeon Bay ship canal directly beneath the center of the Wisconsin public service company power line and extending in a northeasterly direction beneath and parallel to the center of the power line to a point on the northeast shore of the ship canal and the Fox river from its mouth up to the dam at DePere. For purposes of this chapter, "Green Bay"

does not include that portion of Green Bay bounded by the mouth of the Menominee river on the west, the "government pier" or breakwall on the south, the "lighthouse pier" or breakwall on the north, and a line connecting the eastern-most points of those breakwalls on the east.

SECTION 2. NR 23.02(4m) is created to read:

NR 23.02(4m) "Menominee river" means the Menominee river, all impoundments downstream to its confluence with Green Bay, and that portion of Green Bay bounded by the mouth of the Menominee river on the west, the "government pier" or breakwall on the south, the "lighthouse pier" or breakwall on the north, and a line connecting the eastern-most points of those breakwalls on the east.

SECTION 3. NR 23.02(10)(l) is amended to read:

NR 23.02(10)(1)

(l) MENOMINEE RIVER
(including all impoundments downstream to
the confluence with Green Bay)

Menominee, Dickinson & Iron cos. - Michigan
Florence & Marinette cos. - Wisconsin

The foregoing rule was approved and adopted by the State of Wisconsin Natural Resources Board on February 23, 1999.

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)