

State of Wisconsin
Department of Natural Resources

MAR 26 1999

NOTICE TO PRESIDING OFFICERS

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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. FI 46-98

Legislative Council Rules Clearinghouse Number 98-177

Subject of Rules Commercial fishing on Lake Michigan and Lake Superior

Date of Transmittal to Presiding Officers March 26, 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 25.07, 25.07 and 25.08, Wis. Adm. Code
Commercial fishing on Lake Michigan and Lake Superior

Board Order No. FH-46-98
Clearinghouse Rule No. 98-177

Statement of Need

Prior to adoption of 1997 Wisconsin Act 189, the ability to allocate individual catch quotas to Lake Superior and Lake Michigan commercial fishing license holders was held by the Lake Michigan and Lake Superior Commercial Fishing Boards. The Department held, and still retains, the authority to establish overall species harvest

ORDER OF
THE STATE OF WISCONSIN NATURAL RESOURCES BOARD
AMENDING RULES

.....
The Wisconsin Natural Resources Board .
adopts an order to amend NR 25.05(3), .
25.07(1)(intro.) and (2)(intro.), (b)1.m., .
(bg)2. and (br)2. and 25.08(5) relating .
to commercial fishing on Lake Michigan .
and Lake Superior .
.....

FH-46-98

Analysis Prepared by Department of Natural Resources

Statutory authority: ss. 29.33(1), as affected by 1997 Wisconsin Act 189, and 1997 Wisconsin Act 189, sec. 3t.

Statutes interpreted: ss. 29.33(1), as affected by 1997 Wisconsin Act 198.

In order to implement the transfer of authority from the Great Lakes commercial fishing boards to the department accomplished by 1997 Wisconsin Act 189, the order amends existing commercial fishing procedural rules to substitute or insert references to the department in place of or in addition to references to the Lake Superior or Lake Michigan commercial fishing board. The affected rules govern or refer to the process for transfer of individual allocated quotas between licensees or to quotas previously allocated by the fishing boards.

SECTION 1. NR 25.05(3), 25.07(1)(intro.) and (2)(intro.), (b)1.c, (bg)2. and (br)2. and 25.08(5) are amended to read:

NR 25.05 (3) POSSESSION AND HARVEST LIMITS. Except as otherwise provided, no person may possess species of fish for which there is no open season. No person, while on the water, may possess species of fish outside of the open season for that species. The harvest limit for species of fish for which an open season is provided and a quota has been established shall be the individual quota established by commercial fishing boards or the department for the person harvesting such fish. No person may take, catch or kill more fish than authorized by his or her

harvest limit. No person may fish for a species of fish in a zone for which the person has no harvest limit.

NR 25.07 (1) LAKE SUPERIOR. (intro.) The allotment of harvest quotas as established in s. NR 25.06 (1) to individual licensed commercial fishers on Lake Superior shall be by the ~~Lake Superior commercial fishing board~~ department upon application in accordance with sub. (3), and as follows:

(2) LAKE MICHIGAN AND GREEN BAY. (intro.) The allotment of harvest quotas as established in s. NR 25.06 (2) to individual licensed commercial fishers on Lake Michigan and Green Bay shall be by the ~~Lake Michigan commercial fishing board~~ department upon application in accordance with sub. (3), as follows:

NR 25.07(2)(b)1.c. Who applied for and received a Green Bay yellow perch fishing permit or a yellow perch fishing permit for zone 1 for the license year preceding the license year for which the permit application is being made, unless unavoidable circumstances prevented application for or receipt of that previous permit. Those circumstances shall be reviewed by the ~~Lake Michigan commercial fishing board~~ department which shall approve or deny the pending permit application.

(bg)2. A yellow perch fishing permit and individual licensee catch quota for zone 2 shall be issued to each applicant who holds a commercial fishing license issued under s. 29.33, Stats., reported a commercial harvest of yellow perch legally taken from zone 2 between January 1, 1983 and December 31, 1987 and, effective July 1, 1990, applied for and received a yellow perch

fishing permit for zone 2 for the license year preceding the license year for which the permit application is being made, unless unavoidable circumstances prevented application for or receipt of that previous year's permit. Those circumstances shall be reviewed by the ~~Lake Michigan commercial fishing board~~ department which shall approve or deny the pending permit application.

(br)2. A yellow perch fishing permit and individual licensee catch quota for zone 3 shall be issued to each applicant who holds a commercial fishing license issued under s. 29.33, Stats., reported a commercial harvest of yellow perch legally taken from zone 3 between January 1, 1984 and December 31, 1988 and, effective July 1, 1990, applied for and received a yellow perch fishing permit for zone 3 for the license year preceding the license year for which the permit application is being made, unless unavoidable circumstances prevented application for or receipt of that previous year's permit. Those circumstances shall be reviewed by the ~~Lake Michigan commercial fishing board~~ department which shall approve or deny the pending permit application.

NR 25.08(5) Individual licensee catch quota transfers shall be reviewed and approved or denied by the ~~Lake Superior commercial fishing board or, for Lake Michigan and Green Bay,~~ by the department. Such review and approval or denial shall occur no ~~later than the next regular quarterly meeting of the Lake Superior commercial fishing board or,~~ in the case of Lake

~~Michigan and Green Bay, within 20 business days after receipt by the department of a complete transfer request. Lake Michigan and Green Bay individual licensee catch quota transfer requests which the department determines meet criteria in this section shall be granted by the department without further action by the Lake Michigan commercial fishing board. The Lake Michigan commercial fishing board may review any individual licensee catch quota transfer request that has been denied by the department and may grant the request if it determines that the request meets the criteria in this section. The department shall notify the appropriate commercial fishing board of any transfer denial.~~

The foregoing rules were approved by the State of Wisconsin Natural Resources Board on March 24, 1999.

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)