

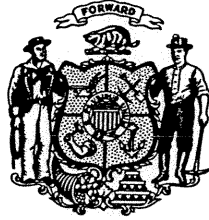
WISCONSIN LEGISLATIVE COUNCIL STAFF

LCRC
FORM 2

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 98-195

AN ORDER to amend NR 25.06 (2) (e) 2., relating to commercial fishing for whitefish in Green Bay and Lake Michigan.

Submitted by **DEPARTMENT OF NATURAL RESOURCES**

12-10-98 RECEIVED BY LEGISLATIVE COUNCIL.

01-11-99 REPORT SENT TO AGENCY.

RS:GAA: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

ORDER OF
THE STATE OF WISCONSIN NATURAL RESOURCES BOARD
AMENDING RULES

The Wisconsin Natural Resources Board adopts an order to amend NR 25.06 (2) (e) 2., relating to commercial fishing for whitefish in Green Bay and Lake Michigan

FH-5-99

Analysis Prepared by the Department of Natural Resources

Statutory authority: ss. 29.085, 29.174(3), 29.33(1) and 227.11(2)(a), Stats.

Statutes interpreted: ss. 29.085, 29.174(2)(a) and 29.33(1), Stats.

The order affects Green Bay and Lake Michigan commercial fishing rules. It increases the annual total allowable commercial harvest of whitefish from zones 1, 2, and 3 from 1,770,000 pounds to 2,470,000 pounds, or about 40%, with proportional increases in each of the 3 zones.

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

NR 25.06(2)(e)2. The total allowable commercial harvest of whitefish in Lake Michigan and Green Bay may not exceed ~~1,770,000~~ 2,470,000 pounds in any license year, with no more than ~~161,606~~ 225,518 pounds to be taken from zone 1, ~~1,454,454~~ 2,029,662 pounds from zone 2 and ~~152,940~~ 214,820 pounds from zone 3.

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)

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-5-99

Legislative Council Rules Clearinghouse Number 98-195

Subject of Rules Commercial fishing for whitefish in
Green Bay and Lake Michigan

Date of Transmittal to Presiding Officers February 24, 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 25.06(2)(e)2., Wis. Adm. Code
Commercial fishing for whitefish in Green Bay and Lake Michigan

Board Order No. FH-5-99
Clearinghouse Rule No. 98-195

Statement of Need

The proposed increase in the annual harvest limit is appropriate because the whitefish population remains healthy and able to sustain the increased exploitation. The increased harvest will result in an increase in the incidental harvest of lake trout and chinook salmon. The Department believes that the incidental harvest of lake trout may increase by as much as 3,000 fish and that the incidental harvest of chinook salmon may increase by as much as 2,286 fish. The magnitude of the incidental harvest will depend on the size of the whitefish harvest and on how the harvest is apportioned among gill nets, trap nets and pound nets. Trap nets and pound nets harvest whitefish with a lower incidental harvest of trout and salmon than gill nets. Although the incidental catch of those species increased during the last year, it is still much lower than a decade ago. The reduction in the incidental kill of lake trout and salmon is primarily attributable to an increase in the use of trap nets and a decrease in the use of gill nets. The Department will work with commercial fishers to explore ways to continue to reduce this problem.

This rule proposal also includes an increase in the maximum allowable depth for trap nets and pound nets. This provision was added to address concerns of some commercial fishers, who argued that the present 78 foot limit sometimes puts the best fishing out of reach of trap nets, and could increase the incidental catch of lake trout by forcing trap net fishermen to deploy gill nets. The Department is proposing to increase the maximum depth to 90 feet. Other commercial fishers have asked that the depth limit be eliminated entirely. In view of these differences of opinion and the limitation of current Department data, the Department is proposing a modest increase in the maximum depth, and providing a "sunset clause", under which the increase will lapse in the year 2003, unless it is extended by a separate rule.

Modifications as a Result of Public Hearing

The rule has been modified to include a provision increasing the maximum allowable depth for trap nets from 78 feet to 90 feet, for a 4-year period starting July 1, 1999.

Appearances at the Public Hearing and Their Position

In support:

Jeff Weborg, 12695 Hwy. 42, Ellison Bay, WI 54210
Matt Johnson, 850 Hwy. 42, Ellison Bay, WI 54210
Mark Weborg, 12728 Hwy. 42, Ellison Bay, WI 54210
Dennis Hickey, 8647 Hwy. 57, Baileys Harbor, WI
Charles W. Henriksen, 1597 Birch Road, Baileys Harbor, WI 54202
Neil F. Teskie, 12266 Hwy. 42, Ellison Bay, WI 54210
Richard Becker, 8633 Hwy. 42, Two Rivers, WI 54241

The foregoing rules were approved by the State of Wisconsin Natural Resources Board on February 23, 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 _____