

SENATOR JUDITH B. ROBSON
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**JOINT COMMITTEE FOR
 REVIEW OF ADMINISTRATIVE RULES**

Emergency Rule Extension Motion Form

Date: November 14, 2001 Location: 201 Southeast

Moved by _____, Seconded by _____

THAT, pursuant to § 227.24(2)(a), *Wisconsin State Statutes*, the Joint Committee for the Review of Administrative Rules extend the effective date of emergency rule NR 20.20(13)(1) & NR 25.06(2)(b) by 60 days, at the request of DNR.

COMMITTEE MEMBER	Aye	No	Absent
1. Senator ROBSON	✓		
2. Senator GROBSCHMIDT	✓		
3. Senator HANSEN	✓		
4. Senator WELCH	✓		
5. Senator COWLES	✓		
6. Representative GROTHMAN	✓		
7. Representative SERATTI	✓		
8. Representative GUNDERSON	✓		
9. Representative TURNER	✓		
10. Representative HEBL	✓		
Totals			

Motion Carried

Motion Failed

* voted by polling

**Joint Committee for Review of Administrative Rules
November 14, 2001**

Comments of William H. Horns, Department of Natural Resources

My name is William Horns. I am the Great Lakes Fisheries Specialist for the Department of Natural Resources. Also here today is my supervisor, Stephen Hewett, who is Section Chief for the Policy and Operations Section of the Bureau of Fisheries Management and Habitat Protection.

I am speaking in favor of a 60 day extension of Emergency Rule NR20.20(73)(j)1. and 2. and NR 25.06(2)(b)1. This rule reduces the daily sport fishing bag limit for Green Bay from 25 to 10 and reduces the total annual commercial harvest from 200,000 pounds to 20,000 pounds.

I have worked closely with this issue as Team Leader for our Lake Michigan Fisheries Team, and as the Department's liaison with the Lake Michigan Commercial Fishing Board, the Great Lakes Study Committee of the Conservation Congress, and the Lake Michigan Fisheries Forum.

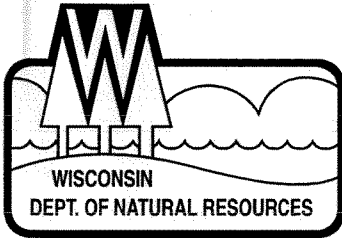
This emergency rule took effect on July 1 and was designed to protect the rapidly declining yellow perch population of Green Bay. In October the Natural Resources Board adopted an identical permanent rule, NRB Order FH-12-01, which will take effect early in 2002, following legislative review. This extension of the emergency order is needed to sustain present fishing rules until the permanent order takes effect. A second extension may also be needed. At the request of Representative John Gard the permanent order includes a sunset clause under which Green Bay fishing regulations will return to those in effect prior to this round of rule-making on June 30, 2004.

The fishing regulations established by these rules are needed to protect the rapidly declining yellow perch population of Green Bay and to maximize the likelihood of an early recovery. By our estimates, the adult yellow perch population has declined over 90% in the past decade. Sport fishing catches have declined similarly. The figure summarizes our annual estimates of yellow perch abundance in Green Bay. That figure is based on annual trawl surveys at 78 separate stations distributed throughout Green Bay, annual creel surveys, annual commercial fishing reports, and vital statistics (age, sex, size) taken from individual fish harvested by sport and commercial fishers.

The decline in yellow perch reflects a decade of poor natural reproduction. The only moderately strong year for natural reproduction was 1998, and yellow perch spawned in that single year now make up over 90% of the sport and commercial harvest. Green Bay is a rapidly changing ecosystem, and we do not know the cause of the poor reproduction. A number of possible factors have been mentioned, including weather, declining water levels, zebra mussels, cormorants, white perch, and predators stocked by the Department. We simply cannot at this time say which, if any, of these is the cause of the decline.

We believe that the only prudent policy is to protect the remaining yellow perch in order to give them the best chance of reproducing and restoring a healthy yellow perch population to Green Bay. With the new harvest limits in effect, the population may continue to decline slightly, but should sustain itself at approximately present levels for several more years. Without these protective rules, the yellow perch population could continue to decline rapidly. The rules we have adopted provide significant protection to the yellow perch population while also allowing some continuing sport and commercial fishing. In this way we believe we have struck the appropriate balance between the needs of individuals and businesses affiliated with sport and commercial fishing and the needs of the yellow perch population.

**Emergency Rule NR 20.20(73)(j) and
25.06(2)(b)**



State of Wisconsin \ DEPARTMENT OF NATURAL RESOURCES

Scott McCallum, Governor
Darrell Bazzell, Secretary

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October 15, 2001

Honorable Judy Robson, Co-Chair
Joint Committee for Review of
Administrative Rules
15 South
State Capitol

Honorable Glenn Grothman, Co-Chair
Joint Committee for Review of
Administrative Rules
15 North
State Capitol

Re: Extension of Emergency Rule No. FH-28-01(E)

Dear Ms. *Judy* Robson and Mr. *Glenn* Grothman:

The Department of Natural Resources, under s. 227.24(2), Stats., is requesting the Joint Committee for Review of Administrative Rules to extend Natural Resources Board Emergency Order No. FH-28-01(E) for 60 days. This emergency order pertaining to sport fishing and commercial fishing for yellow perch in Green Bay took effect on July 1, 2001 is due to expire on November 28, 2001. Clearinghouse Rule No. 01-037 to make this emergency rule permanent is scheduled for adoption by the Natural Resources Board at its October meeting.

The extension of this emergency rule is needed so that regulations remain the same during the entire fishing season. A copy of the emergency order is attached. If you have any questions, please contact Peter Flaherty, Bureau of Legal Services at 266-8254.

Sincerely,

Darrell
Darrell Bazzell
Secretary

Attach.

Cc: Presiding Officers
Standing Committees
Carol Turner – LS/5
Peter Flaherty – LS/5
Bill Horns – FH/3

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. and 2. relating to sport fishing for yellow perch in Green Bay and its tributaries and NR 25.06(2)(b)1. relating to commercial fishing for yellow perch in Green Bay.

FH-28-01(E)

Analysis Prepared by Department of Natural Resources

Statutory authority: ss. 29.014(1), 29.041, 29.519(1), 227.11(2)(a) and 227.24, 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.

SECTION 2 of the order reduces the total annual commercial harvest of yellow perch from zone 1 (Green Bay) from 200,000 pounds to 20,000 pounds.

SECTION 1. NR 20.20(73)(j)1. and 2. are amended to read:

NR 20.20(73)

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	a. Hook and line	Continuous, but the open season for yellow perch is May 20 to March 15	25 in total <u>but only 10 may be yellow perch</u>	None
	2. 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 only 10 may be yellow perch</u>	None

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~~ 20,000 pounds.

FINDING OF EMERGENCY

The Department of Natural Resources finds that an emergency exists and the foregoing rules are necessary for the immediate preservation of the public peace, health, safety or welfare. A statement of facts constituting the emergency is:

Yellow perch contribute significantly to the welfare of Wisconsin citizens by supporting popular and economically valuable sport and commercial fisheries. The yellow perch population in Green Bay is rapidly declining. This decline reflects a number of years of very poor reproduction. The only recent year with reasonably good natural reproduction was 1998. The fish spawned that year contributed to the sport harvest in 2001 and will become vulnerable to commercial gear this summer. Sport and commercial harvests of adult yellow perch must be limited immediately in order to protect those fish and maximize the probability of good reproduction in the near future.

The foregoing rules were approved and adopted by the State of Wisconsin Natural Resources Board on June 27, 2001.

The rules contained herein shall take effect on July 1, 2001, as emergency rules, as provided in s. 227.24(1)(c), Stats.

Dated at Madison, Wisconsin

June 28, 2001

STATE OF WISCONSIN
DEPARTMENT OF NATURAL RESOURCES

By

Darrell Bazzell
Darrell Bazzell, Secretary

(SEAL)