



WISCONSIN LEGISLATIVE COUNCIL 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 02-096

AN ORDER to amend NR 25.06 (1) (a) 1. to 3, relating to commercial fishing in Lake Superior.

Submitted by **DEPARTMENT OF NATURAL RESOURCES**

07-08-2002 RECEIVED BY LEGISLATIVE COUNCIL.

07-23-2002 REPORT SENT TO AGENCY.

RNS:REL

Report to
Legislative Council Rules Clearinghouse
NR 25.06 & 25.09, Wis. Adm. Code
Natural Resources Board Order No. FH-10-02

Wisconsin Statutory Authority

ss. 29.014(1), 29.041, 29.519(1)(b) and 227.11(2)(a), Stats., interpreting ss. 29.014(1), 29.041, 29.516(2) and 29.519(1)(b), Stats.

Federal Authority

N/A

Court Decisions Directly Relevant

None

Analysis of the Rule - Rule Effect - Reason for the Rule

The harvest of lake trout from Wisconsin waters of Lake Superior is guided by the 1995 State-Tribal Lake Superior Agreement among the Department and the Red Cliff and Bad River Bands of Lake Superior Chippewa. Wisconsin waters of Lake Superior are divided into two management areas, W-1 and W-2. The agreement was recently amended to change the allowable harvest of lake trout in each management area. The harvest limit for W-1 will be decreased from 14,500 to 11,300. In W-2, the harvest limit will be increased from 89,900 to 92,800.

The Department allocates the state share (43,768 lake trout under the amended agreement) between sport and commercial fishers. Because the harvest in W-1 is predominately by sport fishers while the harvest in W-2 is predominately by commercial fishers, the negotiated amendments to the State-Tribal Agreement and this proposed rule change will result in a slight increase in the state-licensed commercial harvest and a slight decrease in the number of lake trout reserved for sport harvest in W-1.

In addition, changes are proposed for gill net marking and depth requirements for near-surface gill nets. Each year several ghost or abandoned bill nets are found by sport or commercial fishers. If the end buoy is missing, the Department has no way of identifying the owner of the net. To address this problem, the Department is recommending a requirement that every gloat on gill nets set in Lake Superior be legibly marked with the license number of the commercial fisher.

The Conservation Congress has expressed concern about risks to recreational boaters from gill nets set at the surface. In Wisconsin, no gill nets are set at the surface, but in Lake Superior gill nets set for lake herring are sometimes suspended a short distance beneath the surface. To help minimize the risk of recreational boats becoming entangled in gill nets, the Department is recommending that lake herring gill nets not be allowed within 12 feet of the lake's surface.

Agency Procedures for Promulgation

Public hearings, Natural Resources Board final adoption, followed by legislative review.

Description of any Forms (attach copies if available)

None

Name and Telephone Number of Agency Liaisons

Bill Horns, Bureau of Fisheries Management and Habitat Protection – 266-8782
Michael Lutz, Bureau of Legal Services – 267-7456
Carol Turner, Bureau of Legal Services - 266-1959

Submitted on July 8, 2002

Fiscal Estimate — 2001 Session

- Original Updated
 Corrected Supplemental

LRB Number	Amendment Number if Applicable
Bill Number	Administrative Rule Number FH-10-02 and FH-15-02(E)

Subject
 Commercial Fishing -- Outlying Waters (Chapter NR 25)

Fiscal Effect

State: No State Fiscal Effect

Check columns below only if bill makes a direct appropriation or affects a sum sufficient appropriation.

- Increase Existing Appropriation Increase Existing Revenues
 Decrease Existing Appropriation Decrease Existing Revenues
 Create New Appropriation

- Increase Costs — May be possible to absorb within agency's budget.
 Yes No
 Decrease Costs

Local: No Local Government Costs

- | | | |
|--|---|--|
| 1. <input type="checkbox"/> Increase Costs
<input type="checkbox"/> Permissive <input type="checkbox"/> Mandatory | 3. <input type="checkbox"/> Increase Revenues
<input type="checkbox"/> Permissive <input type="checkbox"/> Mandatory | 5. Types of Local Governmental Units Affected:
<input type="checkbox"/> Towns <input type="checkbox"/> Villages <input type="checkbox"/> Cities
<input type="checkbox"/> Counties <input type="checkbox"/> Others
<input type="checkbox"/> School Districts <input type="checkbox"/> WTCS Districts |
| 2. <input type="checkbox"/> Decrease Costs
<input type="checkbox"/> Permissive <input type="checkbox"/> Mandatory | 4. <input type="checkbox"/> Decrease Revenues
<input type="checkbox"/> Permissive <input type="checkbox"/> Mandatory | |

Fund Sources Affected

- GPR FED PRO PRS SEG SEG-S

Affected Chapter 20 Appropriations

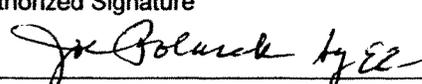
Assumptions Used in Arriving at Fiscal Estimate

Rule Summary: FH-10-02 adjusts lake trout harvest limits on Lake Superior, requires the marking of all gill net floats, and sets a minimum depth for lake herring gill nets. FH-15-02(E) adjusts lake trout harvest limits on Lake Superior as agreed to by the Department and the Red Cliff and Bad River Bands of the Lake Superior Chippewa Indians.

Fiscal Estimate: The Department does not expect these revisions to have a fiscal impact at the state or local level.

Long-Range Fiscal Implications

None

Prepared By: Joe Polasek	Telephone No. 266-2794	Agency Department of Natural Resources
Authorized Signature 	Telephone No. 266-2794	Date (mm/dd/ccyy) 01/08/2002

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

The Wisconsin Natural Resources Board proposes an order to repeal NR 25.09(1)(am)3.c.; to amend NR 25.06(1)(a)1. to 3. and 25.09(1)(ah)3.; and to create NR 25.09(1)(as) relating to commercial fishing in Lake Superior

FH-10-02

Analysis Prepared by Department of Natural Resources

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

Statutes interpreted: ss. 29.014(1), 29.041, 29.516(2) and 29.519(1)(b), Stats.

SECTION 1. changes the total allowable commercial and home use harvest of lake trout from Lake Superior. SECTION 2 establishes a minimum depth beneath the surface for the top maitre cord of 2-3/8 inch gill nets used throughout the year in any depth water in Lake Superior. SECTION 3 repeals an obsolete provision. SECTION 4 establishes a requirement that the floats of each gill net used in Lake Superior be marked with the license number of the commercial fisher to whom it belongs.

SECTION 1. NR 25.06(1)(a)1. to 3. are amended to read:

NR 25.06(1)(a)1. The total allowable commercial and home use harvest in waters of Lake Superior east of Bark Point may not exceed ~~59,510~~ 62,711 lake trout. The total allowable commercial and home use harvest in waters of Lake Superior west of Bark Point may not exceed ~~4,430~~ 2,643 lake trout.

2. That number of lake trout to be harvested by non-Indian licensed commercial fishers from the waters of Lake Superior east of Bark Point may not exceed ~~5,710~~ 5,856 lake trout, and from the waters of Lake Superior west of Bark Point may not exceed ~~1,430~~ 1,464 lake trout.

3. That number of lake trout to be harvested by the Red Cliff and Bad River bands, including both commercial and home use fishers, from the waters of Lake Superior east of Bark Point may not exceed ~~53,800~~ 56,855 lake trout. That number of lake trout to be harvested by the Red Cliff and Bad River bands, including both commercial and home use fishers, from the waters of Lake Superior west of Bark Point may not exceed ~~3,000~~ 1,179 lake trout. If the Red Cliff and Bad River bands do not reach an agreement on the method of allocating the tribal quota between them, the department may divide the quota 50% for the Bad River band and 50% for the Red Cliff band, or by any other equitable method.

SECTION 2. NR 25.09(1)(ah)3. is amended to read:

NR 25.09(1)(ah)3. Not more than 60 meshes in depth in water of any depth and during any time of the year may be used provided the bottom maitre cord or lead line is at least 6 feet (1 fathom) above the lake bottom and the top maitre cord or float line is at least 12 feet (2 fathoms) below the surface of the water.

SECTION 3. NR 25.09(1)(am)3.c. is repealed.

SECTION 4. NR 25.09(1)(as) is created to read:

NR 25.09(1)(as) *Gill net marking requirements*. Shall be legibly marked on each float with the license number of the commercial fishing license holder to whom it belongs.

The foregoing rules were approved and adopted by the State of Wisconsin Natural Resources Board on

The rules 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 _____
Darrell Bazzell, Secretary

(SEAL)