



WISCONSIN LEGISLATIVE COUNCIL RULES CLEARINGHOUSE

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CLEARINGHOUSE RULE 16-061

Comments

[NOTE: All citations to “Manual” in the comments below are to the Administrative Rules Procedures Manual, prepared by the Legislative Reference Bureau and the Legislative Council Staff, dated December 2014.]

1. Statutory Authority

In item 2. in the rule analysis, it appears that the citation to s. “227.4” should be changed to s. “227.11”.

2. Form, Style and Placement in Administrative Code

a. In the proposed rule, the department should avoid the use of parentheses as the means to identify lake herring and cisco as the same fish. Rather, this equivalence could be clarified through a definition created in s. NR 25.02. Further, the department should use one term or the other consistently in the rule text. The proposed rule uses both terms, while current ch. NR 25 refers to lake herring but not cisco.

b. In s. NR 25.06 (1) (c) (intro.), the department should substitute “may not” for “shall not”. [s. 1.01 (2), Manual.]

c. SECTION 1 of the proposed rule should be revised so that s. NR 25.06 (1) (c) (intro.) interacts appropriately with s. NR 25.06 (1) (c) 1. to 3. [s. 1.03 (3) and (4), Manual.]

d. The references to mesh size and stretch measure for nets used to harvest cisco that are contained in s. NR 25.06 (1) (c) 2. might be misleading. Is the department saying that this catch restriction does not apply to catch made using nets that differ from these specifications? Or, that no cisco harvest can be conducted during this period using other types of nets? The department should consider breaking this provision down to separate all requirements that apply to commercial fishing for cisco during this period.

e. How will the department “subdivide the allocation” of the catch limit in s. NR 25.06 (1) (c) 3. amongst the various groups? The rule provides no specific direction as to how the department will conduct such an allocation.

4. Adequacy of References to Related Statutes, Rules and Forms

Because ch. NR 25 relates to commercial fishing, does the current form of the proposed rule adequately communicate that s. NR 25.06 (1) (c) 3. also applies to recreational anglers? Is it reasonable to expect a recreational angler to be aware of an applicable harvest allocation in the chapter of the natural resources code relating to commercial fishing, or would it be beneficial to include cross-references to this provision elsewhere in the natural resources administrative code?

5. Clarity, Grammar, Punctuation and Use of Plain Language

a. It is not clear from the text of the rule whether the limitation under s. NR 25.06 (1) (c) (intro.) or the limitation under s. NR 25.06 (1) (c) 1. would apply if a hydroacoustics cisco biomass estimate shows that 1,497,000 round weight pounds is less than 7.5% of the total cisco biomass present.

b. Given its references to recreational angling elsewhere in the proposed rule, the department may wish to clarify what types of recreational angling, commercial fishing, or tribal harvest are included in the terms “state fishers” and “state harvest” under s. NR 25.06 (1) (c) (intro.) and 1.