Report From Agency

REPORT TO LEGISLATURE

NR 25.06(2)(b)1., Wis. Adm. Code
Commercial fishing for yellow perch in zone 1 (Green Bay)

Board Order No. FH-07-07
Clearinghouse Rule No. 07-075

Basis and Purpose of the Proposed Rule

Yellow perch abundance fluctuates widely. For the most part, these fluctuations can be attributed to weather and to biological factors outside the Department's control. But commercial and recreational harvests can deplete a population and inhibit recovery when numbers are low, so the Department regulates the harvest of yellow perch from Green Bay by limiting the annual total allowable commercial harvest and the daily recreational bag limit.

The most recent yield-per-recruit analysis suggests a total harvest of 195,000 pounds of yellow perch for 2007. In 2006, the recreational harvest exceeded 200,000 pounds and the commercial harvest was 90,000 pounds. The Department expects that the 2007 recreational harvest will again exceed 200,000 pounds, but because the change proposed to increase the commercial harvest will not take effect until calendar year 2008, the commercial harvest during calendar year 2007 will be around only 60,000 pounds. The Department is recommending an increase in the total allowable commercial harvest from 60,000 to 100,000 pounds, to take effect in 2008.

Summary of Public Comments

The public comments were split with the commercial fishers supporting the increase and sport anglers opposing the increase. Attached is a response to the comments received by the Department.

Modifications Made

The rule was not modified.

Appearances at the Public Hearing

August 13, 2007 – Peshtigo

In support:

John N. Kulp, 3785 Freese, Oconto, WI 54150
Jim Benson, N1068 Shore Drive, Marinette, WI 54143
Charles Nylund, 543 Dousman Street, Marinette, WI

In opposition:

Edward Jardanowski, 402 Craig Street, Crivitz, WI 54114
Jon Nelson, N3068 CTH RW, Peshtigo, WI 54157
Don Patterson, 858 Bechthold Drive, Peshtigo, WI 54114
Dwayne Brendemihl, N512 River Drive, Menominee, MI 49858
James R. Hartman, W4497 State Highway 64, Peshtigo, WI 54157

David Larson, 220 Park Street, Marinette, WI 54143
Billy Willis, 2405 Pecan Street, Green Bay, WI 54311
Ken Vieth, 828 Jackson Street, Marinette, WI 54143
Michael Borths, W4565 9.5 Road, Menominee, MI 49858
William Urbaniak, 817 Madison Avenue, Marinette, WI
Roger Miller, 2313 14th Avenue, Menominee, MI 49858
Jerry Nowakowski, 609 Hosner Street, Marinette, WI 54143
Wayne Nelson, N854 River Drive, Menominee, MI 49858
Vilas [last name illegible], 738 S. Woodside, Peshtigo, WI
Joseph C. Anderson, 108 Cardin Street, Niagara, WI 54151

As interest may appear:

Carol Jean Schmitz, 3816 Cottage Row, Suamico, WI 54173
Leonard Sadowski, W4059 Peter's Road, Marinette, WI
John E. Schmitz, 3816 Cottage Row, Suamico, WI
Dean Swaer, 616 N. Fisk, Green Bay, WI 54303
Robert Laabs, 2045 County Road J, Little Suamico, WI 54141
Tom Lawson, W1348 Little River Road, Marinette, WI 54143

August 13, 2007 – Green Bay

In support:

Chad Peters, 2061 Carleen Court, Suamico, WI 54173
Nicholas R. Maricque, 628 Floral Drive, Green Bay, WI 54301
Pat Hermes, 806 Marshall Avenue [no city given]
Karl Van Roy, 805 Riverview Drive, Green Bay, WI 54303
Scott Slick, 2586 S. Wentworth Avenue, Milwaukee, WI 53207
Tom Drzewiecki, 4120 Bayside Road, Suamico, WI 54173
Dennis Hickey, 8647 Highway 57, Baileys Harbor, WI 54202
Mark R. Maricque, 628 Floral Drive, Green Bay, WI 54301

In opposition:

Darrell W. Vincent, 3466 County S, Little Suamico, WI
Ralph F. Lulloff, 4747 Silver Creek Road, Manitowoc, WI 54220
Bernie Skaletski, 1121 Grignon Street, Green Bay, WI 54301
John Begotka, 2301 Bernizger Road, Manitowoc, WI
Rusty Engelmann, 3852 Langes Cor. Road, DePere, WI 54115
Billy Willis, 2405 Pecan Street, Green Bay, WI 54311

As interest may appear:

Todd Stoth, 4083 Glidden Drive, Sturgeon Bay, WI 54235

Changes to Rule Analysis and Fiscal Estimate

No changes were required.

Response to Legislative Council Rules Clearinghouse Report

The recommendations were accepted.

Final Regulatory Flexibility Analysis

No additional compliance or reporting requirements will be imposed as a result of these rule changes. Commercial fishing businesses would be directly affected by the rule, but would not be subject to any new reporting, bookkeeping or other procedures. No special skills would be required for compliance with the rule.

HEARING SYNOPSIS

Hearings were held in Peshtigo and Green Bay, and were attended by 20 and 17, respectively. In Peshtigo, three hearing slips were marked "in support" and 13 were marked "in opposition". In Green Bay, eight hearing slips were marked "in support" and five were marked "in opposition". In addition to comments presented at the hearings, one individual expressed support for the rule in a written message and 39 individuals expressed opposition in written (11), e-mailed (26), and telephone (2) messages. Groups represented as being in opposition to the rule were Marinette/Menominee Great Lakes Sport Fishermen, Green Bay Area Great Lakes Sport Fishermen, and Northern Anglers of Marinette. Oral and written comments are summarized below:

1. Comment: The commercial harvest should equal the sport harvest. The non-fishing public deserves its share of the harvest.
2. Response: As noted above, the Department has a long-standing policy of attempting to split the harvest 50/50 by numbers, over the long run. This reflects direction from both the legislature and the Natural Resources Board to provide for both recreational and commercial fishing opportunities.
3. Comment: The policy of trying to equalize sport and commercial harvests in the long run should be reconsidered. It is out of date because the number of commercial fishers has declined.
   Response: This policy has served us well for many years, and has been implicitly endorsed by the Natural Resource Board and the Legislature. It is correct that the number of commercial fishers has declined, but the Department has not received direction from the Natural Resources Board or the Legislature to revise the 50/50 policy.
4. Comment: Individual sport fishers do not have a harvest limit but individual commercial fishers do.
   Response: This is true, but even the smallest individual commercial annual quota exceeds what all but the most energetic sport fisherman could harvest.
5. Comment: Data do not support the increase.
   Response: The basis for the increase is summarized above. We believe that there is a sound basis for allowing the increased commercial harvest.
6. Comment: Until we know the effects of VHS, we should be cautious.
   Response: We acknowledge that the effects of VHS in Green Bay cannot be predicted.
7. Comment: Allowing the yellow perch population to grow may exacerbate VHS.
   Response: We see no basis for believing that this is true.
8. Comment: Recreational fishing for yellow perch has been poor in Green Bay.
   Response: Reports from creel clerks and anglers over the entire summer of 2007 have been mixed, but generally reflect a healthy yellow perch population. Creel survey data will not be fully summarized and analyzed before mid winter.
9. Comment: If the commercial limit goes up, so should the sport bag limit.
   Response: Because the recreational harvest tends to increase as the population grows, whether or not the bag limit is increased, it is not necessary to increase the recreational daily bag limit whenever the commercial harvest limit is increased.
10. Comment: Increases in commercial harvests benefit few people.
    Response: There are few licensed commercial fishers on Green Bay, but they provide food for a larger number of consumers.
11. Comment: There is too much speculation and guess work about the number of yellow perch.
    Response: There will always be uncertainty about estimates of wild fish populations, but our assessment of the Green Bay yellow perch population is based on the most modern analytic methods applied to one of the best long-term data bases on the Great Lakes.
12. Comment: Estimates of sport harvest are biased.
    Response: We stand by our creel survey estimates. The methodology is statistically sound. Biologists from all states bordering Lake Michigan have developed a shared understanding of appropriate creel survey methodologies.
13. Comment: Sport fishing is more important economically than commercial fishing.
    Response: It is correct that expenditures for sport fishing far exceed those for commercial fishing, and that more individuals are directly affected.

14. Comment: Sport fishers contribute more to fisheries management than commercial fishers.
    Response: It is correct that the funds available to the Department from recreational fishing licenses and stamps far exceed what is provided through commercial fishing license fees.
15. Comment: The recent yellow perch recovery can only be attributed to controlling the commercial harvest. The earlier harvest limit of 200,000 pounds destroyed the fishery.
    Response: It is correct that the commercial harvest has been limited, and we believe that has probably been a factor in allowing the current recovery. However, our biologists believe that the cause(s) of both the decline and the recovery are related to factors influencing annual reproduction, not exploitation, whether by recreational or commercial fishers.
16. Comment: The last rule change increased the sport fishing daily bag limit 50% (from 10 to 15), but increased the total allowable commercial harvest 300% (from 20,000 to 60,000 pounds). The current proposal would increase the commercial harvest again, with no increase for sport fishers.
    Response: The recreational harvest is self-regulating and moves up or down as the population grows or declines, while the commercial harvest is limited by the annual harvest limit specified by law. In recent years the annual recreational harvest has increased 10-fold (77,000 fish in 2004, 283,000 fish in 2005, 757,000 fish in 2006), even though the bag limit was only increased by 50%.
17. Comment: Poor ice has limited the sport harvest in recent years, so sport fishers are not getting their share.
    Response: It is true that the ice fishing harvest has not been large, but the open-water harvest has increased dramatically.
18. Comment: The commercial fishery is sometimes very wasteful because under-sized fish are discarded dead after sorting.
    Response: This problem may be exaggerated. Most of the commercial harvest is made using gill nets, which are very size-selective. When large numbers of fish have been returned to the water in the past they have often been other species, especially white perch.
19. Comment: Non-native species including gobies, white perch, and the VHS virus make the future of yellow perch tenuous.
    Response: This is correct. Nevertheless, the yellow perch population of Green Bay seems to be increasing.
20. Comment: A reasonable approach would be to increase the recreational fishing daily bag limit to 20 while increasing the annual commercial harvest limit to 80,000 pounds.
    Response: This compromise would not address the disparity between the current sport and commercial harvests.
21. Comment: The yellow perch population needs more time to fully recover before increasing the harvest further.
    Response: Department biologists believe the population is recovering and can sustain a modest increase in the commercial harvest.
22. Comment: Sport fishers often exceed their daily bag limit and commercial fishers often exceed their individual harvest limit.
    Response: This is true, but we believe that current regulations and enforcement minimize these problems.
23. Comment: The current recreational daily bag limit is too high.
    Response: This is true in that the recreational harvest in 2006 equaled the harvest level prescribed by the yield-per-recruit analysis, but for reasons presented above, we believe that the allowed harvest is appropriate.
24. Comment: Commercial harvest can decimate a yellow perch population.
    Response: This is correct.