

Report to
Legislative Council Rules Clearinghouse
NR 25, Wis. Adm. Code
Natural Resources Board Order No. FH-02-20

Wisconsin Statutory Authority

Section 29.014 (1), Stats., directs the department to establish and maintain any bag limits and conditions governing the taking of fish that will conserve the fish supply and ensure the citizens of this state continued opportunities for good fishing.

Section 29.041, Stats., provides that the department may regulate fishing on and in all interstate boundary waters and outlying waters.

Section 29.519 (1m) (b), Stats., grants discretion to the department to establish commercial fish species harvest limits after giving due consideration to the recommendations made by the commercial fishing boards. In order to establish harvest limits, s. 29.519 (1m) (b), Stats., grants the department the authority to promulgate rules establishing formulas for harvest allocations among licensees or for the allotment of individual licensee catch quotas. Additional authorities granted to the department through s. 29.519 (1m) (b), Stats., include the authority to designate the size, kind and amount of gear allowed for harvesting fish, the authority to restrict the number of licenses issued, and the authority to designate areas in outlying waters as restricted to commercial fishing operations. This section also specifies that the limitations on harvests, licenses, restricted areas, and gear must be based on the available harvestable population of fish and must uphold the wise use and conservation of the fish to prevent overexploitation.

Section 29.519 (5), Stats., authorizes the department to determine the methods that commercial fishers must use to submit commercial fishing records and reports.

Section 29.973, Stats., requires commercial fishers to maintain and submit records of commercial fishing activities and directs the department to establish and implement a commercial fish reporting system. The department is given discretion regarding the form and manner of submission.

Federal Authority

No federal statutes or regulations apply. States possess inherent authority to manage the fishery and wildlife resources located within their boundaries, except insofar as preempted by federal treaties and laws, including regulations established in the Federal Register.

Comparison of Adjacent States

Along with Wisconsin, Michigan and Illinois are the only adjacent states with a Lake Michigan commercial fishery. In Michigan, lake whitefish is the focus of the commercial fishery. In addition to the large commercial gill and trap net fishery, a small trawling fishery that focuses on smelt and lake whitefish has operated in Michigan waters of Green Bay since the 1960s. Illinois has a very limited commercial fishery on Lake Michigan. Both states have established quotas, gear requirements, and other restrictions for commercial fishing in Lake Michigan. Wisconsin, Minnesota and Michigan all have a Lake Superior multi-species commercial fishery for such species as lake trout, lake whitefish and cisco, and regulate it through seasons, limitations on the number of licenses, and gear restrictions.

The use of electronic reporting for commercial fishing operations is a requirement in Ohio and Michigan. Ohio requires most commercial fishers to keep accurate daily records of catch and submit the reports monthly. Trap net licensees must submit these records electronically, including entering estimated weight of quota species into the electronic reporting system immediately after net lifts. Trap net fishers are also

required to report when they set and remove nets ½ hour prior to returning to the dock, and must electronically report the estimated weight of non-quota species before entering a different grid. Michigan requires electronic reporting for commercial fishing, when it occurs, through the Fishing Activity and Catch Tracking System which allows users to report on smartphones.

Court Decisions Directly Relevant

None apply.

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

This rule updates the total allowable commercial harvest of lake whitefish for all three zones of Lake Michigan, as well as adjusting the allotments to the three zones. Updates are necessary to respond to the changing distribution and population dynamics of lake whitefish, as revealed through recent lake whitefish population modeling in Lake Michigan, including Green Bay. If the lake whitefish population is not managed appropriately, the sustainability of the shared commercial and recreational whitefish fishery may be compromised. The rule also implements a restricted area in southern Green Bay to minimize the incidental catch of bycatch in whitefish trap netting operations. Minimizing bycatch is important because Green Bay also supports a sport fishery, with walleye, yellow perch, northern pike and muskellunge as key species. The rule requires fishers to report whitefish trap net locations and lifts to improve department data on trap net locations and soak time between lifts. This rule also requires electronic reporting for all Great Lakes commercial fishers, which provides quicker, more accurate access to harvest data than biweekly paper reporting. Electronic reporting has been a priority for managing commercial fisheries for many years, but to date, only a subset of fishers has opted to utilize the electronic reporting system.

Agency Procedures for Promulgation

The department's Bureau of Fisheries Management has held frequent public meetings with the Lake Michigan Commercial Fishing Board and stakeholders to keep them apprised of data being collected and analyzed for rule development, as well as potential rule inclusions. The department will hold a public hearing on this rule in January 2022, with adoption by the Natural Resources Board to follow.

Description of any Forms (attach copies if available)

Commercial fishers will use existing reporting forms to report harvest and incidental catch electronically. Attached are samples of the paper forms that are currently used and would be used in the event that the electronic reporting system is inaccessible. The electronic forms containing this information are built into the electronic fish harvest reporting system.



LakeSuperiorReportF
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LakeMichiganReport
Form.pdf

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