

**NOTICE TO PRESIDING OFFICERS
OF PROPOSED RULEMAKING**

Pursuant to s. 227.19, Stats., notice is hereby given that final draft rules are being submitted to the presiding officer of each house of the legislature. The rules being submitted are:

Natural Resources Board Order No. FH-30-01

Legislative Council Rules Clearinghouse Number 01-115

Subject of Rules Commercial fishing in Lake Superior
and Lake Michigan

Date of Transmittal to Presiding Officers January 8, 2002

Send a copy of any correspondence or notices pertaining to this rule to:

Carol Turner, Rules Coordinator
DNR Bureau of Legal Services
LS/5, 101 South Webster

Telephone: 266-1959
e-mail: turnec@dnr.state.wi.us

An electronic copy of the proposed rule may be obtained by contacting Ms. Turner

REPORT TO LEGISLATURE

NR 25, Wis. Adm. Code
Commercial fishing in Lake Superior and Lake Michigan

Board Order No. FH-30-01
Clearinghouse Rule No. 01-115

Statement of Need

The two substantive rule changes proposed would encourage the use of trap nets in the commercial whitefish fishery. One would increase the maximum allowable depth for trap nets from 90 feet to 150 feet. The other would allow trap nets to be set in Whitefish Bay. These changes should increase commercial fishing efficiency, and could also lead to reductions in the incidental kill of chinook salmon and lake trout in the whitefish fishery by encouraging increased use of trap nets. Since the late 1980's the incidental kill of trout and salmon has been reduced by over 50% in the whitefish fishery, in part because of the increased use of trap nets and decreased use of large-mesh gill nets. By increasing opportunities for the use of trap nets, we hope that these rules will allow this favorable trend to continue.

The other provisions of the proposed rule are housekeeping changes needed to correctly express the intent of orders previously adopted by the Department.

Modifications as a Result of Public Hearing

No modifications were made as a result of the public hearings.

Appearances at the Public Hearings and Their Position

November 15, 2001 – Sturgeon Bay

In support:

Rick Johnson, 850 Hwy. 42, Ellison Bay, WI 54210
Jeff Weborg, 12695 Hwy. 42, Ellison Bay, WI 54210
Neil F. Teskie, 12266 Hwy. 42, Ellison Bay, WI 54210
Mary Kay Shumway, BerryBest Foods & Fish, 11108 Hillcrest Road, Sister Bay, WI 54234
Jeremy Brisson, BerryBest Foods & Fish, 527A Country Walk Lane, Sister Bay, WI 54234

In opposition – none

As interest may appear:

Paul & Dina Saunders, 12001 Little Lane, Ellison Bay, WI 54210
Lynn Frederick, Lynn's Charter Fishing, 10309 Old Stage Road, Sister Bay, WI 54234

November 15, 2001 – Sheboygan

In support – none

In opposition:

Robert J. Dumovich, 627 Huron Avenue, Sheboygan, WI 53081

As interest may appear - none

Response to Legislative Council Rules Clearinghouse Report

No comments were made on the proposed rule.

Final Regulatory Flexibility Analysis

No additional compliance or reporting requirements will be imposed as a result of these rule changes. No additional skills are required.

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

The Wisconsin Natural Resources Board adopts an order to repeal NR 25.06(2)(c)2. and 25.10(2)(e), amend NR 25.05(1)(d), 25.09(2)(b)2.a. and e. and 25.10(2)(b) and create NR 25.09(1)(b)10., relating to commercial fishing in Lake Superior and Lake Michigan

FH-30-01

Analysis Prepared by the Department of Natural Resources

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

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

The order affects Great Lakes commercial fishing rules.

SECTIONS 1., 2., 3. and 5., respectively, are housekeeping corrections needed to correctly express the intent of FH-26-00, adopted in 2000; to remove language that became irrelevant with the adoption of FM-18-94 in 1995; to restore language inadvertently repealed in 1997 with the adoption of FM-51-96; and to correctly express the rule's intent.

SECTION 4. increases the maximum allowable depth at which trap nets and pound nets may be used in Lake Michigan and Green Bay from 90 feet to 150 feet, and, along with SECTION 6., opens Whitefish Bay, on the eastern shore of Door County, to commercial trap nets

SECTION 1. NR 25.05(1)(d) is amended to read:

Species	A Green Bay	B Lake Michigan	C Lake Superior
(d) Chubs	No open season	In the northern and southern chub fishing zones from March 1 to January 15. <u>From March 1 to January 15, a) in the northern chub fishing zone and b) in the southern chub fishing zone south of 44°32' north latitude.</u> From January 16 to the end of February, a) in the northern chub fishing zone in waters 55 fathoms deep or deeper and b) in the southern chub fishing zone in water 60 fathoms deep or deeper.	At all times

SECTION 2. NR 25.06(2)(c)2. is repealed.

SECTION 3. NR 25.09(1)(b)10. is created to read:

NR 25.09(1)(b)10. May not be placed or operated within 1 mile of a designated trout stream.

SECTION 4. NR 25.09(2)(b)2.a. and e. are amended to read:

NR 25.09(2)(b)2.a. Only when the pot or crib is set, placed or operated in water not more than

~~78 feet (13 fathoms) deep, except that from July 1, 1999 through June 30, 2003, the pot or crib may be set, placed or operated in water not more than 90 feet (15 fathoms) deep~~ 150 feet (25 fathoms) deep.

e. May be used to take fish in the waters of Lake Michigan lying south of a line extending from the Lake Michigan shoreline along ~~44°55'50"~~ 44° 52'30" north latitude only during the period including the day after Labor Day to June 28. Unless the department has granted an extension of time, the webbing shall be removed from the water by June 28 and may not be reinstalled until the day after Labor Day. If adverse weather conditions or unanticipated equipment problems prevent removal of the webbing by June 28, a licensee may request and the department may grant a brief extension of time sufficient to allow safe removal.

SECTION 5. NR 25.10(2)(b) is amended to read:

NR 25.10(2)(b) No commercial fishing gear of any kind except entrapping nets authorized by permit issued under sub. (4) for the taking of rough or detrimental fish, perch, whitefish or menominee may be used, set, placed or operated in the waters of Lake Michigan lying south of a line extending from mid-channel marker buoy of Baileys Harbor on a 135° bearing, ~~or~~ and north of a line extending east from the entrance of Kewaunee harbor to its intersection with a line that follows a the 45 fathom (270 feet) depth contour, then proceeding north along the 45 fathom (270 feet) depth contour to its intersection with 44° 32' north latitude, then proceeding east along 44° 32' north latitude to the Wisconsin-Michigan state line, except as provided under pars. (c), (d), (e), (f) and (g).

SECTION 6. NR 25.10(2)(e) is repealed.

The foregoing rules were approved by the State of Wisconsin Natural Resources Board on December 5, 2001.

The rules contained herein 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)



**WISCONSIN LEGISLATIVE COUNCIL
RULES CLEARINGHOUSE**

Ronald Sklansky
Clearinghouse Director

Terry C. Anderson
Legislative Council Director

Richard Sweet
Clearinghouse Assistant Director

Laura D. Rose
Legislative Council Deputy Director

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 01-115

AN ORDER to repeal NR 25.06 (2) (c) 2.; to amend NR 25.05 (1) (d), 25.09 (2) (b) 2. a. and 25.10 (2) (b) and (e); and to create NR 25.09 (1) (b) 10., relating to commercial fishing in Lake Superior and Lake Michigan.

Submitted by **DEPARTMENT OF NATURAL RESOURCES**

10-04-01 RECEIVED BY LEGISLATIVE COUNCIL.
10-23-01 REPORT SENT TO AGENCY.

RS:DLS:jal

LEGISLATIVE COUNCIL RULES CLEARINGHOUSE REPORT

This rule has been reviewed by the Rules Clearinghouse. Based on that review, comments are reported as noted below:

1. STATUTORY AUTHORITY [s. 227.15 (2) (a)]

Comment Attached

YES

NO

2. FORM, STYLE AND PLACEMENT IN ADMINISTRATIVE CODE [s. 227.15 (2) (c)]

Comment Attached

YES

NO

3. CONFLICT WITH OR DUPLICATION OF EXISTING RULES [s. 227.15 (2) (d)]

Comment Attached

YES

NO

4. ADEQUACY OF REFERENCES TO RELATED STATUTES, RULES AND FORMS
[s. 227.15 (2) (e)]

Comment Attached

YES

NO

5. CLARITY, GRAMMAR, PUNCTUATION AND USE OF PLAIN LANGUAGE [s. 227.15 (2) (f)]

Comment Attached

YES

NO

6. POTENTIAL CONFLICTS WITH, AND COMPARABILITY TO, RELATED FEDERAL
REGULATIONS [s. 227.15 (2) (g)]

Comment Attached

YES

NO

7. COMPLIANCE WITH PERMIT ACTION DEADLINE REQUIREMENTS [s. 227.15 (2) (h)]

Comment Attached

YES

NO

OCT 24 2001

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FORM 2



WISCONSIN LEGISLATIVE COUNCIL RULES CLEARINGHOUSE

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[s. 227.15 (2) (e)]

Comment Attached YES NO

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Comment Attached YES NO

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REGULATIONS [s. 227.15 (2) (g)]

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SECTION 6. NR 25.10(2)(e) is amended to read:

NR 25.10(2)(e) ~~In~~ Entrapping nets for whitefish may be used in waters of Lake Michigan lying between a line extending east along 44°55'50" north latitude from the Lake Michigan shoreline and a line extending east along 44°52'30" north latitude from the Lake Michigan shoreline ~~entrapping nets for whitefish authorized by permit under sub. (4) may only be used during September 1 to October 25.~~

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

The rules contained herein 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
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