

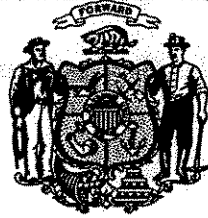
WISCONSIN LEGISLATIVE COUNCIL STAFF



00-178

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 00-178

AN ORDER to amend NR 25.03 (2) (b) 3. b., relating to licensing commercial fishers on Lake Michigan.

Submitted by **DEPARTMENT OF NATURAL RESOURCES**

12-08-00 RECEIVED BY LEGISLATIVE COUNCIL.

01-04-01 REPORT SENT TO AGENCY.

RNS:GAA:tlu;rv

877-00

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)]

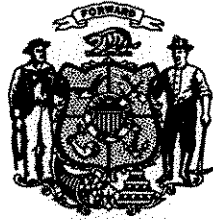
Comment Attached YES NO

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CLEARINGHOUSE RULE 00-178

Comments

[NOTE: All citations to "Manual" in the comments below are to the Administrative Rules Procedures Manual, prepared by the Revisor of Statutes Bureau and the Legislative Council Staff, dated September 1998.]

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

It is not clear that the language in the rule and the language in the analysis say the same thing. The analysis refers to "the most recent 12-month period, i.e., June of the preceding year through May of the year of the application." The rule refers to "the 12 months preceding June 1 of the *previous* license year." (Emphasis added.) The two should be reviewed for consistency. If the analysis is correct, "June 1 of the year preceding the year of application to May 31 of the year of application" could be used in the rule.

REPORT TO LEGISLATURE

NR 25.03(2)(b)3.b., Wis. Adm. Code
Licensing commercial fishers on Lake Michigan

Board Order No. FH-48-00
Clearinghouse Rule No. 00-178

Statement of Need

The proposed rule will make it easier for a commercial fisher to qualify for relicensing in years when fish stocks are declining. Yellow perch harvest rates in the commercial fishery on Green Bay were sharply lower in the summer of 2000 than during summers of preceding years and the abundance of bloater chubs continues to decline in Lake Michigan. These developments have prompted concern on the part of commercial fishers that some license holders might not meet the minimum catch requirement for relicensing at the end of the current fishing year, despite remaining active participants in the fishery.

One purpose of relicensing criteria is to assure that licenses are issued only to active fishers. It is essential to retain meaningful criteria for identifying active fishers, but flexibility is appropriate when fish populations decline. In order to identify inactive licensees, persons who apply for annual renewal of commercial fishing licenses for Lake Michigan must meet several criteria. Since 1989, one key criterion has been the minimum annual catch requirement. To qualify for relicensing, each licensee must have reported a minimum harvest of smelt or, in combination, yellow perch, whitefish, menominees and chubs.

To satisfy the minimum catch requirement using smelt, the licensee must have reported a minimum harvest from either zone 1 or zone 3. To satisfy the minimum catch requirement using the other species in combination, the licensee must, in at least one of the three commercial fishing zones, have reported a combined harvest that exceeds one of two numbers: a zone specific level set out in s. NR 25.03 or a computed level based on the harvests of all fishers during the year preceding the year during which the application for relicensing is submitted. Because the wording of s. NR 25.03 refers to the year for which licensing is requested as the current year, the year during which the application is made is referred to as the "previous" year. Under the revised rule, an alternate computed minimum catch would be established for smelt and the alternate minimum catch requirement for the four species in combination would be computed based on harvests by all fishers during the most recent 12-month period, i.e., June of the preceding year through May of the year of application.

Modifications as a Result of Public Hearing

The proposed rule has been modified to incorporate an alternate computed minimum catch level for smelt.

Appearances at the Public Hearing and Their Position

January 12, 2001 – Green Bay

In support:

- Val Drzewiecki, Suamico Fish Company, 1355 Starview Lane, Green Bay, WI 54313
- Frank Herres, Wisconsin Wildlife Federation, 2230 Ledvina Circle, Green Bay, WI 54313
- Pat Hermes, 2008 Memorial Drive, #204, Green Bay, WI 54303
- Jim Hermes, P.O. Box 254, Suamico, WI 54173
- Tom Drzewiecki, Suamico Fish Company, 4120 Bayside Road, Suamico, WI 54173
- Eugene Marks, Marks Brothers Fish, 1249 Crestwood Drive, Green Bay, WI 54313
- Ronald VanderLoop, 2121 Orrie Lane, Green Bay, WI 54304
- Cyril Thyron, 2363 8th Street, Green Bay, WI 54304
- Mark R. Maricque, 628 Floral Drive, Green Bay, WI 54301

In opposition – none

As interest may appear - none

January 22, 2001 – Port Washington – no appearances

Response to Legislative Council Rules Clearinghouse Report

The recommendation was accepted.

Final Regulatory Flexibility Analysis

No additional compliance or reporting requirements will be imposed as a result of these rule changes. The proposed rule will make it easier for a commercial fisher to qualify for relicensing in years when fish stocks are declining.

ORDER OF
THE STATE OF WISCONSIN NATURAL RESOURCES BOARD
AMENDING RULES

The Wisconsin Natural Resources Board adopts an order to amend NR 25.03(2)(b)3.a. and b. relating to licensing commercial fishers on Lake Michigan

FH-48-00

Analysis Prepared by Department of Natural Resources

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

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

This order changes the requirements for annual relicensing of commercial fishers on Lake Michigan. In order to identify inactive licensees, persons who apply for annual renewal of commercial fishing licenses for Lake Michigan must meet several criteria. Since 1989, one key criterion has been the minimum annual catch requirement.

To qualify for relicensing, each licensee must have reported a minimum harvest of smelt or (in combination) yellow perch, whitefish, menominees and chubs during the previous license year. (Because the wording of s. NR 25.03 refers to the year for which licensing is requested as the current year, the year during which the renewal application is made is referred to as the "previous" year.) To satisfy the minimum catch requirement using smelt, a licensee must have reported a harvest of at least 147,870 from zone 1 or 76,770 from zone 3. To satisfy the minimum catch requirement using the other species in combination, a licensee must have reported, in at least one of the three commercial fishing zones, a combined harvest that exceeds either of two numbers: 1) a zone-specific poundage specified in the rule or 2) a computed poundage based on the harvests of all fishers during the year before the preceding year.

Under the revised rule, an alternate computed minimum catch is established for smelt and the alternate minimum catch requirement for the four species in combination would be computed based on harvests by all fishers during the most recent 12-month period, i.e., June of the preceding year through May of the year of the application. The revised rule will make it easier to meet the minimum catch requirement when commercial harvests decline.

SECTION 1. NR 25.03(2)(b)3.a. and b. are amended to read:

NR 25.03(2)(b)3.a. Smelt of at least 147,870 total pounds from zone 1 or 76,770 total pounds from zone 3 or X1 total pounds, whichever is less, from zone 1, or 76,770 or X3 total pounds, whichever is less, from zone 3, where X1 and X3 = 30 times the average reported total daily harvest of smelt taken by trawls from zone 1 or 3, respectively, by all licensed commercial fishers during the 12 months preceding June 1 of the previous license year.

b. Yellow perch, menominees, whitefish, chubs or any combination of these species of at least 3,570 or X1 total pounds, whichever is less, from zone 1, 13,656 or X2 total pounds, whichever is less, from zone 2, or 19,638 or X3 total pounds, whichever is less, from zone 3, where X1, X2, and X3 = 30 times the average reported total daily harvest of yellow perch, menominees, whitefish and chubs from zone 1, 2 or 3, respectively, by all licensed commercial fishers during the license year preceding 12 months preceding June 1 of the previous license year.

STATE OF WISCONSIN
DEPARTMENT OF NATURAL RESOURCES

The foregoing rules were approved by the State of Wisconsin Natural Resources Board on March 28, 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)

Fiscal Estimate — 2001 Session

- Original Updated
 Corrected Supplemental

LRB Number	Amendment Number if Applicable
Bill Number	Administrative Rule Number NR 25

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

2. <input type="checkbox"/> Decrease Costs
<input type="checkbox"/> Permissive <input type="checkbox"/> Mandatory | 3. <input type="checkbox"/> Increase Revenues
<input type="checkbox"/> Permissive <input type="checkbox"/> Mandatory

4. <input type="checkbox"/> Decrease Revenues
<input type="checkbox"/> Permissive <input type="checkbox"/> Mandatory |
|--|--|

5. Types of Local Governmental Units Affected:
- Towns Villages Cities
 Counties Others
 School Districts WTCS Districts

Fund Sources Affected

- GPR FED PRO PRS SEG SEG-S

Affected Chapter 20 Appropriations


Assumptions Used in Arriving at Fiscal Estimate

Rule Summary: This rule addresses relicensing requirements for commercial fishers on Lake Michigan. Currently, each fisher must report harvesting a minimum poundage of fish. These proposed revisions adjust that minimum catch requirement.

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:	Telephone No.	Agency
Joe Polasek	266-2794	Department of Natural Resources
Authorized Signature	Telephone No.	Date (mm/dd/ccyy)
	266-2794	02/26/01