

## Clearinghouse Rule 09-016

Report to  
Legislative Council Rules Clearinghouse  
NR 25, Wis. Adm. Code  
Natural Resources Board Order No. FH-21-08

### Wisconsin Statutory Authority

Sections 23.11(1), 29.014(1), 29.041, 29.519(lm)(b) and (c) and (2)(d), and 227.11(2)(a), Stats.

### Federal Authority

N/A

### Court Decisions Directly Relevant

None

### Analysis of the Rule – Rule Effect – Reason for the Rule

The rule addresses three issues: the definition of the commercial fishing “license year”, licensing requirements for Great Lakes commercial fishers, and the number of available licenses.

License year. Currently the commercial fishing license year runs from July 1 through June 30 of the next year, corresponding to the State’s fiscal year. For yellow perch commercial fishers on Green Bay, this definition of the license year breaks the normal summer fishing season, which opens on May 20, into two parts, complicating business decisions about when to harvest allocated quotas. Yellow perch fishers, supported by the Lake Michigan Commercial Fishing Board, have requested that the license year be changed to correspond with the calendar year.

Licensing requirements. The Department has for the past 30 years implemented a limited entry policy in which minimum harvest (catch) requirements for annual relicensing are used to identify inactive Lake Michigan commercial fishers. On Lake Michigan the minimum catch requirement involves meeting either a fixed minimum catch based on historic harvest records or an alternative computed minimum catch based on harvests by all fishers during a recent 12-month reference period. Commercial fishers on Lake Michigan have repeatedly objected to these requirements, saying they impose unreasonable expectations on fishers in years of poor fishing. As discussed below, the identification of inactive fishers is needed to prevent Wisconsin from moving towards a property-rights based commercial fishery and to help DNR maintain an economically viable and stable commercial fishery -- minimum catch requirements must be retained

unless they can be replaced with equally meaningful annual relicensing criteria. Because commercial fishers continue to find the current minimum catch requirements to be objectionable we are proposing to modify the alternative computed minimum catch by a) reducing the alternative computed number by one-third and b) by changing the reference period used in the calculation of the alternative minimum. Because minimum catch requirements are not currently in place for Lake Superior commercial fishers, potentially allowing the relicensing of fishers who are not active, the proposed rule will establish minimum catch standards for relicensing on Lake Superior like those on Lake Michigan.

Number of licenses. Currently there are 10 commercial licenses on Lake Superior and 62 on Lake Michigan. The handling of vacant licenses differs between the two lakes. On Lake Superior the number remains constant, so vacant licenses remain available for issuance to new applicants. This offers the possibility that a license holder can drop out of the fishery during bad times, but still hope to re-enter when prospects improve. On Lake Michigan the number of licenses either remains constant or declines every year. Therefore a new applicant must obtain a license by transfer from an existing license holder, because if a license is not reissued or transferred before the end of a fishing year it is extinguished. In order to provide Lake Michigan fishers the same opportunity that Lake Superior fishers have to re-enter the business after allowing a license to lapse, we are proposing to freeze the number of available Lake Michigan licenses at 65.

Agency Procedures for Promulgation

Public hearings, Natural Resources Board final adoption, followed by legislative review.

Description of any forms

None

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Submitted on February 12, 2009.