

Report From Agency

REPORT TO LEGISLATURE

NR 25, Wis. Adm. Code

Board Order No. FH-10-12
Clearinghouse Rule No. 15-050

Basis and Purpose of the Proposed Rule

The proposed rule establishes a system for the automatic adjustment of the total allowable commercial harvest of bloater chubs (*Coregonus hoyi*) from Lake Michigan. The harvest limit would become a simple function of population estimates provided by the Great Lakes Science Center of the US Geological Survey (USGS), and may change annually. The proposed rule also removes outdated and ambiguous procedures for allocating the harvest among commercial fishers and replaces them with a percentage allocation. The proposed rule also eliminates outdated restrictions on the timing of chub harvest in the northern chub harvest zone.

The total allowable commercial harvest of bloater chubs will be 25 percent of the Wisconsin Lake Michigan spawning bloater chub biomass or 350,000 pounds, whichever is greater. If the Wisconsin Lake Michigan spawning bloater chub biomass decreases, the total allowable commercial harvest would also decrease with the lowest potential total allowable commercial harvest limit being 350,000 pounds.

The rule also divides the total allowable commercial harvest of bloater chubs between the northern and southern chub fishing zones as a ratio rather than a static number. One-sixth of the total allowable harvest is allocated to the northern chub fishing zone and five-sixths to the southern chub fishing zone, which is the same ratio as the prior static number allocation between zones. This allows each zone's harvest limits to vary automatically as the total allowable annual commercial harvest is adjusted.

Within the year-round open season, the rule also removes the "quota periods" harvest limits of chubs from the northern chub fishing zone that are based on harvest at certain times of the year. In addition, it simplifies the rules for allocation of the total allowable commercial harvest of chubs from the southern chub fishing zone and describes the process for permanent transfer of individual licensee catch quotas.

Summary of Public Comments and Appearances at the Public Hearing

One public hearing was held on July 29, 2015, in Cleveland, WI. Five people attended the hearing; three indicated they were in opposition to the rule and two did not indicate a position. Two specific comments made by hearing attendees were:

- The chub quota should not be adjusted.

Department response: Although currently the commercial fishery is not substantially impacting chub populations, if economic conditions change or chub populations start to rebound there may again be heavy harvest pressure on bloater chubs. This rule change addresses this management issue using a reasonable approach that will still allow some commercial harvest and utilization by commercial fishers but also provide sufficient protection of the chub population.

- The entire chub fishery should be closed until the fish stocks improve significantly.

Department response: Closing the fishery at this time is not needed and would cause economic harm to commercial fishers. This rule allows the total allowable commercial harvest to be adjusted according to available biomass. During times of low abundance such as now, the harvest limit would be low. This low limit will provide sufficient protection for chub stocks and is sustainable. The current condition of low abundance of bloater chubs is largely driven by environmental and ecological factors and not fishing.

In addition to the hearing testimony, the Department received three written statements of support for the rule change. One letter was received from a commercial fisher who stated appreciation for the Department's efforts

to include a reasonable minimum poundage of fish to catch, which is necessary if fishers want to continue chub fishing. The fisher also noted support of the proposed automatic adjustment of the chub quota and exploring ways to automate other quota species.

Modifications Made

No modifications were made in response to public comments.

Changes to Rule Analysis and Fiscal Estimate

No changes were made to the rule analysis or fiscal estimate.

Response to Legislative Council Rules Clearinghouse Report

The Legislative Council Rules Clearinghouse submitted comments on form/style/placement and clarity/grammar. Changes to the proposed rule were made to address all recommendations by the Legislative Council Rules Clearinghouse.

Final Regulatory Flexibility Analysis

The rule would directly affect commercial fishing businesses with permits to harvest chubs from Lake Michigan. Associated businesses such as wholesale fish dealers may also be affected. However, it is expected that this rule would not substantially limit commercial fishers' opportunity to harvest chubs. Adjustments in harvest limits affect the livelihoods of commercial fishers and associated businesses, but such adjustments are a necessary part of fisheries management. Because this rule will cause those adjustments to be more timely and responsive to fish population changes it will support stability in fish populations and in the fishery. Automatic harvest limit adjustments can result in short-term economic benefit to commercial fishers when populations increase and potential short-term economic losses in years when the fish population is in decline.

The rule does not change any reporting requirements for small businesses nor are any design or operational standards contained in the rule.

Response to Small Business Regulatory Review Board Report

The Small Business Regulatory Review Board did not prepare a report on this rule proposal.