

Report to  
Legislative Council Rules Clearinghouse  
NR 25, Wis. Adm. Code  
Natural Resources Board Order No. FH-10-15, relating to commercial fisheries of lake whitefish  
in Lake Michigan

Wisconsin Statutory Authority

Under s. 29.014 (1), Stats., “Rule-making for this chapter,” the department is directed to establish and maintain conditions governing the taking of fish that will conserve the fish supply and ensure the citizens of this state continued opportunities for good fishing.

The department is authorized to regulate fishing on and in all interstate boundary waters and outlying waters by s. 29.041, Stats., “Department to regulate hunting and fishing in interstate waters.”

Provisions of s. 29.053 (2), Stats., “Specific open and closed seasons,” provide that the department may establish conditions governing the taking of fish for the state as a whole, for counties or parts of counties, or for waterbodies or parts of waterbodies.

Under s. 29.519, Stats., “Commercial fishing in outlying waters,” the department is granted discretion to establish commercial fish species harvest limits after giving due consideration to the recommendations made by the commercial fishing boards, and to promulgate rules relating to quota allocations. This section also specifies that the limitations on harvests must be based on the available harvestable population of fish and on the wise use and conservation of the fish, so as to prevent overexploitation. In addition, this section grants the department the authority to designate areas where commercial fishing is restricted, as well as to establish restrictions on the types and sizes of gear used in commercial fishing.

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.

Court Decisions Directly Relevant

No court decisions are directly relevant to this rule.

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

This rule codifies gear requirements for trawls used to harvest lake whitefish commercially. Trawling for smelt is currently allowed in a portion of Management Zone 3 near Two Rivers

(Figure 1). In 2015, the department authorized a cooperative study to evaluate the use of trawls for lake whitefish in the same part of Zone 3. This rule would allow commercial fishers to trawl for whitefish only in this area of Zone 3 as an alternative to using other types of gear. Under current rules, only trap nets can be used to harvest whitefish in this area. Trawling would continue to be allowed only during part of the Lake Michigan lake whitefish season, with a season closure from September to November. The rule will also require electronic reporting of whitefish and bycatch harvested through trawling, and establishes that licensees may use a video surveillance system as alternative to on-board department monitoring. While the department encourages use of the video system, it is voluntary for commercial fishers. The rule will also establish thresholds for bycatch levels and require commercial fishers to move or suspend trawling if those thresholds are met. This will prevent overharvest of non-target species.

While trawling is a more efficient method of harvest than these other types of nets, the quota system and limited number of licenses currently in place for this zone will prevent overharvest of lake whitefish. Trawling may also help reduce user conflicts between commercial fishers and sport anglers. Trawls are dragged through the water to harvest fish over a period of an hour, while nets are deployed and left to catch fish for days before being lifted to retrieve the harvest. Fewer nets left in the water as obstacles would make it easier for sport anglers to navigate and troll for sportfish in Lake Michigan.

Although the original scope statement for this rule also allowed for the possibility of redistributing lake whitefish quotas, this is not included in the rule at this time, as public meetings and discussions are ongoing.

#### Agency Procedures for Promulgation

The department anticipates holding a public hearing on this rule in November 2019, followed by rule adoption by the Natural Resources Board in December 2019.

#### Description of any Forms (attach copies if available)

No new forms are created as part of this rule.

#### Name and Telephone Number of Agency Contacts

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