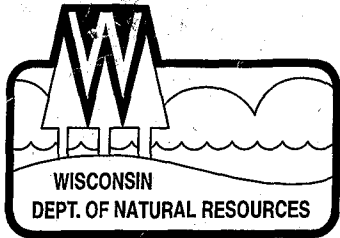


07-122

Clearinghouse Rule 97-122



State of Wisconsin \ DEPARTMENT OF NATURAL RESOURCES

Tommy G. Thompson, Governor
George E. Meyer, Secretary

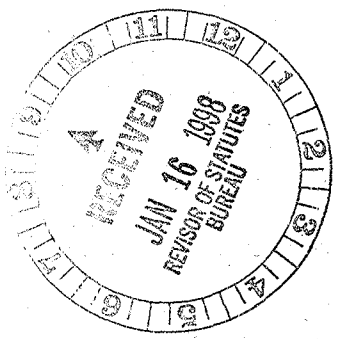
Box 7921
101 South Webster Street
Madison, Wisconsin 53707-7921
TELEPHONE 608-266-2621
FAX 608-267-3579
TDD 608-267-6897

STATE OF WISCONSIN)
) ss
DEPARTMENT OF NATURAL RESOURCES)

TO ALL TO WHOM THESE PRESENTS SHALL COME, GREETINGS:

I, George E. Meyer, Secretary of the Department of Natural Resources and custodian of the official records of said Department, do hereby certify that the annexed copy of Natural Resources Board Order No. FH-25-97 was duly approved and adopted by this Department on August 27, 1997. I further certify that said copy has been compared by me with the original on file in this Department and that the same is a true copy thereof, and of the whole of such original.

IN TESTIMONY WHEREOF, I have hereunto set my hand and affixed the official seal of the Department at the Natural Resources Building in the City of Madison, this 13th day of January, 1998.



George E. Meyer
George E. Meyer, Secretary

(SEAL)



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

.....
The Wisconsin Natural Resources Board .
adopts an order to repeal and recreate .
NR 25.03(2)(b)3. and to create NR 25.03 .
(2)(b)4. and 5 relating to relicensing .
Lake Michigan commercial fishers .
.....

FH-25-97

Analysis Prepared by Department of Natural Resources

Statutory authority: ss. 29.085, 29.174(3), 29.33(1) and 227.11
(2)(a), Stats.

Statutes interpreted: ss. 29.085, 29.174(2)(a) and 29.33(1),
Stats.

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. For each of the three commercial fishing zones there is a different, specific combined minimum annual catch (in pounds) for yellow perch, menominees, whitefish and chubs that must be satisfied by each license applicant unless the department determines that unavoidable circumstances prevented the applicant from complying with the rule. (Alternatively, for zones 1 and 3, fishers may comply with the rule by catching a specified minimum poundage of smelt.)

In order to accommodate temporary reductions in harvest limits for quota species (e.g., yellow perch) that were promulgated since the current minimum annual catch requirement's poundages were set, and to adjust for other factors that might affect the success of the industry as a whole, this amendment provides for an annual recalculation of the minimum annual catch poundages for yellow perch, menominees, whitefish and chubs for each of the three fishing zones. The annually recomputed minimum annual catch for each zone equals 30 times the average reported total daily harvest of yellow perch, menominees, whitefish and chubs in that zone during the year preceding the year during which the application for licensing is submitted.

Under the revised rule, an applicant who is otherwise eligible for licensing will qualify if, in any zone, he or she harvests the specific minimum annual catch set out in the current rule or the new annually recalculated minimum annual catch, whichever is less. (This rule revision does not affect minimum catch requirements for smelt.)

In this way, the revised rule automatically adjusts for years in which harvest limits and the resulting individual licensee catch quotas are reduced. Previously, the Department considered such reductions to be an "unavoidable circumstance" on a case-by-case basis.

Finally, under the revised rule, for licensing in the license year immediately following a harvest limit reduction, the minimum annual catch requirement for each zone will be reduced, for each applicant, by an amount equal to the applicant's reported harvest of that species from that zone during the license year before the harvest limit reduction occurred. For example, this means that it will be assumed for purposes of licensing that in the first year after a yellow perch harvest limit reduction, each fisher repeated his or her yellow perch harvest of the year before the reduction.

SECTION 1. NR 25.03(2)(b)3. is repealed and recreated to read:

NR 25.03(2)(b)3. Except as provided in subd. 4 or 5., the applicant or, where the applicant obtained the license by transfer, the transferor and applicant jointly shall have reported a minimum commercial harvest during the previous license year of either of the following:

a. Smelt of at least 147,870 total pounds from zone 1 or 76,770 total pounds from zone 3.

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 the previous license year.

SECTION 2. NR 25.03(2)(b)4. and 5. are created to read:

NR 25.03(2)(b)4. Notwithstanding subd. 3., for the license year immediately following a reduction in the harvest limit of yellow perch, whitefish, chubs or menominee, the minimum commercial harvest from each zone required for licensing shall, for each applicant, be reduced by an amount equal to that applicant's reported harvest or, where the applicant obtained the license by transfer, the transferor's and applicant's combined reported harvest, of that species from that zone for the year before the harvest limit was reduced.

5. Neither subd. 3. or 4. applies if the department determines that unavoidable circumstances prevented the applicant or the transferor from complying with subd. 3 or 4.

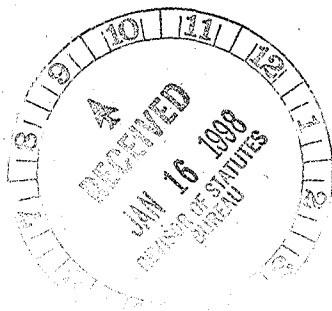
The foregoing rules were approved by the State of Wisconsin Natural Resources Board on December 3, 1997.

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.

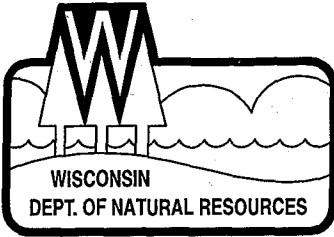
Dated at Madison, Wisconsin January 13, 1998.

STATE OF WISCONSIN
DEPARTMENT OF NATURAL RESOURCES

By George E. Meyer
George E. Meyer, Secretary



(SEAL)



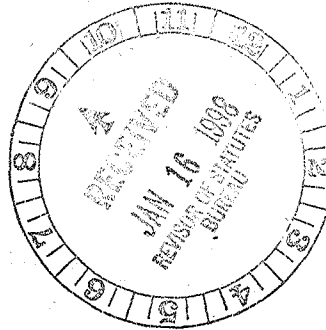
State of Wisconsin \ DEPARTMENT OF NATURAL RESOURCES

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January 13, 1998

Mr. Gary L. Poulson
Assistant Revisor of Statutes
131 West Wilson Street - Suite 800
Madison, WI



Gary

Dear Mr. Poulson:

Enclosed are two copies, including one certified copy, of State of Wisconsin Natural Resources Board Order No. FH-25-97. These rules were reviewed by the Assembly Committee on Natural Resources and the Senate Committee on Agriculture and Environmental Resources pursuant to s. 227.19, Stats. Summaries of the final regulatory flexibility analysis and comments of the legislative review committees are also enclosed.

You will note that this order takes effect following publication. Kindly publish it in the Administrative Code accordingly.

Sincerely,

George

George E. Meyer
Secretary

Enc.