

**Wisconsin Department of Natural Resources  
Natural Resources Board Agenda Item**

**SUBJECT:**

Request that the Board approve the statement of scope for Board Order FH-10-15 and conditionally approve the public hearing notice and notice of submittal of proposed rules to the Legislative Council Rules Clearinghouse for proposed rules affecting ch(s). NR 25 related to lake whitefish commercial fisheries in Lake Michigan.

**FOR: August 2015 Board meeting**

**PRESENTER'S NAME AND TITLE:** Scott Hansen, Fisheries Biologist

**SUMMARY:**

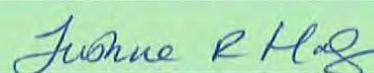
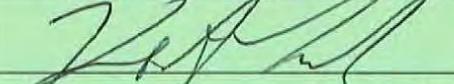
The current lake whitefish commercial harvest limit in Wisconsin waters of Lake Michigan is 2.88 million pounds of dressed whitefish per year, which was approved in 2010 (an increase from the prior limit). This rule would adjust the total commercial harvest of lake whitefish in Lake Michigan to protect certain stocks from overharvest and ensure the long-term sustainability of the fishery. This rule may make adjustments to commercial gear, effort, or season length for a specific location or the entire whitefish fishery as an alternative to or in addition to adjusting the total allowable commercial harvest of lake whitefish.

This rule may also adjust the lake whitefish commercial fishing zone boundaries, the formulas used to determine zone specific harvest, or both to better reflect the current whitefish distribution and abundance within the lake. Whitefish distribution patterns have changed since 1989, the year the zone quota system was initiated. Changes to the zone boundaries, zone allocation scheme, or both may allow commercial fishers to better utilize lake whitefish that are available from new spawning stocks from the west shore Green Bay tributaries. Additionally, the declining North/Moonlight Bays spawning stock will be better protected.

**RECOMMENDATION:** That the Board approve the statement of scope and conditionally approve the public hearing notice for Board Order FH-10-15 and notice of submittal of proposed rules to the Legislative Council Rules Clearinghouse.

**LIST OF ATTACHED MATERIALS:**

Statement of scope  
Governor approval of statement of scope

Approved by	Signature	Date
Justine Hasz, Bureau Director		6-1-15
Russ Rasmussen, Division Administrator		6-3-15
Cathy Stepp, Secretary		7/10/15

cc: Board Liaison - AD/8

Program attorney - LS/8

Department rule officer - LS/8

# STATEMENT OF SCOPE

## Department of Natural Resources

Rule No.: FH-10-15

Relating to: Commercial Fisheries of Lake Whitefish in Lake Michigan, NR 25

Rule Type: Permanent

### 1. Finding/nature of emergency (Emergency Rule only):

The rule will be proposed as a permanent rule.

### 2. Detailed description of the objective of the proposed rule:

Lake whitefish, *Coregonus clupeaformis*, is widely distributed in North American fresh waters from the Atlantic coast westward across Canada and the northern United States. The whitefish is one of the most valuable commercial species throughout the Great Lakes. Known Wisconsin lake whitefish "stocks" (localized groups or populations that spawn and live in certain areas) within Lake Michigan and Green Bay include a spawning stock in the North/Moonlight Bays area off of eastern Door County and a newly developing stock from west shore Green Bay tributaries. During much of the year, some Lake Michigan whitefish stocks are highly mobile and Wisconsin fishers may also harvest fish from some of the Michigan stocks of lake whitefish, most notably the Big Bay DeNoc stock. Although the lake-wide population began increasing in the mid-1990s, some Lake Michigan lake whitefish stocks have declined over the past few years. Recent surveys to assess spawning fish near eastern Door County have shown low abundance of younger lake whitefish entering the population, indicating potential problems with recruitment of lake whitefish from the North/Moonlight Bays spawning stock and a resulting population decline.

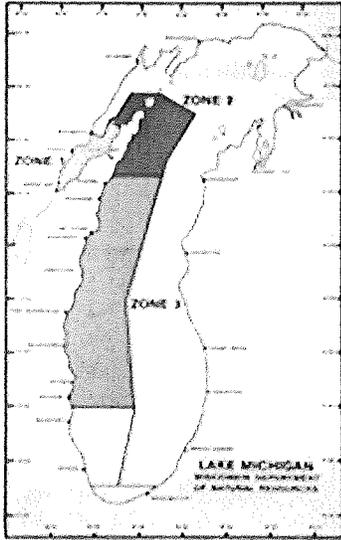
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This rule may also adjust the lake whitefish commercial fishing zone boundaries, the formulas used to determine zone specific harvest, or both to better reflect the current whitefish distribution and abundance within the lake. Whitefish distribution patterns have changed since 1989, the year the zone quota system was initiated. Changes to the zone boundaries, zone allocation scheme, or both may allow commercial fishers to better utilize lake whitefish that are available from new spawning stocks from the west shore Green Bay tributaries. Additionally, the declining North/Moonlight Bays spawning stock will be better protected. Additional rule changes may be pursued that are reasonably related to those discussed in this scope statement.

Modification of zone boundaries or allocations would involve modification of commercial fishers' fishing practices and quotas. Advice will be sought from the Lake Michigan Commercial Fishing Board (LMCFB) regarding these proposed rule changes. The LMCFB is directed by s. 29.519(7), Stats., to "recommend to the department species harvest limits and formulas for the allotment of individual licensee catch quotas when the department establishes species harvest limits for allocation among licensees."

**3. Description of the existing policies relevant to the rule, new policies proposed to be included in the rule, and an analysis of policy alternatives:**

Currently, commercial harvest of lake whitefish is managed with zone-specific harvest limits in three commercial fishing zones:



Lake whitefish commercial harvest limits	Pounds per year
Zone 1 – Southern Green Bay	362,185
Zone 2 – Northern Green Bay and Northern Lake Michigan	2,166,329
Zone 3 – Southern Lake Michigan	351,487
<b>Total Allowable Harvest Limit</b>	<b>2,880,000</b>

The zone allocation structure is largely based on historical fishing effort and catch. From 2010 to 2013, Zone 1 & 3 harvest has been near the allowable harvest limit with some individual quota holders catching their complete individual quotas. However, Zone 2 harvest has been less than half the allowable harvest limit.

Historically many of the lake whitefish captured in Wisconsin waters were from the North/Moonlight Bays spawning stock. However, in recent years the west shore Green Bay tributaries, particularly the Menominee River, appear to be producing a large number of lake whitefish. Overall the distribution of lake whitefish has changed with many more fish present in southern Green Bay relative to northern Green Bay and Lake Michigan than in the past. Lake-wide, many lake whitefish populations are declining and in particular the North/Moonlight Bays spawning population is showing recruitment problems. In contrast, Green Bay spawning populations do not appear to be declining as substantially or may be maintaining population abundance.

These rule changes will produce two main benefits:

- 1) Overall lake whitefish populations will be better protected and specifically the North/Moonlight Bays stock will be better protected.
- 2) Commercial fishers will be better able to harvest lake whitefish from west shore Green Bay stocks and more fully utilize the resource resulting in increased economic value of the fishery.

**4. Detailed explanation of statutory authority for the rule (including the statutory citation and language):**

Section 29.014(1), Stats., directs the Department to establish and maintain any bag limits and conditions governing the taking of fish that will conserve the fish supply and ensure the citizens of this state continued opportunities for good fishing.

Section 29.041, Stats., provides that the Department may regulate fishing on and in all interstate boundary waters and outlying waters.

Section 29.519(1m)(b), Stats., grants discretion to the Department to establish commercial fish species harvest limits after giving due consideration to the recommendations made by the commercial fishing boards. It also specifies that the limitations on harvests must be based on the available harvestable population of fish and in the wise use and conservation of the fish, so as to prevent over-exploitation.

**5. Estimate of amount of time that state employees will spend developing the rule and of other resources necessary to develop the rule:**

Approximately 270 hours

**6. List with description of all entities that may be affected by the proposed rule:**

Wisconsin-licensed commercial fishers, wholesale fish dealers, and others whose businesses are affected by commercial fishing of Lake Michigan whitefish may be affected by this rule. Sport anglers, fishing guides, and related fishing businesses on Green Bay may be affected by a potential geographical shift or increase in commercial fishing effort. Southern Green Bay is a very popular sport fishing location and sport anglers may not support potential commercial fishing increases and related game fish bycatch in this area. In recent years, whitefish sport angling has become very popular in southern Green Bay. Currently the combined harvest of sport and commercial fishers is below the Wisconsin Lake Michigan commercial whitefish quota. However, increased commercial harvest in southern Green Bay may reduce the available population of lake whitefish for sport anglers. Adequate education and enforcement would be needed to help prevent additional commercial gear from interfering with sport fishing, and vice versa.

**7. Summary and preliminary comparison with any existing or proposed federal regulation that is intended to address the activities to be regulated by the proposed rule:**

No federal regulations apply. None of the rule proposals violate or conflict with federal regulations.

**8. Anticipated economic impact of implementing the rule:**

The rule will impact the harvest of lake whitefish by commercial fishers. Because of the shift in distribution and overall decline in lake whitefish populations, some commercial fishers could have a reduction in their individual harvest quotas or percentage of the harvest while others have an increase. Certain areas or the whole fishery may be further restricted by season and methods. However, the overall economic impact may be positive for the commercial industry because the rule would allow for more efficient harvest from full use of the available lake whitefish commercial stocks.

The rule changes are necessary in order to ensure a sustainable lake whitefish fishery over the long-term and to better allow commercial fishers to harvest the total allowable commercial catch for whitefish. The rule may have a moderate economic impact in the Lake Michigan region, but an exact amount of impact is unknown at this time. The Department will conduct an economic impact analysis to gather comments from any individuals, businesses, local governments, or other entities that expect to be affected economically by the rule change. In addition, the Department will seek advice from the LMCFB when developing the rule.

The proposed rule will have an effect on small businesses, but would not impose any reporting requirements and would likely not contain any design or operational standards in the rule.

**9. Anticipated number, month and locations of public hearings:**

The Department anticipates holding one public hearing in late 2015. The hearing will be held in Cleveland, WI, which is a central location for commercial fishers along Lake Michigan.

**Contact Person:** David Boyarski, Northern Lake Michigan Fisheries Supervisor, (920)746-2865

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Department Head or Authorized Signature

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Date Submitted



**SCOTT WALKER**  
**OFFICE OF THE GOVERNOR**  
**STATE OF WISCONSIN**

P.O. Box 7863  
MADISON, WI 53707

May 19, 2015

Cathy Stepp  
Secretary  
Wisconsin Department of Natural Resources  
101 South Webster St.  
P.O. Box 7921  
Madison, WI 53707-7921

**RE: Scope Statement for NR 25 (FH-10-15)**  
**Relating to commercial fisheries of lake whitefish in Lake Michigan**

Dear Secretary Stepp,

I hereby approve the statement of scope submitted on May 5, 2015, pursuant to Wisconsin Statutes § 227.135, in regards to a proposed rule modifying Chapter NR 25 (FH-10-15) of the Wisconsin Administrative Code. You may send the scope statement to the Legislative Reference Bureau for publication pursuant to Wisconsin Statutes § 227.135(3).

Sincerely,

Scott Walker  
Governor