STATE OF MICHIGAN
DEPARTMENT OF NATURAL RESOURCES
LANSING

RICK SNYDER
GOVERNOR

KEITH CREAGH
DIRECTOR

SUBMITTED: August 10, 2012
RESUBMITTED: September 17, 2012

MEMORANDUM TO THE DIRECTOR

Information: Natural Resources Commission

Subject: Statewide Smelt Regulations (FO-246)

Authority

The Natural Resources and Environmental Protection Act, 1994 PA 451, as amended, authorizes the Director to provide for better protection and preservation of fish, game and birds.

Discussion and Background

This Order is being modified as a result of an unprecedented early warming event this past spring. Anglers were confused by conflicting smelt regulations which exist in statute and this Order. FO-246 was created to set a 2-gallon possession limit on smelt. Hand net regulations are listed in FO-229 (Waters Open to the Use of Hand Nets) and dip net regulations are listed in section 48703 (5), (6) of 1994 PA 451, as amended. Spearing regulations are listed in FO-219 (Spearing Regulations – Statewide). Due to warm temperatures, the smelt season was much earlier in some locations prior to the March 1 hand net season. Some anglers accessed FO-246 online and saw that the season for harvest of smelt was listed as open all year and hand nets and dip nets were listed as gear in the provisions. Unfortunately, confusion ensued for anglers and department personnel since the netting seasons (as listed in statute) did not open until March 1 and April 1 for hand nets and dip nets, respectively. The unusually warm temperatures had smelt staging or beginning their spring spawning migrations prior to the netting season opened. Therefore, as a result, we are proposing to make several changes to this Order to clarify that regulations concerning smelt seasons for netting and spearing gear are listed in other Orders or in statute.

Anglers and law enforcement personnel are supportive of these changes.

Recommendation

It is our recommendation that the change proposed to Fisheries Order 246 as indicated above be approved to take effect on April 1, 2013. The recommended changes will improve the information listed in the Order and help clarify regulations for our anglers.

This Order was submitted for information at the September 2012 meeting of the Natural Resources Commission. This Order is being resubmitted for action at the October 2012 meeting of the Natural Resources Commission. This item appeared on the Department's September 2012 calendar, and is eligible for approval on October 11, 2012.

James L. Dexter, Chief
Fisheries Division

Gary Hagler, Chief
Law Enforcement Division

Russ Mason, Ph.D., Chief
Wildlife Division

Bill O'Neill, Chief
Forest Resources Division

Ronald A. Olson, Chief
Parks and Recreation Division

William E. Moritz, Ph.D.
Natural Resources Deputy

I approve the staff recommendation.

Keith Creagh, Director

Date

ORDER

STATEWIDE SMELT REGULATIONS

Under the authority of sections 41101 through 41105 and section 48703 (4), (5), (6) of 1994 PA 451, MCL 324.41101 through 324.41105 and MCL 324.48703, the Director of the Department of the Natural Resources on October 11, 2012, ordered that for a period not to exceed five years, the following regulations are established for statewide smelt regulations:

1. The daily harvest/possession limit for smelt on all waters of the state shall be 2 gallons.
2. Smelt may be taken by hook-and-line, spearing gear, hand nets, or dip nets.
3. The harvest season is open all year for hook-and-line. See FO-219 for spearing gear seasons and MCL 324.48703 for hand nets and dip nets seasons.

This Order shall be assigned number FO-246.13, and is entitled "Statewide Smelt Regulations."

This Order supersedes the Order entitled "Statewide Smelt Regulations," which became effective April 1, 2009, and is assigned number FO-246.09.

This Order shall take effect on April 1, 2013. This Order shall remain in effect until March 31, 2018, or until this Order is amended/rescinded, whichever comes first. Although this Order may be reviewed and amended on an annual basis, a review of this Order shall occur no later than August 1, 2017.

Issued on the _____ day of _____, 2012.

Keith Creagh, Director

The Natural Resources Commission has reviewed this Order.

Timothy L. Nichols
Chairperson

Deb Whipple
Executive Secretary