

CR 86-32

86-32

State of Wisconsin \ DEPARTMENT OF NATURAL RESOURCES

Carroll D. Besadny
Secretary

BOX 7921
MADISON, WISCONSIN 53707

STATE OF WISCONSIN)
) ss
DEPARTMENT OF NATURAL RESOURCES)

TO ALL TO WHOM THESE PRESENTS SHALL COME, GREETINGS:

I, Bruce B. Braun, Deputy 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. F-53-85 was duly approved and adopted by this Department on July 24, 1986. 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 General Executive Facility #2 in the City of Madison, this 9th day of September, 1986.

Bruce B. Braun
Bruce B. Braun, Deputy Secretary

(SEAL)

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Revisor of Statutes
Bureau

11-1-86

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

.....
IN THE MATTER OF repealing s. NR 25.07(2)(a)2.c.; .
renumbering s. NR 25.09(2)(a)3. through 9.; .
amending ss. NR 25.05(1)(d) and (e), 25.06(2)(a)1., .
2. and 3., and (b)1., 25.07(2)(a)2.a. and b., .
25.09(2)(a) 5., and 25.09(2)(a)10.a. and b.; .
repealing and recreating s. NR 25.09(2)(d)2.; and .
creating s. NR 25.01(12m), 25.06(2)(c), 25.09(2) .
(a)3. and 4.c. and d., 25.10(2)(b) and (c), and .
25.18 of the Wisconsin Administrative Code .
pertaining to commercial fishing on Lake Michigan .
and Green Bay .
.....

F-53-85

Analysis Prepared by Department of Natural Resources

The rules are promulgated under the authority of ss. 23.09(2)(intro.), 23.11(1), 29.085, 29.174(2)(a), 29.33(1) and 227.11(2)(a), Stats., and interpret ss. 23.09(2)(intro.), 29.085, 29.174(2)(a) and 29.33(1), Stats.

SECTION 1 creates a definition for "forage fish" to support the language created by SECTION 5.

SECTION 2 changes the open seasons for chubs and yellow perch on Lake Michigan. The chub season is lengthened by 30 days by opening it 15 days earlier and closing it 15 days later. The perch season opens 51 days later and closes 22 days later, shortening it by 29 days.

SECTION 3 allows an increase in the annual chub harvest quota in Lake Michigan from 350,000 pounds to 400,000 pounds in the northern zone and from 2,550,000 pounds to 3,000,000 pounds in the southern zone, for a total increase of 500,000 pounds.

SECTION 4 allows an increase in the annual yellow perch harvest quota in Green Bay from 350,000 to 400,000 pounds.

SECTION 5 creates an annual commercial harvest quota for forage fish of 18.5 million pounds caught from Green Bay and Lake Michigan with a May 1, 1988 "sunset clause."

SECTIONS 6 and 7 change the allocation periods of the annual commercial chub harvest quota in the northern Lake Michigan chub zone from a division between three, 3-month periods to a maximum 300,000 chub harvest during the period of July through January 15 and a 100,000 maximum chub harvest during the period of March through June. The harvest quota for the second period shall be adjusted based on the reported catch of the previous period.

SECTIONS 8, 9, 10, and 11 revise the gill net specifications for Green Bay and Lake Michigan. The height of nets set in various water depths is changed to reduce the incidental catch of game fish.

SECTION 12 revises the requirement that gill nets in Lake Michigan be lifted daily if set in open water shallower than 180 feet (30 fathoms), to one of allowing small-mesh gill nets to be lifted once every five days.

SECTION 13 restricts the areas in Lake Michigan where trawls may be used. Trawls will be limited to areas which have traditionally been trawled in the past 5 years. These areas are primarily between Kewaunee and Sheboygan. Previously all water south of Sturgeon Bay was open to trawling. SECTION 13 also limits trawls to the harvest of forage fish except to allow an incidental catch of whitefish and chubs. If in season, up to 1.5% by weight of the daily catch may be composed of legal sized whitefish. Chub fishing permits are required to sell incidentally caught chubs for human consumption and such amounts sold shall be included as part of the licensee's chub permit quota. A "sunset" clause of May 1, 1988 is created.

SECTION 14 creates a restricted zone between Baileys Harbor and Kewaunee. Commercial fishing gear is banned from this area, except that the department may by permit under s. NR 25.10(4), Wis. Adm. Code, authorize the use of such gear to take rough or detrimental fish, perch or menominee or may permit the use of entrapping nets to take whitefish. Inside this zone is a smaller zone where commercial fishing gear is banned altogether. The smaller zone, a triangle formed by Sturgeon Bay, Algoma, and a point due east of Algoma, corresponds with the boundaries of a lake trout spawning sanctuary established by s. NR 20.02(1)(d)2.b., Wis. Adm. Code.

SECTION 15 of the order requires all commercial catches which are kept for sale or other use to be landed at ports in Wisconsin unless a written exception has been granted by the department.

SECTION 1. NR 25.02(12m) is created to read:

NR 25.01(12m) "Forage fish" means, when taken by trawl, only chubs which are not sorted for sale for human consumption, alewife, smelt and other rough fish species except carp and means, when taken by other commercial gear, only alewife and smelt.

SECTION 2. NR 25.05(1)(d) and (e) are amended to read:

	Species	A Green Bay	B Lake Michigan	C Lake Superior
NR 25.05(1)(d)	Chubs	No open season	March 15 1 to December 31 January 15, subject to ss. NR 25.06(2)(a), 25.07(2)(a) and 25.09.	At all times
(e)	Yellow perch	July 1 to April 9 except 1. Commencing May-20, 1984-- gill Gill nets may be used from May 20 to April 9; 2. From January 1 to April 9 only commercial ice fishing is legal; 3. All to be sub- ject to ss. NR 25.06 (2)(b) and 25.07(2)(b)	June 11 to April 9 August 1 to <u>April 30</u>	No open season

SECTION 3. NR 25.06(2)(a)1., 2. and 3. are amended to read:

NR 25.06(2)(a)1. The total allowable commercial harvest for any license year may not exceed ~~3,000,000~~ 3,500,000 pounds, not including ~~incidental~~ forage fish catches allowed elsewhere-in-this-chapter under par. (c).

2. No more than ~~350,000~~ 400,000 pounds of the total allowable commercial harvest for any license year may be taken in the northern chub fishing zone.

3. No more than ~~2,550,000~~ 3,000,000 pounds of the total allowable commercial harvest for any license year may be taken in the southern chub fishing zone.

SECTION 4. NR 25.06(2)(b)1. is amended to read:

NR 25.06(2)(b)1. The total allowable commercial harvest in Green Bay for any license year may not exceed ~~350,000~~ 400,000 pounds.

SECTION 5. NR 25.06(2)(c) is created to read:

NR 25.06(2)(c) Forage fish. The total allowable annual commercial harvest of forage fish in Wisconsin waters of Lake Michigan and Green Bay shall be determined by the natural resources board based on recommendations from the department.

1. The total allowable commercial harvest of forage fish by trawls in any license year may not exceed 18,000,000 pounds in Lake Michigan and Green Bay, of which no more than 2,500,000 pounds may be taken from Green Bay.

2. The total allowable commercial harvest of forage fish in Lake Michigan and Green Bay by commercial gear other than trawls may not exceed 500,000 pounds in any license year.

3. This paragraph shall be in effect until May 1, 1988.

SECTION 6. NR 25.07(2)(a)2.a. and b. are amended to read:

NR 25.07(2)(a)2.a. No more than ~~125,000~~ 300,000 pounds of chubs may be harvested during the quota ~~periods~~ period of July 1 through September-30, ~~and October-1-through-December-31~~ January 15; and no more than 100,000 pounds of chubs may be harvested during the quota period of March ~~15~~ 1 through June 30 except that this amount shall be adjusted based on the reported catch of the previous period within a license year.

b. The department shall notify all permittees to cease fishing upon receipt of information that 85% of the period ~~quota~~ quotas as established in subpar. a. ~~has~~ have been harvested except that all nets in the water shall be lifted under s. NR 25.09(2)(a)9., and the legal fish harvested.

SECTION 7. NR 25.07(2)(a)2.c. is repealed.

SECTION 8. NR 25.09(2)(a)3. through 9. are renumbered 4. through 10.

SECTION 9. NR 25.09(2)(a)3. is created to read:

NR 25.09(2)(a)3. With a mesh size of less than 2 1/2 inch stretch measure may not exceed 30 meshes in depth in Lake Michigan after July 1, 1988.

SECTION 10. NR 25.09(2)(a)4., as renumbered, c. and d. are created to read:

NR 25.09(2)(a)4.c. May not exceed 18 meshes in depth when set in waters less than 150 feet (25 fathoms) deep in Lake Michigan outside the northern chub fishing zone after July 1, 1988.

d. May not exceed 60 meshes in depth when set in waters 150 feet (25 fathoms) deep or deeper or within the northern chub fishing zone.

SECTION 11. NR 25.09(2)(a)5., as renumbered, is amended to read:

NR 25.09(2)(a)5. With a mesh size of 2 3/4 inch or less stretch measure may not exceed 60 meshes in depth in Lake Michigan through June 30, 1988, and in Green Bay.

SECTION 12. NR 25.09(2)(a)10.a. and b., as renumbered, are amended to read:

NR 25.09(2)(a)10.a. Once every 24 hours (1 day) in open water less than ~~180~~ 150 feet (~~30~~ 25 fathoms) deep for mesh sizes larger than 2 3/4 inch stretch measure in Lake Michigan and for all mesh sizes in Green Bay.

b. Once every 120 hours (5 days) in open water ~~180~~ 150 feet (~~30~~ 25 fathoms) deep or deeper for mesh sizes of not more than 2 3/4 inch stretch measure in Lake Michigan.

SECTION 13. NR 25.09(2)(d)2. is repealed and recreated to read:

NR 25.09(2)(d)2. In Lake Michigan:

a. Only in waters 60 feet (10 fathoms) deep or deeper bounded by a line beginning at a point where 44° 30' north latitude intersects with the Wisconsin shore of Lake Michigan, then proceeding east along 44° 30' north latitude, to its intersection with 87° 10' west longitude, then proceeding south along 87° 10' west longitude to its intersection with 44° 10' north latitude then proceeding west along 44° 10' north latitude to its intersection with 87° 20' west longitude, then proceeding south along 87° 20' west longitude to its intersection with 43° 50' north latitude, then proceeding west along 43° 50' north latitude to its intersection with 87° 40' west longitude, then proceeding north along 87° 40' west longitude to its intersection with 44° 00' north latitude, then proceeding west along 44° 00' north latitude to the Wisconsin shore of Lake Michigan and then north along the shore to the point of beginning. This area can also be described as all of grids 1105, 1205, 1304, 1403 and 1404, and part of grids 1104, 1204 and 1303.

b. Only for taking forage fish as provided in s. NR 25.06(2)(c) except:

1) Whitefish which exceed the size limit described in s. NR 25.05(2) may be taken during the open season for whitefish described in s. NR 25.05(1) provided they amount to no more than 1.5% by weight of the boat's total daily catch.

2) Section NR 25.07(2)(a) applies to all chubs sorted for sale for human consumption.

c. This subdivision shall be in effect until May 1, 1988.

SECTION 14. NR 25.10(2)(b) and (c) are created to read:

NR 25.10(2)(b). No commercial fishing gear of any kind except nets, other than trawls, authorized by permit issued under sub. (4) for the taking of rough or detrimental fish, perch or menominee and entrapping nets authorized by permit issued under sub. (4) for the taking of whitefish may be used, set, placed or operated in the waters of Lake Michigan lying south of a line extending from the mid-channel marker buoy of Baileys Harbor on a 135° bearing, or north of a line running due east from the entrance of Kewaunee harbor, except as provided under par. (c).

(c) No commercial fishing gear of any kind may be used, set, placed or operated in all waters bounded by a line beginning at the outer end of the south pier at the Lake Michigan entrance of the Sturgeon Bay ship canal and proceeding on a bearing of 136° to the point of intersection with a line extending due east from the outer end of the north pier at Algoma, then proceeding west along that line to the outer end of the north pier at Algoma then proceeding along the north side of that pier to the shore of Lake Michigan, then proceeding north along the shore to the base of the south pier at the Lake Michigan entrance of the Sturgeon Bay ship canal, then proceeding along the south side of that pier to the point of beginning.

SECTION 15. NR 25.18 is created to read:

NR 25.18 LANDING OF FISH. Fish and fish parts caught in commercial fishing operations and kept by Wisconsin licensed commercial fishers for sale or other use shall be brought to shore in Wisconsin unless otherwise authorized in writing by the department.

The foregoing rules were approved and adopted by the State of Wisconsin Natural Resources Board on July 24, 1986.

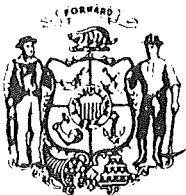
The rules shall take effect as provided in s. 227.22(2)(intro.), Stats.

Dated at Madison, Wisconsin September 9, 1986

STATE OF WISCONSIN DEPARTMENT OF NATURAL RESOURCES

By Carroll D. Besadny
Carroll D. Besadny, Secretary

(SEAL)
1298D



State of Wisconsin

DEPARTMENT OF NATURAL RESOURCES

Carroll D. Besadny
Secretary

BOX 7921
MADISON, WISCONSIN 53707

September 9, 1986

IN REPLY REFER TO: 1020

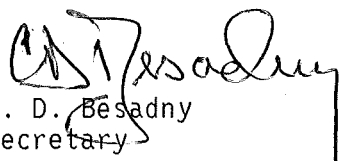
Mr. Orlan L. Prestegard
Revisor of Statutes
Suite 904
30 W. Mifflin Street

Dear Mr. Prestegard:

Enclosed are two copies, including one certified copy, of State of Wisconsin Natural Resources Board Order No. F-53-85. These rules were reviewed by the Assembly Committee on Tourism, Recreation and Forest Productivity and the Senate Committee on Energy and Environmental Resources pursuant to s. 227.19, Stats. Summaries of the final regulatory flexibility analysis and comments of the legislative review committees is also enclosed.

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

Sincerely,


C. D. Besadny
Secretary

Enc.
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