

State of Wisconsin

DEPARTMENT OF NATURAL RESOURCES

Carroll D. Besadny  
Secretary

BOX 7921  
MADISON, WISCONSIN 53707

CR 89-41

STATE OF WISCONSIN )  
DEPARTMENT OF NATURAL RESOURCES )

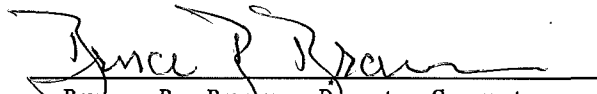
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AUG 22 1989  
9:50 AM  
Revisor of Statutes  
Bureau

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. FM-3-89 was duly approved and adopted by this Department on June 29, 1989. 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 here-  
unto set my hand and affixed the  
official seal of the Department at  
the Natural Resources Building in  
the City of Madison, this 21<sup>st</sup>  
day of August, 1989.

  
Bruce B. Braun, Deputy Secretary

(SEAL)

12-1-89

ORDER OF THE STATE OF WISCONSIN NATURAL RESOURCES BOARD  
CREATING RULES

.....  
IN THE MATTER of creating s. NR 20.035, .  
Wisconsin Administrative Code, pertaining to . FM-3-89  
alternate size and bag limits on walleye, .  
largemouth bass and smallmouth bass. .  
.....

Analysis Prepared by Department of Natural Resources

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

Statutes interpreted: s. 29.174(2)(a), Stats.

The rule allows the establishment, by notice and posting, of a no size limit regulation on walleye, largemouth bass or smallmouth bass in specific waters where conditions indicate that the originally applicable size limit would be detrimental to the resource or its use.

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SECTION 1. NR 20.035 is created to read:

NR 20.035 ALTERNATE SIZE AND BAG LIMITS. (1) PURPOSE.

Notwithstanding any provision of ch. NR 21, 22, 23 or this chapter, for all or part of any inland, boundary or outlying water, the department may apply the alternate size limits, bag limits or both under this section for fish species identified in this section in order to provide for better use and management of the fishery resource of the water to which the proposed alternate limit would apply.

(2) PROCEDURE. The department shall follow the procedures in this subsection in applying an alternate size limit or bag limit under this section.

(a) Notice. The department shall prepare and distribute a notice of its intent to apply an alternate limit under this

section. The notice shall be published as a class 1 notice under ch. 985, Stats., in a general circulation newspaper in the vicinity of the water and, if the proposal has statewide significance, in the official state newspaper. A copy of the notice shall be sent to individuals and organizations which the department believes may be interested in the matter. The notice shall include a description of the water affected, the fish species affected, the alternate limit which will apply, and the date the alternate limit will take effect. The notice shall invite the public to submit written comments and indicate that a public information meeting will be held on the alternate limit if requested in writing within 10 days after the notice is published.

(b) Public information meeting. If a public information meeting is requested under par. (a), the department shall conduct the public information meeting in the vicinity of the affected water. At the meeting the department shall describe the factual basis for its intended decision and shall receive comments from the public on the matter.

(c) Determination. If, based on facts and information available to it, including comments received in response to the notice and at any public information meeting which may be held, the department concludes that a condition described in sub. (3) affects fish in a specific water, it shall apply the corresponding alternate limit. The alternate limit shall take

effect upon the posting of the notice under par. (d).

(d) Posting. The department shall post notice at public access sites on the affected water that an alternate limit applies to a species of fish found in that water. The notice shall set out the name or description of the water or that part of the water to which the proposed alternate limit would apply, the species of fish affected, the corresponding alternate limit and the effective date of the alternate limit.

(e) List. The department shall maintain a current list of all waters to which an alternate limit under this section applies. The list shall be available for public inspection at the department's central office during regular office hours.

(3) ALTERNATE LIMIT. (a) Size limits. No size limit shall apply to walleye, largemouth bass or smallmouth bass if, for the particular species in a particular water, the department finds:

1. Angler exploitation of the species is less than 15% of the population of fish larger than the original size limit.

2. Total adult mortality for that species is less than 30% of the population.

3. More than 10% of the fish tested of that species in the size range from the originally applicable size limit to 3 inches larger than the originally applicable size limit, in fillets with the skin on, contain .75 parts per million or more mercury, 2 parts per million or more PCB (polychlorinated biphenyl), 5 parts

per million or more DDT (dichloro diphenyl trichloroethane), 5 parts per million or more Toxaphene, 0.3 parts per million or more Chlordane, or 0.3 parts per million or more Dieldrin.

4. Walleye males do not grow to a length of at least 13 inches in 4 years or largemouth bass or smallmouth bass do not grow to a length of at least 12 inches in 5 years in all inland waters lying north of a line beginning at the state highway 70 bridge over the St. Croix river, then east on state highway 70 to its intersection with state highway 27, then south on highway 27 to its intersection with state highway 64, then east along highway 64 to its end, then continuing east to the waters of Green Bay or in inland waters of Brown, Kewaunee or Door counties north of a line beginning with the state highway 29 bridge over the Fox river, then east along state highway 29 to its end, then continuing east to Lake Michigan.

5. Largemouth bass or smallmouth bass do not grow to a length of at least 14 inches in 6 years in inland waters other than those identified in subd. 4.

(b) Bag limits. If the department finds under sub. (2) that one or more of the following conditions exists in a particular water, the corresponding alternate bag limit shall apply to the named species of fish in that water.

1. [Reserved]

(4) TERMINATION OF ALTERNATE LIMITS. Any time the department has reason to believe that the condition which led to

the application of an alternate limit under this section no longer affects a species of fish in a particular water, it may remove the alternate limit by following the procedures under sub. (2)(a) to (c). Following its determination to remove an alternate limit the department shall remove or modify the posted notices of alternate limits and the original bag limit or size limit shall then apply.

The foregoing rule was approved and adopted by the State of Wisconsin Natural Resources Board on June 29, 1989

The rules 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 August 21, 1989

STATE OF WISCONSIN  
DEPARTMENT OF NATURAL RESOURCES

By Carroll D. Besadny  
Carroll D. Besadny, Secretary

(SEAL)



State of Wisconsin

DEPARTMENT OF NATURAL RESOURCES

Carroll D. Besadny  
Secretary

BOX 7921  
MADISON, WISCONSIN 53707

August 21, 1989

In reply refer to: 1020

Mr. Orlan L. Prestegard  
Revisor of Statutes  
Suite 702  
30 W. Mifflin Street

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AUG 22 1989

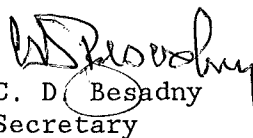
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Dear Mr. Prestegard:

Enclosed are two copies, including one certified copy, of State of Wisconsin Natural Resources Board Order No. FM-3-89. These rules were reviewed by the Assembly Committee on Tourism, Recreation and Government Operations and the Senate Committee on Transportation, Conservation and Mining pursuant to s. 227.19, Stats. A summary 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.