

State of Wisconsin

CR 86-33

DEPARTMENT OF NATURAL RESOURCES

Carroll D. Besadny
Secretary

BOX 7921
MADISON, WISCONSIN 53707

STATE OF WISCONSIN

DEPARTMENT OF NATURAL RESOURCES

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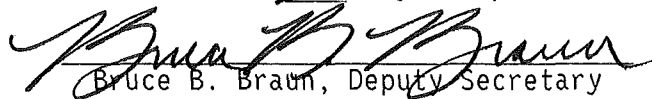
MAY 1 1987

3:15 pm
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. F-50-85 was duly approved and adopted by this Department on February 26, 1987. 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 30th day of April, 1987.


Bruce B. Braun, Deputy Secretary

(SEAL)

9791H

7-1-87

ORDER OF THE
STATE OF WISCONSIN
NATURAL RESOURCES BOARD
AMENDING AND CREATING RULES

.....
IN THE MATTER OF amending s. NR 20.10(4)(a) .
(intro.) and creating ss. NR 20.015(2m) and .
20.10(5) of the Wisconsin Administrative . F-50-85
Code pertaining to permits for nonstandard .
minnow gear .
.....

Analysis Prepared by the Department of Natural Resources

The rules are promulgated under the authority of ss. 29.174(2)(a), 29.175(1) and 227.11(2)(a), Stats., and interpret ss. 29.137(7), 29.174(1), 29.175(1) and 29.30, Stats.

The rules set criteria and a procedure for issuance of permits to allow the use of nonstandard or oversized minnow seines, minnow dip nets and minnow traps by licensed bait dealers.

SECTION 1. NR 20.015(2m) is created to read:

NR 20.015(2m) "Business day" has the meaning given it in s. 421.301(6), Stats.

SECTION 2. NR 20.10(4)(a)(intro.) is amended to read:

NR 20.10(4)(a)(intro.) Unless a ~~bait~~ permit has been issued under sub.(5) by the ~~district-director~~ department in accordance with gear regulations-in s. 29.30, Stats., only the following described gear may be used for the taking of minnows for bait:

SECTION 3. NR 20.10(5) is created to read:

NR 20.10(5) PERMITS FOR USE OF NONSTANDARD MINNOW GEAR. A licensed bait dealer may apply to the department on a form provided by the department for a permit to take minnows with minnow seines, minnow dip nets or minnow traps which are otherwise prohibited by this section. Applications shall be submitted to the department district office having jurisdiction over the affected waters.

(a) The department shall issue the permit if it determines that the conditions of this paragraph are met.

1. For waters with public access which is adequate according to s. NR 1.90(2)(a), the department must find that:

a. The department does not need the minnows for its fish management activities;

b. Removal of the minnows will not cause or substantially contribute to a long-term depletion of the forage base;

c. Threatened or endangered species listed in ch. NR 27 are not known to be present in or near the affected water;

d. Unique or sensitive biological values such as nesting loons or heron rookeries are not present in, on or near the affected water;

e. The use of the minnow seines, minnow dip nets or minnow traps is not likely to hinder or interfere with the exercise of a permit issued earlier in the year to another person for the water; and

f. The use of the minnow seines, minnow dip nets or minnow traps is not likely to hinder or interfere with any other public uses of the water.

2. For waters lacking adequate public access and for waters surrounded by private lands, the department must find that:

a. The requirements of subd. 1.a. to e. are met; and

b. The applicant provided the department with the name, mailing address and telephone number of the person granting the applicant legal access to the water.

(b) Permits issued by the department under this subsection shall:

1. Include the permit holder's name, address and bait dealer's license number,
2. Specify the water where the permit is valid,
3. Describe the minnow seines, minnow dip nets or minnow traps authorized,
4. Include an expiration date of December 31 of the calendar year in which the permit is issued, unless an earlier date is set under par. (c),
5. Prohibit the removal or destruction of vegetation, logs and other habitat features,
6. Require that minnows be transported only in tanks equipped with either an oxygen tank or an adequate aeration system,
7. Require that transport tanks and holding facilities not be loaded beyond their capacity to keep the minnows alive and healthy,
8. Require that all minnows taken under the permit be sold or used only for angling or rearing of fish in department or private fish hatcheries, and
9. Require that all minnows which are not kept for use or sale and all game fish caught by the minnow seines, minnow dip nets or minnow traps be promptly returned unharmed to the water.

(c) The department may require reporting of the permit holder's activities under the permit and may set reasonable permit conditions to insure that the requirements of par. (a) are met.

(d) The department shall act on a complete application for a permit under this subsection within 20 business days after it is received by the appropriate department district office.

(e) No permit holder may cause or allow the violation of any term or condition of a permit issued under this subsection. In addition to any other penalties, if a permit holder is convicted of causing or allowing a violation of any term or condition of a permit, the permit is terminated.

(f) The department may, at any time, revoke or modify a permit issued under this subsection if it determines that the minnow supply is in danger of being depleted in the water for which the permit was issued. A permit revocation or modification shall become effective when it is received by the permit holder or 3 business days after it is mailed to the permit holder at the address shown on the permit, whichever occurs first.

(g) Any person aggrieved by a decision of the department under this subsection may, within 30 days of the mailing of the decision, request a contested-case hearing before the department on the decision under s. 227.42, Stats.

The foregoing rules were approved and adopted by the State of Wisconsin Natural Resources Board on February 26, 1987.

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

Dated at Madison, Wisconsin

April 29, 1987

STATE OF WISCONSIN DEPARTMENT OF NATURAL RESOURCES

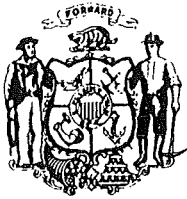
By

Carroll D. Besadny

Carroll D. Besadny, Secretary

(SEAL)

9277H



State of Wisconsin

DEPARTMENT OF NATURAL RESOURCES

Carroll D. Besadny
Secretary

BOX 7921
MADISON, WISCONSIN 53707

April 29, 1987

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-50-85. These rules were reviewed by the Assembly Committee on Natural Resources and the Senate Committee on Transportation, Tourism and Conservation 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,

A handwritten signature in cursive script, appearing to read 'C. D. Besadny', written over the printed name and title.

C. D. Besadny
Secretary

Enc.
9791H