

CR 83-94

State of Wisconsin

DEPARTMENT OF NATURAL RESOURCES

Carroll D. Besadny  
Secretary

BOX 7921  
MADISON, WISCONSIN 53707

STATE OF WISCONSIN )  
DEPARTMENT OF NATURAL RESOURCES ) ss

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TO ALL TO WHOM THESE PRESENTS SHALL COME, GREETINGS:

I, Carroll D. Besadny, 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-52-82 was duly approved and adopted by this Department on December 14, 1983. 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 ~~17th~~ day of February, 1984.

*Carroll D. Besadny*  
Carroll D. Besadny, Secretary

(SEAL)

3032I

2-1-84

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

.....  
IN THE MATTER of repealing s. NR 25.13;  
renumbering ss. NR 25.14 through 25.16; and  
repealing and recreating ss. NR 25.08 and  
25.09 of the Wisconsin Administrative Code  
pertaining to commercial fishing in  
outlying waters.  
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F-52-82

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Analysis Prepared by the Department of Natural Resources

The repeal of s. NR 25.13, Wis. Adm. Code, was made possible by the incorporation of its language into the repealed and recreated s. NR 25.08.

Sections NR 25.14 through 25.16, Wis. Adm. Code, were renumbered to fill the void caused by the repeal of s. NR 25.13.

The repeal and recreation of ss. NR 25.08 and 25.09, Wis. Adm. Code, was done to incorporate rules dealing with legal commercial fishing gear in s. NR 25.08, while placing rules dealing with restricted commercial fishing areas in s. NR 25.09. These rules are presently all found in s. NR 25.08, and over the years revisions and amendments have made the section complicated and hard to follow. Existing language in s. NR 25.09 and 25.13 is incorporated into the new s. NR 25.08. In the repeal and recreation, the rules involved have been restructured, renumbered and reordered to improve clarity, simplicity and logic. In addition, minor changes have been made in s. NR 25.08 as to the usage of certain commercial fishing gear, and in s. NR 25.09 permit requirements and criteria have been developed for commercial fishing operations in restricted waters.

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Pursuant to the authority vested in the State of Wisconsin Natural Resources Board by ss. 29.085, 29.174, 29.33 and 227.014, Stats., the State of Wisconsin Natural Resources Board hereby repeals, renumbers, and repeals and recreates rules interpreting ss. 29.085, 29.174 and 29.33, Stats., as follows:

SECTION 1. NR 25.08 is repealed and recreated to read:

NR 25.08 COMMERCIAL FISHING GEAR. Licensed commercial fishers conducting commercial fishing operations may only use the following gear subject to the conditions stated in this section and in the areas designated:

(1) LAKE SUPERIOR. (a) Gill nets:

1. With a mesh size of not more than 1 3/4 inch stretch measure.

2. With a mesh size of not less than 2 3/8 inch and not more than 2 3/4 inch stretch measure:

a. Not more than 35 meshes in depth in water 12 to 90 feet (2 to 15 fathoms) deep or 210 feet (35 fathoms) and deeper.

b. Not more than 60 meshes in depth may be used provided the bottom maitre cord or lead line is at least 6 feet (1 fathom) above the lake bottom.

3. With a mesh size of not less than 2 1/2 inch and not more than 3 inch stretch measure:

a. Only in water 60 feet (10 fathoms) deep or deeper.

b. Only from November 15 through March 31.

4. With a mesh size of not less than 4 1/2 inch stretch measure:

a. Not more than 30 meshes in depth and only when set on the bottom of the lake.

b. No more than 10,000 feet of these nets may be used by each licensed commercial fisher in water less than 330 feet (55 fathoms) deep and then only from December 1 through September 30.

c. May be used in water more than 330 feet (55 fathoms) deep at any time.

5. Shall be lifted a minimum of:

a. Once every 72 hours (3 days) in open water less than 96 feet (16 fathoms) deep.

b. Once every 120 hours (5 days) in open water 96 to 210 feet (16 to 35 fathoms) deep.

c. Once every 240 hours (10 days) in open water more than 210 feet (35 fathoms) deep.

d. Once every 120 hours (5 days) in commercial ice fishing.

(b) Entrapping nets:

1. Only when the pot or crib is set, placed or operated in water not more than 78 feet (13 fathoms) deep.

2. May be set, placed or operated only by permit issued under s. NR 25.09(4) in that part of Lake Superior lying between a line extending due north from the harbor entrance at Cornucopia in section 34, township 51 north, range 6 west, Bayfield county, and a line extending due north from the mouth of the Bad river in section 17, township 48 north, range 2 west, Ashland county, and including all of the Apostle Islands area.

3. May be used up to 10 such nets by each licensed commercial fisher, that being the maximum number of pots or cribs allowed.

4. Shall be lifted a minimum of once every 168 hours (7 days).

5. Shall be removed from the water or shall have the fish holding or pot portion rendered inoperable during the closed seasons for whitefish and lake trout, on pound nets and trap nets.

(c) Encircling nets and trawls Only for taking fish species for which there is no minimum size limit and which are legal in other commercial fishing gear.

(2) LAKE MICHIGAN AND GREEN BAY. (a) Gill nets:

1. With a mesh size of not more than 1 3/4 inch stretch measure for taking smelt only.

2. With a mesh size of not less than 2 3/8 inch and not more than 2 1/2 inch stretch measure in southern Green Bay only.

3. With a mesh size of not less than 2 1/2 inch and not more than 2 3/4 inch stretch measure:

a. For chubs in Lake Michigan, in the northern and southern chub fishing zones only.

b. For other legal fish species in Lake Michigan and Green Bay.

4. With a mesh size of 2 3/4 inch or less stretch measure may not exceed 60 meshes in depth.

5. With a mesh size of not less than 4 inch and not more than 4 1/2 inch stretch measure:

a. Only in southern Green Bay in water less than 30 feet (5 fathoms) deep.

b. Only for taking rough fish and northern pike.

c. From May 20 to March 9, except during the closed season for whitefish.

d. Not more than 30 meshes in depth.

6. With a mesh size of not less than 4 1/2 inch and not more than 6 1/2 inch stretch measure:

a. In those waters of Lake Michigan lying north of a line extending due east from the red navigational buoy marking the entrance of Bailey's Harbor, except between April 1, 1983 and July 1, 1985 when it is in those waters of Lake Michigan lying north of a line extending from the mid-channel marker buoy of Bailey's Harbor on a 135° bearing.

Note: This subparagraph allows the use of gill nets with a mesh size of not less than 4 1/2 inch and not more than 6 1/2 inch stretch measure in a larger area of northern Lake Michigan for a period not to extend beyond July 1, 1985. During that period, the fishery will be closely monitored and evaluated. If found necessary, the department will propose appropriate amendments prior to July 1, 1985.

- b. In Green Bay.
  - c. Only during the open season for whitefish.
  - d. May not exceed 30 meshes in depth for one-half of the total length of these nets set at any time by a licensed commercial fisher, and the remaining half may not exceed 50 meshes in depth.
7. With a mesh size of not less than 6 1/2 inch stretch measure:
- a. Only for taking rough fish.
  - b. Only during the open seasons for whitefish and yellow perch.
  - c. Not more than 12 meshes in depth.
8. With a mesh size of 4 inch or larger stretch measure, not to exceed 12,000 feet may be used by each licensed commercial fisher at any one time.
9. Shall be lifted a minimum of:
- a. Once every 24 hours (1 day) in open water less than 180 feet (30 fathoms) deep.
  - b. Once every 120 hours (5 days) in open water 180 feet (30 fathoms) deep or deeper.
  - c. Once every 48 hours (2 days) in commercial ice fishing.
- (b) Entrapping nets:
- 1. Drop nets and fyke nets:
    - a. Only during the open season for yellow perch, except by permit issued under s. NR 25.09(4).
    - b. May be used up to 30 drop nets or fyke nets in aggregate by each licensed commercial fisher, that being the maximum number of pots allowed.
    - c. Shall be lifted a minimum of once every 72 hours (3 days).
  - 2. Pound nets and trap nets:
    - a. Only when the pot or crib is set, placed or operated in water not more than 78 feet (13 fathoms) deep.

b. May be used up to 12 pound nets or trap nets in aggregate by each licensed commercial fisher, that being the maximum number of pots or cribs allowed.

c. Shall be lifted a minimum of once every 120 hours (5 days).

d. Shall be removed from the water or shall have the fish holding or pot portion rendered inoperable during the closed season for whitefish.

(c) Seines:

1. With a mesh size of not less than 3 inch stretch measure.

2. Not less than 75 feet in length.

(d) Trawls:

1. In southern Green Bay:

a. Only for taking fish species for which there is no minimum size limit, and which are legal in other commercial fishing gear.

b. Only in water more than 24 feet (4 fathoms) deep.

c. Only north of a line from the southernmost point of Little Tail point to the Green Bay navigation channel entrance light.

2. In Lake Michigan:

a. Only south of a line extending due east from the Sturgeon Bay coast guard station.

b. Only for taking fish species for which there is no minimum size limit, not to include those species for which an allowable annual harvest limit has been established under s. NR 25.06(2).

c. No more than 1% by weight of the catch from each trawl cast may be composed of fish species which are legal in other commercial fishing gear. The provisions of s. NR 25.07(2) shall apply.

(3) NET OPERATING REQUIREMENT.

(a) Nets do not have to be lifted on Sunday, except as required by notice issued under s. NR 25.07.

(b) The lifting requirements of this section shall apply except during extreme adverse weather conditions which would place a fisher in danger of serious injury or death.

(4) NET MESH MEASUREMENT. Whenever the size of mesh of any net is specified in this chapter, the size shall be considered stretch measure.

(a) Stretch measure shall be determined by exerting a one pound strain on a mesh knot and measuring the mesh opening immediately above that knot on which the strain is applied from the inside edge of that knot to the inside edge of the knot directly opposite. Measurement shall be made by inserting the measuring device at the uppermost knot in the mesh and reading at the lowermost knot.

(b) The weight and measuring devices to be used under par. (a) shall be tested, approved and certified by the Wisconsin department of agriculture, trade and consumer protection, or other governmental entity authorized to do so.

(c) Measurement shall be made of meshes in a wet condition.

(d) If the majority of 10 or more meshes selected at random by the enforcement officer from any part or parts of the net are found to be illegal, the entire net shall be considered illegal and shall be seized and held subject to the order of the court.

(5) MOVEMENT OF COMMERCIAL FISHING GEAR. Whenever any gill nets, encircling nets or trawls catch illegal fish of any species in an amount equal to 10% or more by weight or numbers of the total legal catch, those nets shall be immediately removed from the water, and may not be reset, placed, replaced, recast or operated during that same day unless:

(a) All parts of the net are moved a distance of at least 3 miles from that site; or



(b) Moved to a water depth where no part of the net is within 30 feet (5 fathoms) in depth of the water depth at which the catch of illegal fish was made.

SECTION 2. NR 25.09 is repealed and recreated to read:

NR 25.09 RESTRICTED COMMERCIAL FISHING AREAS. The following restrictions apply to the use of the specified commercial fishing gear in the indicated areas:

(1) LAKE SUPERIOR. (a) No commercial fishing gear of any kind except nets by permit issued under sub. (4) for the taking of rough or detrimental fish, or entrapping nets by permit issued under sub. (4) for the taking of whitefish may be used, set, placed or operated in the following waters:

1. Allouez bay, Superior bay, and St. Louis bay, all in Douglas county and as described in s. 29.015, Stats.

2. All waters within one-fourth mile of the mouth of any navigable stream flowing into Lake Superior.

3. All waters within one-fourth mile of any harbor, pier or breakwater from April 15 through November 30.

4. That portion of Chequamegon bay lying south of a line beginning at the easternmost point of Houghton point in section 27, township 49 north, range 4 west, Bayfield county, then proceeding northeasterly to the signal light on the western end of Long island in section 13, township 48 north, range 4 west, Ashland county, then along the south or west shore of Long island and on across the cut, if present, along the south or west shore of Chequamegon point to where Chequamegon point joins the mainland in section 1 or 12, township 48 north, range 3 west, Ashland county.

(b) No commercial fishing gear of any kind except nets by permit issued under sub. (4) for the taking of rough or detrimental fish may be used, set, placed or operated in the following waters:

1. All waters bounded by a line beginning at the mouth of Graveyard creek in section 3, township 47 north, range 1 west, extending north to the Gull Island Shoals refuge south boundary as described in s. NR 26.23(1)(a), then east to the Wisconsin-Michigan state line, then southerly along the state line to the shore at the mouth of the Montreal river in section 7, township 47 north, range 1 east, all in Iron county.

2. That portion of Siskiwit bay lying south of a line extending from Roman (Quarry) point in section 29, township 50 north, range 6 west, to Squaw point in section 22, township 50 north, range 6 west, all in Bayfield county.

3. All waters bounded by a line beginning at the signal light on the western end of Long island in section 13, township 48 north, range 4 west, then extending northeasterly to the southernmost point of Madeline island in section 6, township 49 north, range 4 west, then due east to the western boundary of Gull Island Shoals refuge as described in s. NR 26.23(1)(a), then southerly along the refuge boundary to the mouth of the Bad river in section 17, township 48 north, range 2 west, then northwesterly along the shoreline to the point of beginning, all in Ashland county, except waters within one mile of the mainland shoreline in Ashland county.

4. All waters less than 90 feet (15 fathoms) deep lying between a point extending due north from the mouth of the Iron river in section 34, township 50 north, range 9 west, and a line extending due north from the mouth of the Cranberry river at Herbster in section 5, township 50 north, range 7 west, all in Bayfield county.

5. All waters less than 210 feet (35 fathoms) deep lying between a line extending due north from the mouth of the Iron river in section 34, township

50 north, range 9 west, Bayfield county, and the Wisconsin-Minnesota state line, except all waters more than 90 feet (15 fathoms) deep lying between a line extending due north from the mouth of the Iron river and a line extending due north from the mouth of the Bois Brule river in section 10, township 49 north, range 10 west, Douglas county, where gill nets with a mesh size of 3 inches or less stretch measure may be used from November 15 through December 31.

6. All waters less than 72 feet (12 fathoms) deep lying between a line extending due north from the mouth of the Cranberry river at Herbster in section 5, township 50 north, range 7 west, and a line extending due north from the northernmost point of Roman (Quarry) point in section 29, township 50 north, range 6 west, all in Bayfield county, except that portion of Bark bay lying southwesterly of a line beginning at Roman (Quarry) point and extending northwesterly to Bark point in section 24, township 50 north, range 7 west, all in Bayfield county, which shall be open from April 1 through May 31.

7. All waters less than 54 feet (9 fathoms) deep or within one mile of the mouth of any stream flowing into Lake Superior, lying between a line extending due east from the breakwall light at Port Superior in Pikes bay in section 27, township 50 north, range 4 west, and a line extending due east from the easternmost point of Houghton point in section 27, township 49 north, range 4 west, all in Bayfield county, from August 16 through May 31.

8. All waters lying east of Madeline island bounded by a line extending due east from the southernmost tip of Madeline island in section 6, township 49 north, range 4 west to the western boundary of the Gull Island Shoals refuge as described in s. NR 26.23(1)(a), and a line extending from the east end of Hagen road on Big Bay point on Madeline island in sections 19 and 30, township 50 north, range 2 west, to that same western boundary of the Gull Island Shoals refuge, all in Ashland county, from June 1 through August 31.

(2) LAKE MICHIGAN AND GREEN BAY. (a) No commercial fishing gear of any kind except nets by permit issued under sub. (4) for the taking of rough or detrimental fish, or entrapping nets by permit issued under sub. (4) for the taking of whitefish may be used, set, placed or operated in the following waters:

1. Bailey's harbor, Detroit harbor, Eagle harbor, Egg harbor, Fish Creek harbor, Jackson harbor, Little Sturgeon bay, Moonlight bay, North bay, Riley's bay, Rowley's bay, Sawyer harbor, Sturgeon bay, Washington harbor and West harbor, all in Door county and as described in s. 29.015, Stats.

2. All waters within one-half mile of any harbor, pier or breakwater.

3. All waters within one-half mile of the shoreline of Kenosha, Milwaukee, Ozaukee and Racine counties.

4. All waters within one-fourth mile of the mouth of any navigable stream flowing into Lake Michigan or Green Bay.

5. All waters within one-fourth mile of the shoreline in Door, Kewaunee, Manitowoc and Sheboygan counties.

6. That portion of southern Green Bay bounded by a line beginning at the silo west of Little Sturgeon Bay at  $87^{\circ}35'W$  longitude in the SE  $1/4$  SE  $1/4$ , section 33, township 28 north, range 24 east, then proceeding northeasterly 7.75 statute miles on a  $54^{\circ}$  bearing through the Sherwood Point shoal signal buoy and 0.37 statute miles beyond to latitude  $44^{\circ}55'N$ , then due east on a  $44^{\circ}55'$  bearing, 2.75 statute miles to the shoreline in section 12, township 28 north, range 25 east, all in Door county.

7. That portion of southern Green Bay lying north or east of a line beginning at the south end of Ogden street in the city of Marinette in section 9, and running southeasterly to the most southwesterly point of

Seagull bar in section 16, then along the north or east shoreline of Seagull bar to the Red Arrow park public boat landing located in section 9, all in township 30 north, range 24 east, Marinette county.

8. That portion of southern Green Bay lying south and west of a line beginning at the southern side of the base of Long Tail point in section 24, township 25 north, range 20 east, and following the south or west shore of Long Tail point to its southernmost point, then to where the navigation channel intersects latitude 44°35'N, then southwesterly along the west side of the navigational channel, as marked, for 3.5 statute miles to the Wisconsin public service Pulliam plant outlet on the west bank of the Fox river in section 25, township 24 north, range 20 east, all in Brown county.

9. That portion of southern Green Bay lying south or east of a line beginning at the mouth of Renard creek located in SW 1/4 NW 1/4, section 21, township 26 north, range 23 east, Door county, and running southwesterly to the east end of the concrete sea wall located at the end of Point Comfort road in SW 1/4 SE 1/4, section 20, township 25 north, range 22 east, Brown county.

10. Fox river including all connected sloughs, bayous, and tributaries from the DePere dam downstream to its mouth lying south of a line beginning at the Wisconsin public service Pulliam plant and running easterly across the Fox river to the outlet of the Green Bay metropolitan sewerage district plant outfall, all in Brown county.

(3) FISH REFUGES-OUTLYING WATERS. No commercial fishing gear of any kind may be used, set, placed or operated at any time in or on those water areas in Lake Superior, Lake Michigan and Green Bay as described in s. NR 26.23.

(4) RESTRICTED AREA PERMITS. Permits allowing commercial fishing in restricted areas as described in subs. (1) and (2), or as required in s. NR 25.08 will be issued as follows:

(a) Application criteria and procedure:

1. Applicants shall be licensed commercial fishers, or have contracts for the harvest of rough fish from outlying waters issued under s. 29.62 or 29.625, Stats.

2. Applications shall be made on forms provided by the department, at least one week prior to commencing fishing operations, unless otherwise authorized.

3. A permit shall be issued to an applicant meeting the criteria in this paragraph, unless the department denies the application under par. (b) in writing, within 6 business days of receipt of the application.

4. Permits shall be reapplied for at least once each license year. The permit period may not extend beyond the end of the license year.

(b) Denial, revocation or temporary suspension of permits.

1. The department may deny, revoke, or temporarily suspend a permit applied for or issued under this subsection in whole or in part, as resource management requires, if one or more of the following conditions exists or are likely to occur:

- a. Damage to fish habitat.
- b. Excessive incidental catch of illegal fish, as defined in s. NR 25.08(5).
- c. Spawning concentrations of illegal fish.
- d. Concentrations of recently stocked fish.
- e. Concentrations of immature fish.
- f. Presence of protected or endangered plants or animals as listed in ch. NR 27.

2. The department shall give notice of a denial, suspension, or revocation pursuant to provisions of s. 227.14(3), Stats. Any telephonic notice of suspension shall be promptly confirmed in writing.

3. Any suspension exceeding 7 days shall be reviewed and approved by the department's district director, or their designee, within the first 6 business days of the suspension period. Any revocation, or suspension in excess of 25 days, shall be reviewed by the office of the secretary, or its designee, with opportunity for the permittee to be heard. The revocation or suspension shall be reviewed within 10 business days of receipt of the permittee's request for opportunity to be heard. A permittee is not required to request to be heard by the office of the secretary prior to seeking judicial review.

4. A denial, suspension, or revocation of a permit under this paragraph shall not bar an otherwise qualified applicant from applying for permits for other locations.

SECTION 3. NR 25.13 is repealed.

SECTION 4. NR 25.14 through 25.16 are renumbered NR 25.13 through 25.15 respectively.

The foregoing rules were approved and adopted by the State of Wisconsin Natural Resources Board on December 14, 1983.

The rules contained here in shall take effect on July 1, 1984.

Dated at Madison, Wisconsin

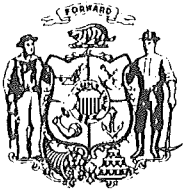
February 17, 1984

STATE OF WISCONSIN DEPARTMENT OF NATURAL RESOURCES

By

Carroll D. Besadny  
Carroll D. Besadny, Secretary

(SEAL)  
1503L



State of Wisconsin

DEPARTMENT OF NATURAL RESOURCES

Carroll D. Besadny  
Secretary

BOX 7921  
MADISON, WISCONSIN 53707

February 17, 1984

IN REPLY REFER TO: 1020

Mr. Orlan L. Prestegard  
Revisor of Statutes  
411 West  
C A P I T O L

**RECEIVED**

FEB 23 1984

Revisor of Statutes  
Bureau

Dear Mr. Prestegard:

Enclosed are two copies, including one certified copy, of State of Wisconsin Natural Resources Board Order No. F-52-82. These rules were reviewed by the Assembly Committee on Environmental Resources and the Senate Committee on Energy & Environmental Resources pursuant to s. 227.018, 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.  
3032I