



CR 84-87

State of Wisconsin

DEPARTMENT OF NATURAL RESOURCES

Carroll D. Besadny
Secretary

BOX 7921
MADISON, WISCONSIN 53707

STATE OF WISCONSIN)
) ss
DEPARTMENT OF NATURAL RESOURCES)

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DEC 13 1984
10:00 am
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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, do hereby certify that the annexed copy of Natural Resources Board Order No. F-5-84 has been compared by me with the original order on file in this office of the Department of Natural Resources, Madison, Wisconsin, and that the same is a true copy thereof, and of the whole of such original order; that said order was duly passed and published as set forth therein.

IN TESTIMONY WHEREOF, I have hereunto set my hand and affixed the official seal of the Department of Natural Resources at General Executive Facility #2 in the City of Madison, this 11th day of December, 1984.

SEAL:


Bruce B. Braun, Deputy Secretary

2-1-85

ORDER OF THE STATE OF WISCONSIN
LAKES MICHIGAN AND SUPERIOR COMMERCIAL FISHING BOARDS
RENUMBERING, REPEALING AND RECREATING, AND CREATING RULES

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F-5-84

.....
IN THE MATTER of renumbering ss. NR 25.08 .
through 25.15; repealing and recreating .
s. NR 25.07 (3) through (6); and creating .
s. NR 25.08 of the Wisconsin .
Administrative Code pertaining to .
allocation of individual licensee catch .
quotas on outlying waters. .
.....

Analysis Prepared by the Department of Natural Resources

Sections NR 25.08 through 25.15, Wis. Adm. Code, are being renumbered to make room for created s. NR 25.08, Wis. Adm. Code, Transfer of Individual Licensee Catch Quotas.

In repealing and recreating s. NR 25.07 (3) through (6), Wis. Adm. Code, the intent is to update and clarify rules pertaining to the allocation and application of individual licensee catch quotas.

Specifically, in subsection (3), the application deadline is changed from the current March 15 to April 30, the same deadline for commercial fishing license applications under s. NR 25.03 (3), Wis. Adm. Code. This change is for the convenience of the applicants. As required by s. 227.0105, Stats., the time period for review and approval or denial of the licensee catch quota application by the Department is established.

In subsection (4), it is clarified that the harvest of quota-controlled fish species under a contract for Department assessment purposes will not be charged against the licensee's individual catch quota.

In subsection (5), only minor wording changes are made, with no change in intent or application.

In subsection (6), provision is made that if an individual licensee catch quota holder's commercial fishing license is revoked, their right to a quota will be reinstated with their license. Existing subsection (6) is expanded and rewritten as s. NR 25.08, Wis. Adm. Code, Transfer of Individual Licensee Catch Quotas.

The creation of s. NR 25.08, Wis. Adm. Code, Transfer of Individual Licensee Catch Quotas, clarifies the provisions under which transfer of individual licensee catch quotas may occur. The introductory paragraph identifies the specific individual licensee catch quotas which are

transferable and the qualifications of a person eligible to receive a quota transfer.

Subsection (1) establishes the use of a standard form for application for quota transfers.

Subsection (2) provides for permanent transfer of all or part of specific individual catch quotas. It also authorizes permanent transfer of specific individual catch quotas in conjunction with a transfer of the commercial license of the quota holder under s. NR 25.04, Wis. Adm. Code.

In subsection (3) there is a provision for a beneficiary designation on the quota application for transfer of the individual licensee catch quotas in the event of the quota holder's death or incapacity. There is also a provision for offering the quota to members of the immediate family in the event that no qualified designee for quota transfer exists, and for holding a quota in abeyance for up to two years pending the eligibility of the transferee. This subsection is made retroactive to the 1983-84 license year.

Subsection (4) prohibits catch quota transfers between individuals, either of whom has been charged with a violation which could result in revocation or suspension of their commercial fishing license.

Finally, in subsection (5), the time period within which review and approval or denial of the quota transfer request by the appropriate commercial fishing board is established as required by s. 227.0105, Stats.

Pursuant to the authority vested in the State of Wisconsin Lakes Michigan and Superior Commercial Fishing Boards by s. 29.33 (7), Stats., the State of Wisconsin Lakes Michigan and Superior Commercial Fishing Boards hereby renumber, repeal and recreate, and create rules interpreting s. 29.33, Stats., as follows:

SECTION 1. NR 25.07 (3) through (6) are repealed and recreated to read:

NR 25.07(3) APPLICATION. (a) Applications for individual licensee catch quotas and fishing permits under this section shall be made annually on forms provided by the department.

(b) Applications, if mailed, shall be postmarked no later than April 30 preceding the license year for which application is being made. If applications are submitted to the department other than by mail, they shall be received as indicated by a date stamp of the department, no later than April 30 preceding the license year for which application is being made.

(c) The applications shall be reviewed by the department and approved or denied no later than June 15 preceding the license year for which application is being made, unless there are circumstances that may prevent the applicant from being a licensed commercial fisher on July 1 of the license year for which application is being made. In those cases, the applicant shall be notified of the approval or denial of the application in conjunction with the notice of approval or denial of the license authorizing commercial fishing on the outlying waters.

(d) Applicants for Lake Michigan chub fishing permits and individual licensee catch quotas under sub. (2)(a)1. shall select and designate on their application either the northern chub fishing zone or the southern chub fishing zone as the zone they wish to fish chubs in.

(4) ASSESSMENT QUOTA. Fish harvested under contract for the department for assessment purposes may not be considered part of nor deducted from an individual licensee catch quota.

(5) PERIOD OF VALIDITY. Individual licensee catch quotas and fishing permits determined and issued in accordance with this section shall be issued on a license year basis. They shall be valid only during the open season for

the species of fish subject to the harvest quota and only while the quota holder or permittee holds a valid license authorizing commercial fishing in the waters to which the quota applies.

(6) REINSTATEMENT OF QUOTA RIGHTS. If the commercial fishing license of a quota holder is revoked under s. 29.33, Stats., the right to that quota and ranking, if any, shall be reinstated upon reinstatement of the revoked license and upon proper application.

SECTION 2. NR 25.08 through 25.15 are renumbered NR 25.09 through 25.16 respectively.

SECTION 3. NR 25.08 is created to read:

NR 25.08 TRANSFER OF INDIVIDUAL LICENSEE CATCH QUOTAS. Individual

licensee catch quotas allotted under s. NR 25.07(1)(a), (2)(a)3.a., and (2)(b) may be transferred by the licensee receiving the quota allocation to another valid licensee authorized to engage in commercial fishing in the waters to which the quota applies, who meets all criteria for receiving such a quota other than previous fishing history, subject to the conditions stated in this section.

(1) Application for individual licensee catch quota transfers shall be made on forms provided by the department.

(2) All or part of an individual licensee catch quota allotted under s. NR 25.07(2)(a)3.a. and (2)(b) may be permanently transferred by the quota holder. Such a transfer may occur in conjunction with the transfer of the quota holder's valid license authorizing commercial fishing in the outlying waters under s. NR 25.04.

(3) A licensee may designate on the application for their individual license catch quota a person to whom the licensee wishes that quota to be transferred in the event of the licensee's death or incapacity. This designation may be changed during the license year as requested in writing by the licensee. The designated person shall meet the criteria under this section for the transfer to occur.

(a) In the absence of such a designation, or a qualified transferee, or a transferee capable of accepting the transfer under this section, members of the immediate family of the licensee who meet the eligibility requirements of this section shall be offered the quota. The offer shall be made by the department in the following order:

1. Spouse;
2. Children, eldest first, then in order of age;
3. Parents;
4. Siblings, eldest first, then in order of age.

(b) Any transferee under this subsection who relies on commercial fishing gear of a deceased licensee to meet the eligibility criteria of this chapter, but such gear has not been distributed or assigned in accordance with appropriate probate procedures shall have 2 years from the date of acceptance of the transfer to meet those eligibility requirements. During that time, the quota shall be held in abeyance by the department.

(c) All offers of transfer under this subsection shall be accepted within 30 days from the date of offer or be considered refused.

(d) The provisions of this subsection shall apply to quotas granted for license year July 1, 1983 to June 30, 1984 and subsequent license years.

(4) Individual licensee catch quotas may not be transferred if the quota holder or the recipient are charged with a violation of outlying waters commercial fishing laws under which conviction could cause revocation or suspension of their respective commercial fishing license. This subsection shall apply from issuance of the citation or complaint until the matter is adjudicated or dismissed.

(5) Individual licensee catch quota transfers shall be reviewed and approved or denied by the commercial fishing board of the body of water for which the quota applies. Such review and approval or denial shall occur no later than the next regular quarterly meeting of the appropriate commercial fishing board.

SECTION 4. CROSS-REFERENCES CHANGES. In the sections of the code listed in Column A, the cross-references shown in Column B are changed to the cross-references shown in Column C:

<u>A</u>	<u>B</u>	<u>C</u>
25.07(2)(a)2.(intro.)	(3)(a)	(3)(c)
25.07(2)(a)2.(intro.)	(3)(a)	(3)(c)
25.05(1)(d)	25.08	25.09
25.07(2)(a)2.b.	25.08(2)(a)9.	25.09(2)(a)9.
25.07(2)(a)3.c.	25.08(2)(a)9.	25.09(2)(a)9.
25.09(1)(b)2. as renumbered	25.09(4)	25.10(4)
25.09(2)(b)1.a. as renumbered	25.09(4)	25.10(4)
25.10(4)(intro.) as renumbered	25.08	25.09
25.10(5)(b)1.b. as renumbered	25.08(5)	25.09(5)

The foregoing rules were approved and adopted by the State of Wisconsin Lake Michigan Commercial Fishing Board on July 19, 1984 and the Lake Superior Commercial Fishing Board on July 17, 1984.

The foregoing rules were approved by the State of Wisconsin Natural Resources Board on September 26, 1984.

The rules contained herein shall take effect as provided in s. 227.026(1) (intro.), Stats.

Dated at Madison, Wisconsin December 11, 1984

STATE OF WISCONSIN LAKE MICHIGAN AND LAKE SUPERIOR COMMERCIAL FISHING BOARDS and STATE OF WISCONSIN DEPARTMENT OF NATURAL RESOURCES

By Carroll D. Besadny
Carroll D. Besadny, Secretary
Department of Natural Resources

(SEAL)
0879B



State of Wisconsin \ DEPARTMENT OF NATURAL RESOURCES

Carroll D. Besadny
Secretary

BOX 7921
MADISON, WISCONSIN 53707

December 11, 1984

8300

Mr. Orlan L. Prestegard
Revisor of Statutes
411 West
CAPITOL

RECEIVED

DEC 13 1984

Revisor of Statutes
Bureau

Dear Mr. Prestegard:

Enclosed are two copies, including one certified copy of State of Wisconsin NR Board Order No. F-5-84. These rules were reviewed by the Assembly Committee on Environmental Resources and the Senate Committee on Energy and 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,

A handwritten signature in black ink, appearing to read 'C.D. Besadny', written over a horizontal line.

C.D. Besadny
Secretary

Enclosure