

Chapter NR 25

COMMERCIAL FISHING — OUTLYING WATERS

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Note: Chapter NR 25 as it existed on September 30, 1976, was repealed and a new chapter NR 25 was created effective October 1, 1976.

NR 25.01 Purpose. (1) This chapter, along with other applicable rules and statutes, regulates commercial fishing in the outlying waters.

(2) The rules contained in this chapter are not intended to, nor do they authorize, the sale or introduction into interstate commerce for purposes of human consumption or use fish taken from the outlying waters which fail to meet food and drug administration (FDA) standards.

History: Cr. Register, September, 1976, No. 249, eff. 10-1-76; r. and recr. Register, October, 1979, No. 286, eff. 11-1-79.

NR 25.02 Definitions. Except as otherwise specifically defined in the statutes, the following terms, for the purposes of this chapter, are defined as follows:

(1) "Closed area" means any area designated as a refuge by rule or statute, or any area where fishing is restricted in any manner by rule.

(2) "Closed season" means that period of the year not embraced within the open season for each species of fish therefor as provided in s. NR 25.05 (1) during which the taking of the fish species enumerated is prohibited.

(3) "Commercial fish" is any species of game or rough fish for which an open season has been provided in s. NR 25.05.

(4) "Commercial fishing" means fishing for fish regulated by this chapter with commercial gear or methods other than those commonly known as hook and line fishing or angling, the taking of smelt pursuant to s. NR 20.09, or minnows.

(5) "Commercial fishing gear" or "commercial gear" is that equipment identified in or regulated by this chapter, with the exception of hook and line or angling equipment, gear for the taking of smelt pursuant to s. NR 20.09, or minnows.

(6) "Commercial ice fishing" means the setting and operating of commercial fishing gear through and from the surface of the ice.

(7) "Department" means department of natural resources.

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(8) "Encircling nets" means purse seines as defined in sub. (22), and seines as described in s. 29.336 (3), Stats.

(9) "Entrapping nets" means trap nets as defined in sub. (27), and entrapping nets as described in s. 29.336 (1), Stats.

(10) "Final consumer" means the last or ultimate person who obtains a fish for its final use for eating or otherwise.

(11) "Final consumption" means the last or ultimate use of a fish by eating or otherwise.

(12) "Fisher" means any person engaged in fishing.

(13) "Harvest limit", "harvest quota", "total allowable annual commercial harvest", "the total allowable commercial harvest" or "the annual allowable commercial harvest" means the total number or pounds of fish as established in this chapter which may be taken in a license year from the outlying waters or any portion thereof.

(14) "Illegal fish" means any or all fish taken at a time other than the open season, or of sizes other than prescribed in s. NR 25.05 or in excess of quotas as prescribed in s. NR 25.06, or taken by methods other than those prescribed in this chapter, or of the following species: smallmouth bass, largemouth bass, rock bass, crappie, muskellunge, sturgeon, all species of salmon and trout except as otherwise prescribed in this chapter.

(15) "Illegal nets" mean those nets possessed or used in violation of this chapter or a statute.

(16) "Immediate family" means the spouse, children by birth or adoption, parents or siblings.

(17) "License year" means that period from July 1 through June 30 of the succeeding year.

(18) "Licensed commercial fisher" means a person currently licensed under s. 29.33 (1), Stats.

(19) "Northern and southern Green Bay line" means that line described as a line in Green Bay drawn from the most northerly point of Friedmann's point at Fish creek, located in the southwest quarter of section 29, township 31 north, range 27 east, Door county; thence northwesterly to the most southeasterly point of Chambers island; thence along the southwest shoreline to the most southwesterly point of Chambers island; thence due west to the Wisconsin-Michigan boundary line.

(20) "Northern chub fishing zone" means those waters of Lake Michigan lying north of a line extending from the mid-channel marker buoy of Baileys Harbor on a 135° bearing, and east of a line extending through the marker buoy on Fisherman Shoal on a 23° bearing.

(21) "Northern Green Bay" means those waters of Green Bay lying north of the northern and southern Green Bay line.

(22) "Northern Green Bay-Lake Michigan line" means that line commencing at the northwest side of the Northport dock where it joins the shoreline in township 32 or 33 north, range 29 east; thence in a northeasterly direction to the range light (signal light) on Plum island; thence along the north and west shore of Plum island to the U.S. coast guard

station; thence northerly to the southwesterly point of Shellswick dock, which is located on Lodbell's point on Washington island; thence along this dock to the shoreline of Lodbell's point; thence along the west shore of Washington island to Boyer's Bluff light; thence due north to the Michigan-Wisconsin boundary line.

(23) "Purse seine" means a net which consists of a wall or modified wall of net which is used to encircle fish. The top of the net is fitted with floats while the bottom is weighted. A line threaded through rings under the net allows fishers to close the bottom of the net, thus trapping fish in the enclosure so produced.

(24) "Southern chub fishing zone" means those waters of Lake Michigan lying south of a line running due east from the entrance of Kewaunee harbor.

(25) "Southern Green Bay" means those waters of Green Bay lying south of the northern and southern Green Bay line, including the Fox river as far as the dam at DePere.

(26) "Southern Green Bay — Lake Michigan line" means that line commencing at a point on the southwest shore of the Sturgeon Bay ship canal directly beneath the center of the Wisconsin public service company power line and extending in a northeasterly direction directly beneath and parallel to the center of the power line to a point on the northeast shore of the ship canal, all located in NE¼ NW¼, section 22, township 27 north, range 26 east, Door county.

(27) "Stretch measure" means the extension measure of net mesh size whenever the size of mesh of a net is specified. Stretch measure means the distance between the extreme angles of any single mesh.

(28) "Trap net" means a device constructed of netting, which may employ wings or wings and leads, directing the movement of fish through a tunnel of netting into inner hearts or built-in forebays wherein they are trapped by their own movement. Such nets may be referred to as shallow trap nets, submarine trap nets or deep water trap nets but shall not include drop nets or fyke nets.

(29) "Trawl" means a large conical bag of netting to which are often attached wings of netting, which is towed in the water and captures fish by scooping rather than encircling them. The mouth of the bag is normally kept open laterally by 2 large boards, one on each side so rigged that they serve to spread the entire net, and these boards are secured to towing lines running to the vessel or vessels engaged in towing the net through the water.

(30) "Trawl cast" means the single placement, towing and retrieval of a trawl.

History: Cr. Register, September, 1976, No. 249, eff. 10-1-76; r. and recr. Register, October, 1979, No. 286, eff. 11-1-79; renum. (6) to (18) to be (7) to (19), (19) to (21) to be (22) to (24), (22) to be (21), cr. (6) and (20), Register, April, 1983, No. 328, eff. 5-1-83; renum. (8) to (14) to be (10) to (16), (15) to be (18), (16) to (18) to be (20) to (22), (19) to (24) to be (21) to (23), cr. (8), (9), (17), (19) and (23), Register, April, 1983, No. 328, eff. 5-1-83; renum. (16) to (29) to be (17) to (30), cr. (16), Register, June, 1985, No. 354, eff. 7-1-85; am. (20), Register, August, 1985, No. 356, eff. 9-1-85.

NR 25.03 Commercial fishing licenses. (1) LAKE SUPERIOR. (a) Not more than 21 licenses authorizing commercial fishing in Lake Superior may be issued for each license year except that this section does not apply to

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licenses for fishing only for the harvest of rough fish from outlying waters under permit or contract issued under s. 29.62 or 29.625, Stats.

(b) Applications for licenses authorizing commercial fishing on Lake Superior which have been filed in accordance with sub. (3) shall be reviewed and approved or denied pursuant to the following criteria:

1. For the first year of eligibility the applicant must show proof of a \$5,000 investment in commercial fishing equipment.

2. To retain eligibility for the second year and thereafter, the applicant shall show proof of:

a. A \$5,000 investment in commercial fishing equipment not to include vehicles other than those directly employed in operating nets.

b. At least 30 days lifting nets on Lake Superior during the previous license year unless unavoidable circumstances prevented the applicant from lifting nets. These circumstances shall be reviewed by the Lake Superior commercial fishing board which shall in these cases recommend approval or denial of the license.

3. Any applicant failing to meet the criteria of par. (b) will not be eligible to reapply for such license until the application period for the succeeding license year.

(c) Licenses shall be issued according to the following priorities to applicants otherwise qualified under par. (b):

a. First to individuals who have been licensed commercial fishers on Lake Superior during the preceding license year.

2. Next to individuals who were not licensed the preceding year, but who had been licensed commercial fishers on Lake Superior for at least 2 years.

3. Next to individuals who worked as a licensed crew member on Lake Superior under s. 29.33 (4) (a), Stats., for at least 2 years.

4. Next to other Wisconsin residents and nonresidents residing in states allowing Wisconsin residents similar privileges.

5. When the number of qualified applicants for licenses exceed the number of licenses available and those applicants are not affected by the priorities established in par. (c), the licenses shall be awarded on the basis of random selection from all eligible applications.

(d) The Lake Superior commercial fishing board shall review applications for licenses and recommend approval or denial of licenses to the department no later than May 31 preceding the license year for which application is being made.

(2) LAKE MICHIGAN. (a) The number of licenses authorizing commercial fishing in Lake Michigan issued for any license year shall be limited

b. Ownership of a boat of 35 feet in overall length or longer which shall be used by the applicant in fishing under their chub permit;

c. The boat shall be equipped with a powered net lifter.

2. All permittees under subd. 1. who select the northern chub fishing zone under sub. (3) (d) shall be subject to the following limitations:

a. In the northern chub fishing zone, no more than 125,000 pounds of chubs may be harvested during each of the 3-month periods of July, August and September, and of October, November and December, and no more than 100,000 pounds of chubs may be harvested during the 3-month period of April, May and June.

b. The department shall notify all permittees to cease fishing upon receipt of information that 85% of the 3-month quota as established in subpar. a. has been harvested except that all nets in the water shall be lifted under s. NR 25.09 (2) (a) 9., and the legal fish therein harvested.

c. The quota for the following 3-month period shall be adjusted based on the actual reported catch of the previous periods within a given license year, except that no more than 100,000 pounds of chubs may be harvested during the 3-month period encompassed by the months of April, May and June.

3. All permittees under subd. 1. who select the southern chub fishing zone under sub. (3) (d) shall be subject to the following limitations:

a. In the southern chub fishing zone, 90% of the harvest quota established in s. NR 25.06 (2) (a) 3. shall be allotted to 32 individual permittees as follows:

Fisher Rank	Percent of Allotted Quota
1-5	3.94
6-10	3.64
11-15	3.34
16-20	3.04
21-25	2.74
26-30	2.44
31-32	2.15

1) The fisher rank of each individual permittee shall be based on their individual authorized regular season chub harvest from April 1, 1981 through December 31, 1982. This harvest determination shall be based on the permittee's reported catch during that period adjusted to the legal amount under subd. 1. b. 4) and 5), Register, June, 1981, No. 306. The highest resulting number shall be assigned the fisher rank of 1, and the following numbers assigned sequential ranks until the 32 individual quota allotments are all assigned. If there are any ties for a given fisher rank, a public drawing will be conducted by the department and the permittee selected will receive that fisher rank. The permittee or permittees not selected will go to the next lower fisher rank. Additional drawings will be conducted as needed to resolve all ties. Any remaining permittees not receiving individual quota allotments shall fish under the provisions of subpar. b.

2) No individual quota allotted under subpar. a. may exceed 70,000 pounds, until each individual allotted quota equals 70,000 pounds. When

the quota allotted to an individual permittee reaches 70,000 pounds, any additional harvest quota shall be divided equally among the remaining individual allotted quotas not equalling 70,000 pounds. When all individual allotted quotas each equal 70,000 pounds, for a total of 2,240,000 pounds, any further increases shall be divided equally among the individual quota allotments. Quota allotments shall be made in whole pound increments.

Note: If 90% of the harvest quota established in s. NR 25.06 (2) (a) 3. equaled 1,890,000 pounds, permittees in fisher rank 1-5 would have individual quotas of 74,466 pounds. The excess over 70,000 pounds for each would be totalled, being 22,300 pounds, and divided equally among the remaining 27 individual quotas, 826 pounds each.

3) Whenever a vacancy occurs in the number of permittees allotted an individual quota, those permittees ranking below the vacancy shall automatically advance in rank to fill the vacancy. Any vacancy at fisher rank 32 may be filled by the permittee fishing under the provisions of subpar. b. who has the highest total reported regular season chub harvest for the previous 2 license years.

b. In the southern chub fishing zone, 10% of the harvest quota established in s. NR 25.06 (2) (a) 3. shall be allotted to permittees who do not receive individual allotted quotas under subpar. a.

1) No more than 10% of this allotment may be taken by any one permittee during the license year.

2) No permittee may take more than 40% of the maximum amount established in subpar. b. 1) during any one of the quota periods of July 1 through September 30, October 1 through December 31, or March 15 through June 30.

3) Whenever the total amount of chubs allocated under subpar. b. 1) does not equal the amount provided in subpar. b., the surplus shall be divided equally among permittees under subpar. b.

c. No more than the amount of one maximum individual quota allotted under subpar. a.1) and 2) may be taken on any one boat in the southern chub zone during the license year except as provided under subpar. d. If it is necessary to transfer a chub fishing permit to another boat, this limit shall be applied in total on the boats involved.

d. Any permittee with an individual chub quota allotment under subpar. a.1) and 2) may transfer up to 50% of their allotted chub quota to another permittee with an individual chub quota allotment under subpar. a.1) and 2).

1) Such a quota transfer shall be in effect only during the current license year, and shall be subject to sub. (6).

2) The total amount of chubs harvested from the boat designated under subd. 1.b. by the transferor may not exceed the amount remaining in that individual chub quota allotment after this transfer.

3) This subparagraph shall be in effect until January 1, 1986, and shall be reviewed while in effect by the Lake Michigan commercial fishing board.

e. The department shall notify permittees to cease fishing upon receipt of information that 85% of their allotment as established in subds. 3.a.

and b. has been harvested except that all nets in the water shall be lifted under s. NR 25.09 (2) (a) 9., and the legal fish therein harvested.

4. Each permittee shall submit weekly fishing reports on forms provided by the department. The weekly fishing reports shall be mailed to the department at the address provided on the forms and shall be post-marked no later than the Monday following the weekly report period during the open season. Weekly fishing reports shall be filed by each permittee regardless of whether the permittee fished or not.

(b) *Yellow perch.* 1. Green Bay yellow perch fishing permits and individual licensee catch quotas shall be issued to all applicants:

a. Holding a valid commercial fishing license issued under s. 29.33, Stats., and

b. Who reported a commercial harvest of yellow perch legally taken while operating under their commercial fishing license issued under s. 29.33, Stats., from the Wisconsin waters of Green Bay between January 1, 1979 and December 31, 1982, and

c. Who applied for and received a Green Bay yellow perch fishing permit for the license year preceding the license year for which the permit application is presently being made, unless unavoidable circumstances prevented application for or receipt of that previous permit. Those circumstances shall be reviewed by the Lake Michigan commercial fishing board which in these cases shall approve or deny the pending permit application.

d. Any licensee who fails to apply for and receive a permit under this paragraph is not eligible for future Green Bay yellow perch fishing permits under this paragraph until the provisions of subd. 2.c. are applicable.

2. The individual licensee catch quota issued to each permittee shall be determined as follows:

a. Each permittee shall receive a percentage of the total allowable annual commercial harvest as established by s. NR 25.06 (2) (b) 1. That percentage shall be calculated by dividing the total commercial harvest of yellow perch from the Wisconsin waters of Green Bay reported under that license during the period from January 1, 1979 through December 31, 1982, by the overall total reported commercial harvest of yellow perch from those waters during that period, and multiplying the result by 100. The resulting percentage shall be rounded off to 2 decimal places or to hundredths of a percent. Any resulting percentage of less than 0.01% shall be considered 0.01% for allocation of an individual licensee catch quota. The individual licensee catch quotas will be allocated in whole pound increments.

Note: If during the base catch period (January, 1979 — December 1982), a permittee reported catching a total of 20,200 pounds of perch and the overall total reported perch harvest was 1,600,000 pounds, that permittee's individual license catch quota percentage would be 1.26%. If the total allowable annual commercial harvest was set at 100,000 pounds, that permittee's individual licensee catch quota would be 1,260 pounds.

b. If the number of eligible permittees is inadequate to utilize the total allowable commercial harvest as established by s. NR 25.06 (2) (b) 1. and as allocated under subpar. a., the surplus will be divided among the

eligible permittees based on the percentages calculated for each permittee under subpar. a.

c. Any future increase of the total allowable annual commercial harvest as established by s. NR 25.06 (2) (b) 1. that exceeds 521,285 pounds will be divided equally among all licensed commercial fishers who apply for Green Bay yellow perch fishing permits, regardless of past yellow perch harvest records.

3. Fishing under permits issued under subd. 1. may be done from any boat listed on the permittee's commercial fishing license or through the ice.

4. Each permittee shall submit weekly fishing reports on forms provided by the department.

a. The weekly fishing reports shall be carried while fishing under the permit and the catch information for that day's fishing shall be recorded on the weekly fishing report before bringing the catch to dock or shore. This requirement does not include the weighed total catch.

b. The weekly fishing reports shall be mailed to the department at the address provided on the forms and shall be postmarked no later than the Monday following the weekly report period during the open season. Weekly fishing reports shall be filed by each permittee regardless of whether the permittee fished or not.

5. Based on the information received in the weekly fishing reports, the department shall notify individual permittees when 75% of their catch quota, as allocated under subd. 2., has been harvested.

(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.

History: Cr. Register, September, 1976, No. 249, eff. 10-1-76; emerg. r. and recr. and cr. (2) (a) 1. eff. 5-16-79; r. and recr. Register, October, 1979, No. 286, eff. 11-1-79; r. and recr. (2) (a) 1., Register, June, 1981, No. 306, eff. 7-1-81; emerg. am. (1) (a), eff. 7-1-81; am. (1) (a), Register, August, 1981, No. 308, eff. 9-1-81; emerg. cr. (2) (a) 1, b. 6), eff. 1-2-82; am. (2) (a) (intro.) Register, April, 1982, No. 316, eff. 5-1-82; emerg. am. (2) (a) 1. b. and c., eff. 7-1-82; am. (2) (a) 1. b. and c. and (3), Register, September, 1982, No. 321, eff. 10-1-82; cr. (2) (a) 1. b. 6), Register, February, 1983, No. 326, eff. 3-1-83; am. (1) and (2), Register, April, 1983, No. 328, eff. 5-1-83; r. and recr. (2) (a) 2., (2) (b) and (3), r. (2) (a) 4. and 5., renum. (2) (a) 3. to be (2) (a) 4. and am., cr. (2) (a) 3., Register, June, 1983, No. 330, eff. 7-1-83; am. (1) (b) 1., (2) (b) 2. c. and 5., cr. (2) (b) 1. c. and d., Register, June, 1984, No. 342, eff. 7-1-84; am. (2) (a) 1. b. and 2. a., renum. (2) (a) 3. c. to be 3. d., cr. (2) (a) 3. c., Register, July, 1984, No. 343, eff. 8-1-84; am. (2) (a) 2, intro. and b., 3. intro. and d., r. and recr. (3) to (6), Register, January, 1985, No. 349, eff. 2-1-85; emerg. am. (2) (a) 3. b. 2), eff. 3-15-85; am. (2) (a) 3. c., renum. (2) (a) 3. d. to be 3. e., cr. (2) (a) 3. d., Register, May, 1985, No. 353, eff. 6-1-85; am. (1) (a), Register, June, 1985, No. 354, eff. 7-1-85; am. (2) (a) 3. b. 2), Register, July, 1985, No. 355, eff. 8-1-85; am. (2) (a) 2. a., Register, August, 1985, No. 356, eff. 9-1-85.

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 licensee 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;

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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.

History: Cr. Register, January, 1985, No. 349, eff. 2-1-85.

NR 25.09 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 1¾" stretch measure.

2. With a mesh size of not less than 2¾" and not more than 2¾" 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 2½ 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 4½ inch stretch measure:

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

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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 25.10 (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 1½ inch stretch measure for taking smelt only.

2. With a mesh size of not less than 2¾ inch and not more than 2 ½ inch stretch measure in southern Green Bay only.

3. With a mesh size of not less than 2½ inch and not more than 2¾ 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 2¾ inch or less stretch measure may not exceed 60 meshes in depth.

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5. With a mesh size of not less than 4 inch and not more than 4½ 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 4½ inch and not more than 6½ inch stretch measure:

a. In those waters of Lake Michigan lying north of a line extending from the mid-channel marker buoy of Bailey's Harbor on 135° bearing.

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 6½" 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 25.10 (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 agri-

culture, 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.

History: Cr. Register, September, 1976, No. 249, eff. 10-1-76; am. (2)(b)2., Register, November, 1977, No. 263, eff. 12-1-77; am. (2)(a)5., Register, June, 1978, No. 270, eff. 7-1-78; emerg. am (1), (2)(a) (intro.), 3. and 9., eff. 6-16-79; am. Register, October, 1979, No. 286, eff. 11-1-79; am. (2) (a) 3., Register, May, 1981, No. 305, eff. 7-1-81; emerg. r. and recr. (3) (a) 4., r. (5) (a) 3., renum. (5) (b) to be (5) (c), cr. (5) (b), eff. 7-1-81; r. and recr. (3) (a) 4., r. (5) (a) 3., renum. (5) (b) to be (5) (c), cr. (5) (b), Register, August, 1981, No. 308, eff. 9-1-81; renum. (5) and (6) to be (6) and (7), renum. (4) (g) to be (5) (a), renum. (4) (h) and (i) to be (5) (b) and (c) and am., cr. (5) (intro.), Register, November, 1981, No. 311, eff. 12-1-81; am. (2) (a) 9. and (2) (b) 2., Register, April, 1982, No. 316, eff. 5-1-82; renum. (5) and (6) to be (6) and (6m), cr. (5), Register, October, 1982, No. 322, eff. 11-1-82; am. (2) (a) 2. and (5) and r. (6) (b) and (c), Register, April, 1983, No. 328, eff. 5-1-83; r. and recr. Register, June, 1984, No. 342, eff. 7-1-84; renum. from NR 25.08 and am. (1) (b) 2. and (2) (b) 1.a., Register, January, 1985, No. 349, eff. 2-1-85; am. (2) (a) 6.a., Register, August, 1985, No. 356, eff. 9-1-85.

NR 25.10 Restricted commercial fishing areas. The following restrictions apply to the use of the specified commercial fishing gear in the indicated areas: