

TITLE 17: CONSERVATION
CHAPTER I: DEPARTMENT OF NATURAL RESOURCES
SUBCHAPTER b: FISH AND WILDLIFE

PART 850
COMMERCIAL FISHING IN LAKE MICHIGAN

Section	
850.5	Introduction
850.10	Possession and Identification of Gear
850.20	Quota
850.25	Seasons
850.30	Restricted Commercial Fishing Areas
850.40	Limited Entry
850.50	License Eligibility and License Provisions
850.60	Application for License
850.80	Suspension or Revocation

AUTHORITY: Implementing and authorized by Sections 1-10, 1-80, 1-120, 1-125, 1-135, 1-150, 20-35, 20-45, 20-105 and 25-5 of the Fish and Aquatic Life Code [515 ILCS 5/1-10, 1-80, 1-120, 1-125, 1-135, 1-150, 20-35, 20-45, 20-105 and 25-5].

SOURCE: Adopted at 3 Ill. Reg. 44, p. 46, effective November 1, 1979; codified at 6 Ill. Reg. 877; amended at 6 Ill. Reg. 3846, effective March 31, 1982; amended at 7 Ill. Reg. 2711, effective March 2, 1983; amended at 8 Ill. Reg. 7220, effective May 15, 1984; emergency amendment at 9 Ill. Reg. 4854, effective April 2, 1985, for a maximum of 150 days; amended at 9 Ill. Reg. 6179, effective April 23, 1985; amended at 10 Ill. Reg. 9789, effective May 21, 1986; amended at 12 Ill. Reg. 7996, effective April 25, 1988; amended at 16 Ill. Reg. 11029, effective June 30, 1992; emergency amendment at 16 Ill. Reg. 12626, effective July 24, 1992, for a maximum of 150 days; amended at 16 Ill. Reg. 18967, effective December 1, 1992; emergency amendment at 17 Ill. Reg. 17263, effective September 23, 1993; for a maximum of 150 days; emergency expired February 20, 1994; amended at 18 Ill. Reg. 5834, effective April 5, 1994; emergency amendment at 19 Ill. Reg. 5257, effective April 1, 1995, for a maximum of 150 days; amended at 19 Ill. Reg. 10568, effective July 1, 1995; recodified by changing the agency name from Department of Conservation to Department of Natural Resources at 20 Ill. Reg. 9389; amended at 21 Ill. Reg. 5553, effective April 19, 1997; amended at 24 Ill. Reg. 8895, effective June 19, 2000; amended at 28 Ill. Reg. 4697, effective March 1, 2004.

Section 850.5 Introduction

All fish of whatever kind found in the waters of Lake Michigan within the jurisdiction of this state, shall be and are declared to be the property of the state and the taking thereof is declared to be a privilege. All fish in these waters shall be taken, transported, sold and possessed only in accordance with the provisions of this Rule.

(Source: Amended at 6 Ill. Reg. 3846, effective March 31, 1982)

Section 850.10 Possession and Identification of Gear

- a) Licensed commercial fishermen may take bloater chub and yellow perch in Lake Michigan only with gill nets that have meshes of not more than 2-3/4 inch diagonal stretched measurement nor less than 2-3/8 inch diagonal stretched measurement. All gill nets used to take such fish in the Illinois waters of Lake Michigan shall not have a vertical width of more than twenty (20) meshes.
- b) Gill nets found on any vessels not conforming to the 2 3/8 through 2 3/4 inch diagonal stretched measurement requirement shall be prima facie evidence that such nets are illegally used and subject to confiscation and disposition [515 ILCS 5/1-215].
- c) It shall be unlawful to set any legal gill net in Lake Michigan unless such net is properly marked at each end with a buoy having a staff of not less than 6 feet in height to which a colored flag is secured, and the name, city or town of residence, and the license number of the licensee is attached to the flag, staff, or upper surface of the bowl of each buoy attached to the ends of the net. In addition, during the period from April 1 through October 31 all commercial gill nets placed in waters of 20 fathoms or less in depth shall have placed within 25 feet of the net at intervals of not more than 3600 feet a float not less than 3 gallons in size with 50% of the outer surface colored in orange. During the period from December 1 through March 31 only, wooden boards of at least 8 feet in length may be used at the ends of the net and must also comply with the marking provisions as defined in this Section.

(Source: Amended at 16 Ill. Reg. 11029, effective June 30, 1992)

Section 850.20 Quota

- a) Harvest quotas will be reviewed annually and will be established by the Department for each license fishing year taking into consideration the condition and supply of Lake Michigan fish stocks.
- b) For each license year beginning April 1 and ending March 31, an annual total harvest quota of 0 pounds (round weight) of yellow perch and 125,000 pounds (dressed weight) of bloater chubs will be permitted. These annual total harvest quotas shall be divided equally among each licensee at the beginning of each license year. Upon reaching their share of the annual harvest quota for each species, each commercial license holder shall terminate fishing for that species for the remainder of the current license year. It shall be unlawful to possess other species except smelt and alewife incidentally caught in bloater chub and yellow perch gill nets, fished in compliance with this Part and the Illinois Fish and Aquatic Life Code. All other species must be removed immediately from the gill nets as they are brought on board the vessel and returned to the water at once in the same condition as taken.

(Source: Amended at 21 Ill. Reg. 5553, effective April 19, 1997)

Section 850.25 Seasons

The commercial harvest of yellow perch is prohibited from July 1 through July 31, inclusive, annually. All yellow perch incidentally caught in gill nets during this time must be removed immediately from the gill nets as they are brought on board the vessel and returned to the water at once in the same condition as taken.

(Source: Added at 28 Ill. Reg. 4697, effective March 1, 2004)

Section 850.30 Restricted Commercial Fishing Areas

- a) During the month of August, commercial gill net fishing may be undertaken anywhere in the Illinois portion of Lake Michigan outside of the 1,000 yard distance from any pier, breakwater, or similar structure, or the low water mark on the shore. From the months of September through June, inclusive, commercial fishermen must fish in water depths of at least 5 fathoms (30 feet) or deeper to minimize incidental catch of salmon and trout.
- b) The following described area in Lake Michigan is established as fish refuge and it shall be unlawful for any person to place any commercial fishing device in it: all waters on or adjacent to any area commonly referred to as Julian's Reef, located in a general area bounded by 42 16'00" north latitude on the north, 87 29'00" west longitude on the east, 42 11'00" north latitude on the south and 87 35'00" west longitude on the west, on U.S. lake survey navigational chart #75, edition of April 1972 (National Oceanic and Atmospheric Administration).
- c) During the months of August and September, all gill nets set in the Illinois portion of Lake Michigan in waters up to 20 fathoms (120 feet) in depth shall not be set prior to sunrise and must be removed from the water prior to sunset on the same day.
- d) During the month of July, all gill nets must be placed in waters greater than 20 fathoms (120 feet) in depth to minimize the incidental catch of yellow perch.

(Source: Amended at 28 Ill. Reg. 4697, effective March 1, 2004)

Section 850.40 Limited Entry

- a) The Department shall issue 5 commercial licenses for taking yellow perch and bloater chub. Each licensee may fish only with the fishing vessel designated on each license. Five licenses shall be issued for the fishing year that began April 1, 1992, and the Department shall issue licenses from time to time so that 5 valid licenses are always outstanding at any one time.
- b) Allocation of commercial fishing licenses was determined by a public drawing conducted June 27, 1975. The ranking order in this drawing has been used for expanding numbers of fishing licenses subsequently. Each commercial fishing

license for the 1992 fishing year and thereafter shall be issued as follows:

- 1) All valid licenses held by individuals or corporations as of April 1, 1992 shall remain in full force and effect.
- 2) Thereafter, licenses shall be issued as necessary to reach and maintain a total of 5 outstanding licenses as follows:
 - A) First, to any individual or corporation as described in Section 850.50 who was licensed through a harvest contract pursuant to the public lottery drawing conducted by the Director on June 27, 1975, but such individual or corporation did not hold a valid commercial license for whatever reason on April 1, 1992; provided, that the contractor shall have served any stated period of any license suspension or revocation established by an order of the Director. Among those individuals or corporations that meet the criteria under this item, priority shall be given to the individual or corporation that has been without a valid commercial license for the longest period of time. [515 ILCS 5/15-32].
 - B) Second, to any other individual or corporation entrant who had his specific name drawn in the public lottery drawing conduct by the Director on June 27, 1975 but was not licensed as a harvest contractor at that time or thereafter.
 - C) Third, if there are insufficient license applicants available at the beginning of any fishing year who meet the requirements for licensure under this Section for the Director to issue 5 licenses, the Director shall order and conduct a new public lottery drawing before the commencement of the fishing year and shall draw his applicant list from a roster of qualified operators. Should an eligible candidate whose name is reached on the list for license elect not to receive a license or in the event a licensee's license is revoked for cause, then that eligible applicant or licensee shall be deleted from the eligible list then in effect.

(Source: Amended at 19 Ill. Reg. 10568, effective July 1, 1995)

Section 850.50 License Eligibility and License Provisions

Lake Michigan Commercial Fishing License commences April 1 and expires March 31 and shall be valid for a period of 3 years. To be eligible for a license to fish commercially during a given fishing license year, the applicant, license holder, must meet the following requirements:

- a) Be an individual who has actually resided in Illinois for one year immediately preceding his application for a license to be allowed to fish commercially and who

does not claim residency for commercial fishing purposes in another state or country.

- b) Be a corporation incorporated in Illinois for at least one year immediately preceding the application for a license to fish commercially during a given fishing year, or a corporation incorporated in Illinois by a currently licensed Lake Michigan Commercial Fisherman.
 - 1) All stockholders of the corporations shall have been Illinois residents for at least one year immediately prior to owning any stock or interest in the corporation, and remain Illinois residents as long as they own such stock or interest.
 - 2) Individuals licensed as Lake Michigan Commercial Fisherman who wish to place the license into corporate control must own a controlling interest in the corporation (owns or controls more than 50%) at the time of transfer. The corporations need not have been in existence for one year, but must meet all other requirements.
 - 3) All transfers of ownership interest in the corporation must be reported to the Department within 10 days after transfer.
 - 4) No such corporation may be wholly or partially owned by another corporation, and no individual shall own any part of more than one business entity holding a Lake Michigan Commercial Fishing License.
- c) Have ownership or legal control of a vessel of at least 12 net tons as documented by the U.S. Coast Guard, showing an Illinois port of registration, having valid United States Coast Guard documentation in full force and effect, and in compliance with all State requirements established for such vessels in the Boat Registration and Safety Act [625 ILCS 45].
 - 1) Any request for redesignation of a fishing vessel to be used by the license holder must be submitted in writing to and approved in writing by the Chief, Division of Fisheries. Approval will be granted if the requested vessel meets the U.S. Coast Guard documentation requirements and the license holder has a valid reason for redesignation, such as loss or damage of the designated vessel or purchase of another vessel. Such requests must clearly state the reasons for redesignation and the anticipated period of use and shall be accompanied by a copy of the United States Coast Guard document for the requested vessel. Use of the vessel designated in Illinois for commercial fishing purposes in another state shall, upon verification, nullify the designated status of the vessel for commercial fishing purposes in Illinois.
 - 2) When more than one license designates the same vessel under this subsection (c), only one license at a time may be fished until the entire quota under that license has been harvested. In addition, before any licensee commences

fishing, he must submit a written request to fish from the designated boat, and receive written authorization from the Chief of the Division of Fisheries.

- d) Have at least 6,000 feet of properly licensed gill netting possessing a diagonal stretched mesh measurement between 2-3/8 inches through 2-3/4 inches.
- e) Agree to keep accurate daily records of catch and must submit catch reports monthly to the Department by the 15th day of the following month on forms furnished by the Department (whether licensee did or did not catch fish). All monthly catch reports must be signed by the licensee or corporate chief executive officer. Failure to submit the required catch reports shall be grounds for suspension or revocation of the Lake Michigan Commercial Fishing License.
- f) Submit a yearly operational plan by months clearly identifying the port from which the vessel will operate and the exact location at which all harvested fish will be transferred from the vessel to shore. Transfer of fish from the license vessel to another vessel or to shore at any other location not identified in the yearly operational plan shall be grounds for suspension or revocation of the Lake Michigan commercial fishing license.
- g) Permit Department biologists and Conservation Police Officers to obtain information from fish harvested, such as lengths, weights, scale samples, sex, etc., as deemed necessary for management of Lake Michigan fish stocks.
- h) License all of the commercial equipment as required by the Illinois Fish and Aquatic Life Code and this Part. A license holder shall not fish under the commercial fishing license of another person.
- i) The captain of commercial fishing crews on board the vessel must be a resident of the State of Illinois in accordance with the definition in Section 1.3 of the Illinois Fish and Aquatic Life Code.
- j) The licensee shall notify the Chief, Division of Fisheries, of any changes (except captain) in commercial fishing crew members in writing within 14 days after the change. Changes in captains requires prior written Department approval by the Chief, Division of Fisheries, and all such requests must be submitted in writing to the Chief, Division of Fisheries. Approval will be given if the captain meets the requirements set forth in this Section.
- k) A copy of the Lake Michigan Commercial Fishing license and a current listing of the captain and designated crew must be kept on board the fishing vessel at all times during the commercial fishing operations.
- l) The licensee or the designated captain of the commercial fishing crew must be on board the vessel at all times during the commercial fishing operations. The licensee shall remain responsible for all obligations owed to the State of Illinois relating to the

license, whether the licensee is on board the vessel or not.

(Source: Amended at 24 Ill. Reg. 8895, effective June 19, 2000)

Section 850.60 Application for License

An application for a Lake Michigan commercial fishing license shall be on forms provided by the Department of Natural Resources and shall contain the following information:

- a) Proof of having met eligibility requirements.
- b) Listing of kind and amounts of gear, and name, Illinois port, and copy of U.S. Coast Guard document of vessel.
- c) Names and street addresses of captain and all members of the commercial fishing crew.
- d) In cases of corporate applications, additionally:
 - 1) Certified copy of Illinois Articles of Incorporation;
 - 2) Name, address and percentage of ownership or numbers of shares of stock over existing shares of stock (i.e., 500/1000) in this corporation;
 - 3) Names, addresses and titles of all corporate officers;
 - 4) Name and address of designated corporate agent.

(Source: Amended at 12 Ill. Reg. 7996, effective April 25, 1988)

Section 850.80 Suspension or Revocation

- a) In accordance with 515 ILCS 5/20-105, the following violations will result in suspension or revocation of the Lake Michigan commercial fishing license for a period of not less than one year:
 - 1) Taking and possessing any species other than bloater chub, yellow perch, smelt and alewife;
 - 2) Use of any commercial fishing devices other than gill nets having meshes of not more than 2 3/4 inch diagonal stretched measurement nor less than 2 3/8 inch diagonal stretched measurement;
 - 3) Commercial fishing in a restricted area;
 - 4) Falsification of license eligibility requirements and/or application for license

information;

- 5) Failure to submit catch reports or submitting falsified catch reports;
 - 6) Exceeding harvest quota;
 - 7) Transferring fish from the license vessel to other vessels or to shore at any location not identified in the yearly operational plan.
- b) Violations of any other provisions of this Part or the Illinois Fish and Aquatic Life Code pertaining to commercial fishing on Lake Michigan may also result in suspension or revocation of the Lake Michigan commercial fishing license.
- c) An act or omission which constitutes a violation under this Part committed by an officer, employee or agent of a corporation shall be deemed the act or omission of the corporation, and the employee, agent, officers and shareholders may be suspended from engaging in Lake Michigan Commercial Fishing or owning any part of or being employed by such corporation for a period not to exceed five years, in addition to the suspension or revocation of the Lake Michigan Commercial Fishing License.
- d) In the event of a license suspension, the suspended licensee shall not be permitted to apply for a Lake Michigan commercial fishing license until the period of suspension has expired. In the event of a revoked license, the revoked licensee shall forfeit his license and shall have his name deleted from the list of eligible candidates. Revoked licensees shall not be permitted to apply for a Lake Michigan commercial fishing license until the period of revocation has expired. Revoked licensees making reapplication for a license shall be subject to all licensing provisions at the time of reapplication and shall have their name added to the current list of eligible candidates according to the lottery procedures as described in Section 850.40(b).
- e) The procedure by which suspensions and revocations are made; the rights of licensees to notice and hearing; and the procedures governing such hearings are set forth in 17 Ill. Adm. Code 2530 (Rules Governing Department Formal Hearings Conducted for Rule-Making and Contested Cases).

(Source: Amended at 21 Ill. Reg. 5553, effective April 19, 1997)