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GOVERNOR

STATE OF MICHIGAN
DEPARTMENT OF NATURAL RESOURCES
LANSING



DANIEL EICHINGER
DIRECTOR

SUBMITTED: July 20, 2020
RESUBMITTED: August 17, 2020
RESUBMITTED: September 14, 2020
RESUBMITTED: October 12, 2020

TO: Daniel Eichinger, Director

Subject: Fisheries Order 243.21
State-Licensed Commercial Fishing

Authority:

The Natural Resources and Environmental Protection Act, 1994 PA 451, authorizes the Director and the Commission to issue orders to regulate the taking of fish in the waters of this state.

Discussion and Background:

Fisheries Order 243 is used to address issues impacting management of the state-licensed commercial fishery for the better protection, preservation, maintenance, and harvesting of the fish. This order has been renewed annually for the past four years and requires renewal again in 2020. The intent of Fisheries Order 243, beginning in 2015, was to be a short-term solution to address regulatory ambiguities of existing Administrative Rules while legislative action progressed to rewrite the outdated statute for state licensed commercial fishing.

Despite the intensive efforts of many in recent years, updates to the commercial fishing statute have not occurred and the Department no longer intends to annually renew certain provisions within Fisheries Order 243. This decision is based on perceived gaps in authority as described by prosecutors in previous law enforcement efforts. These complexities stem from the confusion with conflicting regulations described within statute, administrative rules, and orders. Therefore, the Department has amended FO-243.21 so that only provisions that the Department feels confident in their authority to enforce will be retained.

The amendments within this order highlight just how essential it is for our legislature to promptly pass the commercial fish bills that have been introduced and supported in the House and that are now being considered by the Senate. The perceived gaps in authority is a primary reason why the Department has been and will continue to actively work with the legislature and stakeholders to update statute.

Under the authority of Section 46702 of 1994 PA 451, the effective date of any order issued by the Department under this part shall not be less than 30 days from and after the date of its issuance and requires notification by first class mail to all persons licensed under part 473. Therefore, it is recommended that this order shall take effect January 8, 2021 and shall remain effective through November 15, 2021.

Recommendation:

It is our recommendation to continue to utilize FO-243 to clarify commercial fishing law for the better protection, preservation, maintenance, and harvesting of the fish. Relevant Divisions have contributed to the preparation of this order. This order was submitted for information on August 13, September 10, and November 2020, at the Natural Resources Commission meetings. This item appeared on the Department's August 4, 2020 and November 2 calendars and may be eligible for approval on November 12, 2020.



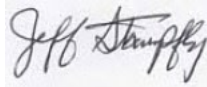
James Dexter, Chief
Fisheries Division



Gary Hagler, Chief
Law Enforcement Division



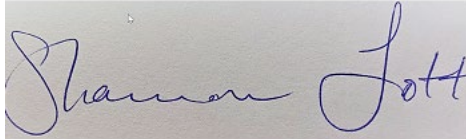
Daniel Kennedy, Acting Chief
Wildlife Division



Jeff Stampfly, Acting Chief
Forest Resources Division



Ronald A. Olson, Chief
Parks and Recreation Division



Shannon Lott
Natural Resources Deputy

FISHERIES ORDER

State-Licensed Commercial Fishing Order 243.21

Under the authority of Sections 46701 and 46702 of 1994 PA 451, as amended, MCL 324.46701 and MCL 324.46702, the Director of the Department of Natural Resources on November 12, 2020, ordered that the following state-licensed commercial fishing regulations shall take effect January 8, 2021:

~~1. State licensed commercial fishing trap net fishing is permitted in water depths of up to 150 feet in Lakes Huron, Michigan, and Superior under licenses issued by the director.~~

~~2. The commercial harvest of chubs (*Coregonus hoyi*) is permitted in Lake Michigan north of Grand Haven under licenses issued by the director.~~

~~3. Lake Erie is designated as rough fish grounds for commercial fishing as defined in MCL 324.47309(g).~~

~~4. The commercial harvest of Lake whitefish (*Coregonus clupeaformis*), 17 inches in length and greater, caught in Lake Erie in legally set trap nets, is permitted under licenses issued by the director.~~

~~5. The department or its properly permitted designee may take fish in any manner, in any of the waters mentioned in this part, at any and all seasons of the year, for the purpose of fish culture or scientific investigation; may have and hold ripe and unripe fish for scientific investigation or in order to take spawn from the fish; and may sell or direct to be sold all of these ripe and unripe fish.~~

~~6. 1. State-licensed commercial fishers shall comply with all license conditions.~~

~~7. Whitefish in lakes Michigan, Huron, and Superior shall be closed to harvest from noon on November 1 to noon on November 30.~~

~~8. It shall be unlawful to market, have in possession, transport, or offer for sale at any time, whether caught within or without this state any catfish of a length less than 15 inches except that catfish of a length not less than 14 inches may be taken from Lake Erie, but such fish shall not be sold or offered for sale except at a dock or docks along said lake.~~

~~9. Suckers may be commercially taken from all waters of the state open to commercial fishing without a size limit and without a closed season.~~

~~10. 2. Imported commercial and game fish species of a size, weight, or species not prohibited by the laws of the state or country where caught that are not processed outside the state of Michigan and sold to the consumer in the same package as imported may be possessed, transported, offered for sale, and marketed as follows:~~

- ~~a. A wholesale fish dealer who directly or indirectly imports the fish shall:

 - ~~i. Retain for 30 days following importation a commercial invoice or bill of sale or, if imported from Canada, the customs entry or customs broker's statement, which shall include the species of fish and formal entry number;~~
 - ~~ii. Keep a record including the quantity and species of fish and the name and address of every retailer to whom such fish are sold or shipped; and~~~~

- iii. Make the documents and records required by this section available for inspection by any law enforcement officer at any reasonable time.
- b. A retail fish dealer shall retain a bill of sale or invoice indicating the quantity and species of fish and the name and address of the consignor for inspection by any law enforcement officer at any reasonable time until the fish are disposed of by sale or otherwise.

44.3. In addition to the requirement established in Section 2(a) of this order, wholesale fish dealers licensed in Michigan, whether they are located within or outside the state, shall fill out and submit monthly purchase records on forms provided by the department. Forms containing the monthly purchase records shall be submitted to the department by the tenth day after the end of the month in which the fish were acquired. Reports not received by the department by the tenth day after the end of the month in which the fish were acquired shall be considered delinquent and in violation of this order.

This order shall be assigned number FO-243.21 and is titled "State-Licensed Commercial Fishing."

This order supersedes the order titled "State-Licensed Commercial Fishing," which became effective November 16, 2019, and is assigned number FO-243.19.

Per MCL 324.46702, this order shall not take effect less than 30 days after being issued. This order shall take effect January 8, 2021 and shall remain effective through November 15, 2021.

Issued on this 12th day of November, 2020.

Daniel Eichinger
Director