



State of Wisconsin \ DEPARTMENT OF NATURAL RESOURCES

Scott McCallum, Governor
Darrell Bazzell, Secretary

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**Comments regarding Clearinghouse Rule 02-144 presented to
Senate Committee on Environment and Natural Resources
and Assembly Committee on Natural Resources -- May 22, 2003**

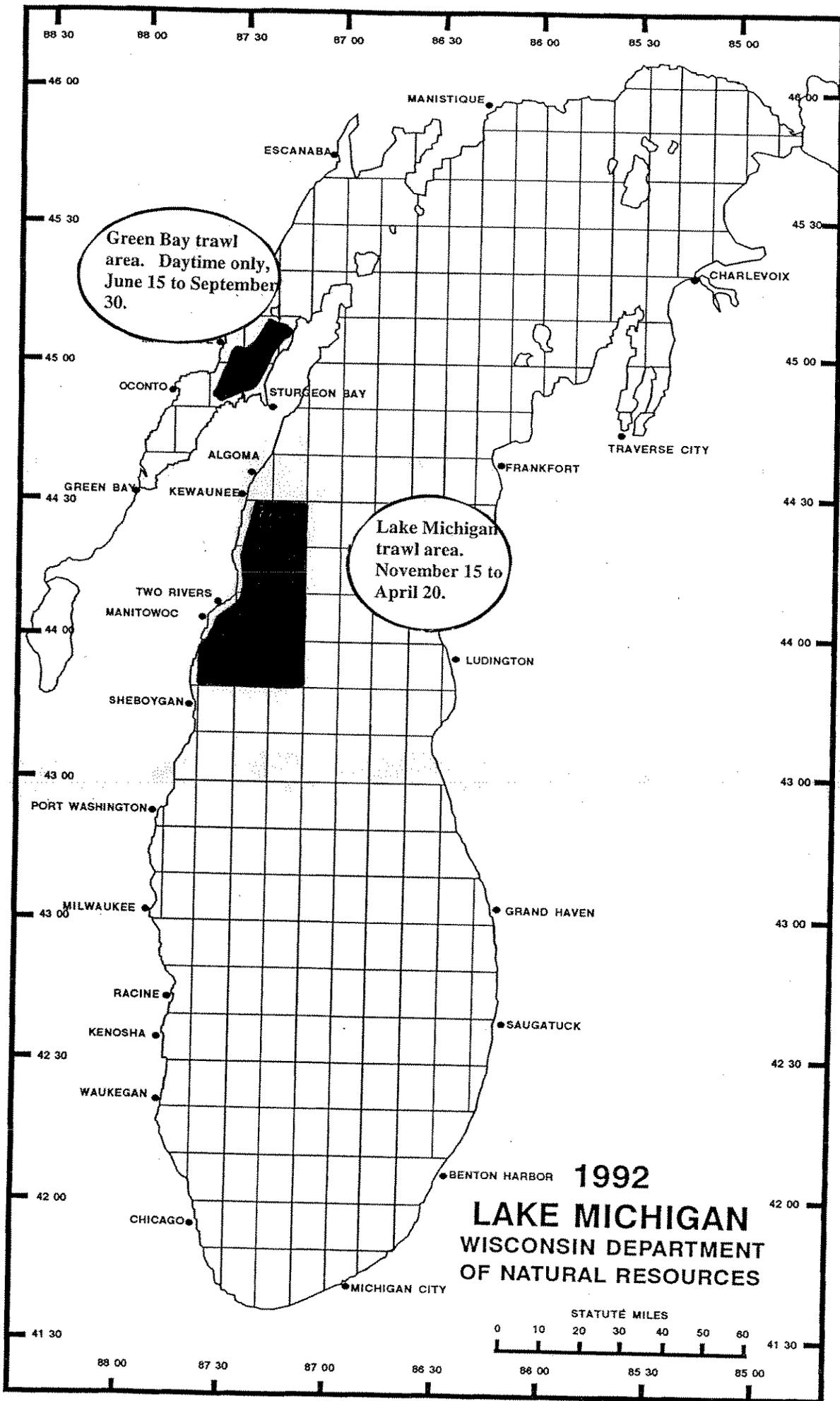
**Prepared by William Horns, Great Lakes Fisheries Specialist, Fisheries Policy and Operations
Section, Bureau of Fisheries Management and Habitat Protection.**

Thank you for the opportunity to comment on Clearinghouse Rule 02-144. I would like to share some background information about the smelt fishery and the proposed rule, and I will be happy to answer any questions you may have.

The total allowable commercial harvest of smelt from Lake Michigan and Green Bay is 1,000,000 pounds, of which no more than 351,993 may be taken from Green Bay. Our rule proposal would not change the total allowable harvest from Lake Michigan, but would temporarily eliminate any commercial harvest from Green Bay.

In the last decade smelt abundance has declined sharply in Lake Michigan and Green Bay. This decline has been observed in all parts of Lake Michigan. While Department biologists do not believe that commercial fishing caused this decline, it is clear that a significant harvest from Green Bay is not realistic, and possibly not attainable. Lake-wide trawl surveys conducted by the US Geological Survey's Great Lakes Science Center indicate that the biomass of smelt in Lake Michigan declined 95% in the past decade. That trend is reflected in the commercial harvest from Wisconsin waters of Green Bay, which declined from 529,560 pounds in 1993 to 291 pounds in 2002. It is time to give smelt in Green Bay a few years of protection from all forms of harvest. This rule would prevent any commercial harvest of smelt from Green Bay for five years. In good times, smelt also support a very popular springtime recreational fishery in Green Bay and other parts of Lake Michigan, but that fishery has virtually disappeared as smelt abundance has declined. We plan to close the recreational smelt harvest on Green Bay through a separate rule.

Commercial trawlers have enjoyed most of the benefits of the smelt fishery, and will be the most affected by this closure. Because discussion of this issue often includes reference to the rules pertaining to commercial trawling, I would like to very briefly outline that segment of the commercial fishery. Trawling is restricted to five commercial license holders who hold quotas for 97% (967,938 pounds) of the total allowable harvest of smelt. The remaining 75 commercial fishing license holders may harvest a total of 32,062 pounds of smelt using other means. This arrangement reflects two central concepts in our management of commercial fishing – limited entry and individual transferable quotas. Although the trawlers have special access to a generous portion of the total harvest, they are limited in significant ways in order to minimize the impact of trawling on alewives and other non-target species. Trawling is limited to two areas (see attached map), one in Lake Michigan near Manitowoc and Two Rivers and the other in Green Bay. Trawling in Lake Michigan is limited to winter months (November 15 to April 20) and trawling in Green Bay is limited to hours of darkness during summer (June 15 to September 30).



"In Support"

of the Wisconsin Department of Natural Resources Position to "Temporarily Close" the Commercial Smelt Harvest in Green Bay.

Green Bay and Lake Michigan information was supplied by the Wisconsin Department of Natural Resources and is based on the Calendar Year to better represent the true harvest on Green Bay

"Support of the Position"

Has Been Submitted By:

**Wisconsin Federation of Great Lakes Sport Fishing Clubs
Northeastern Wisconsin Great Lakes Sport Fishermen**

and this position is also supported by:

Wisconsin Conservation Congress

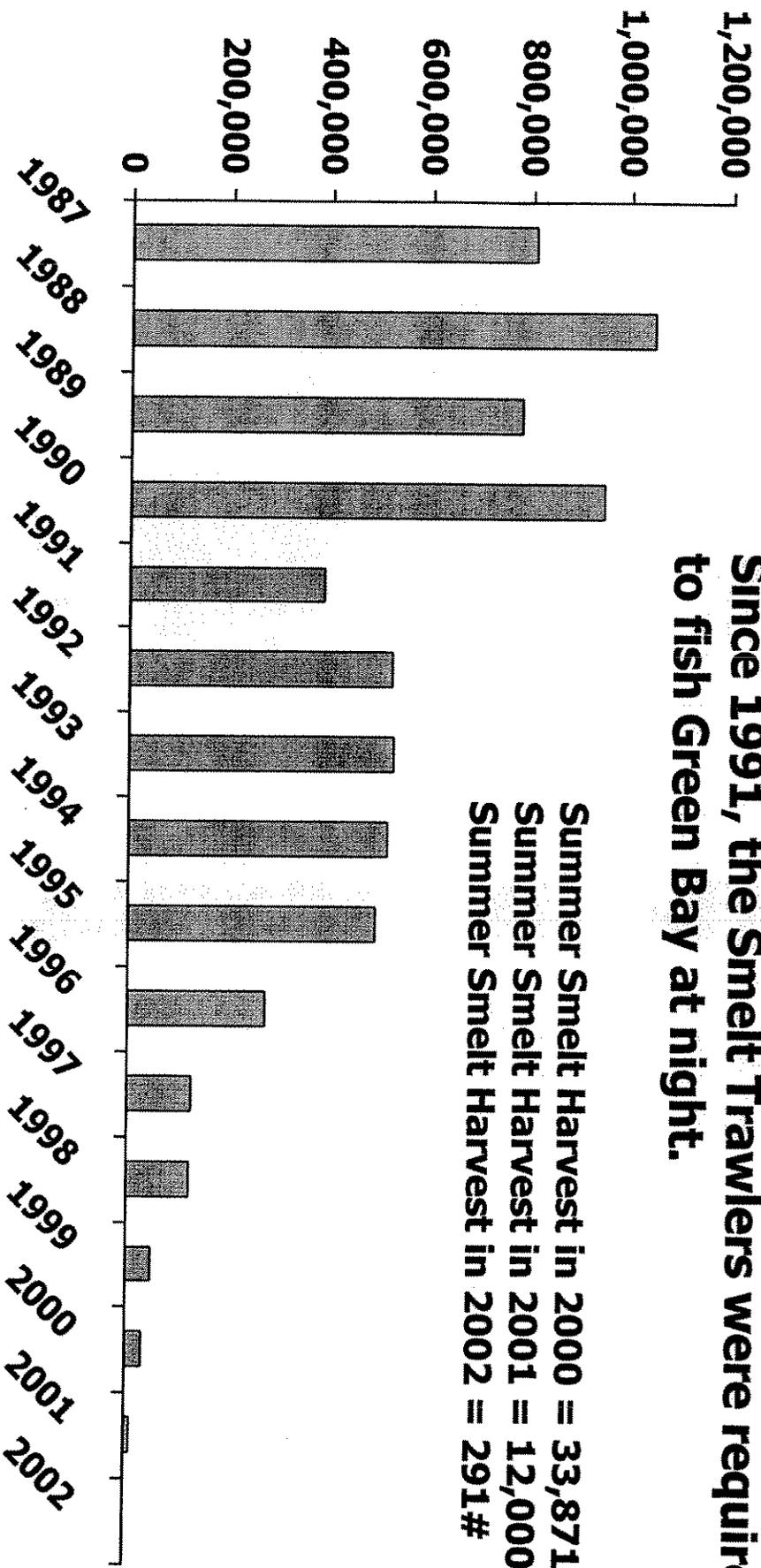
Wisconsin Wildlife Federation

Manitowoc County Fish & Game Protective Ass.

Green Bay Commercial Smelt Harvest By Calendar Year

Since 1991, the Smelt Trawlers were required to fish Green Bay at night.

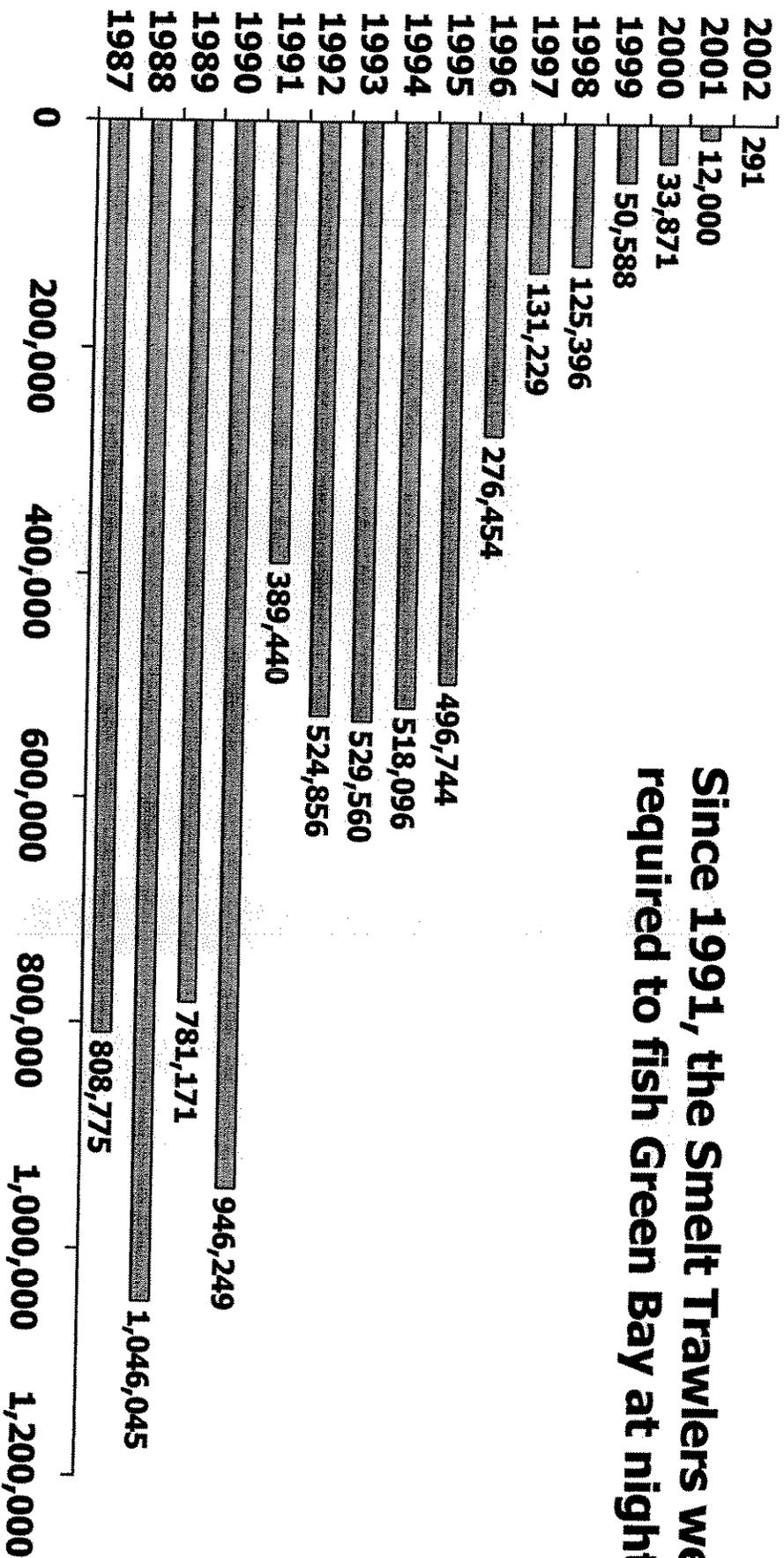
Summer Smelt Harvest in 2000 = 33,871#
 Summer Smelt Harvest in 2001 = 12,000#
 Summer Smelt Harvest in 2002 = 291#



Information Supplied by Allen D. Bizel Commercial Fisheries Specialist - WDNR

Green Bay Commercial Smelt Harvest By Calendar Year

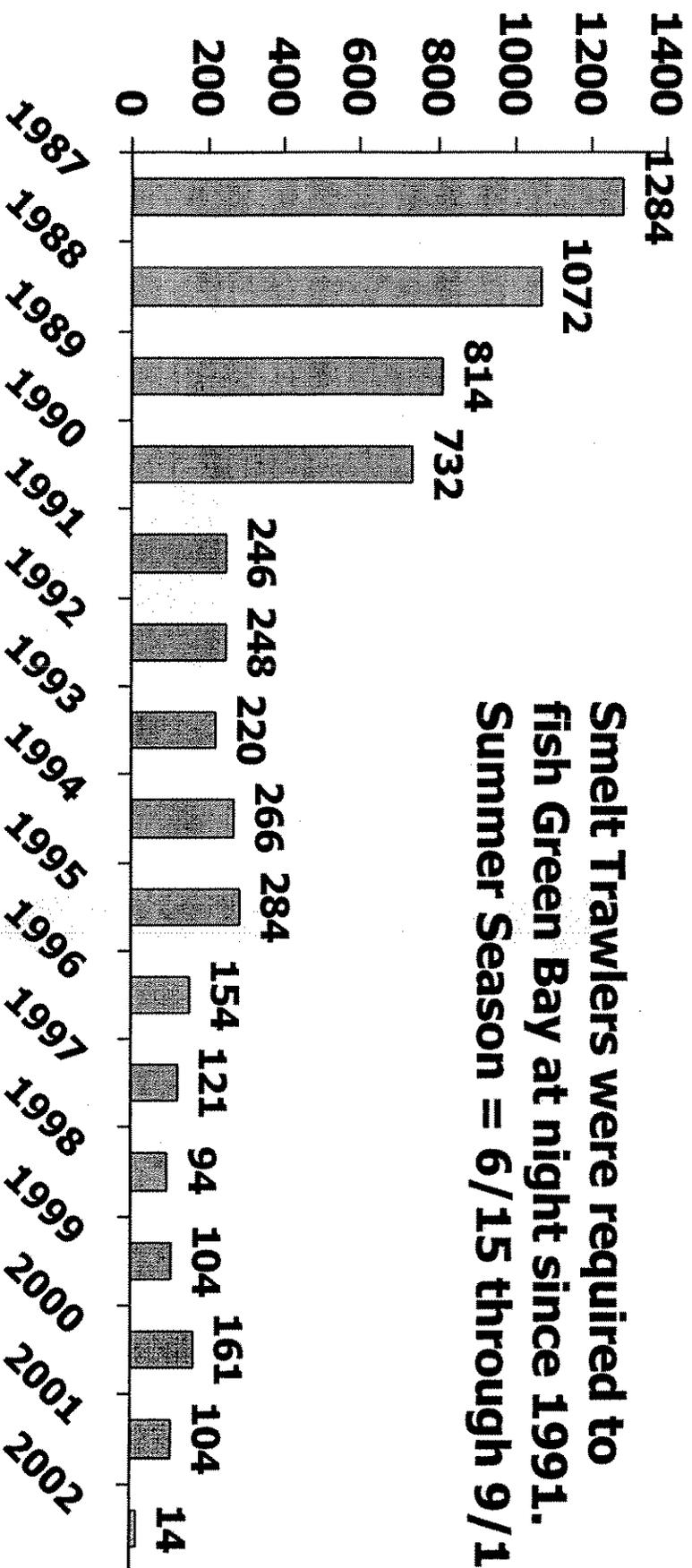
Since 1991, the Smelt Trawlers were required to fish Green Bay at night.



Information Supplied by Allen D. Blizel - Commercial Fisheries Specialist - WDNR

Green Bay Commercial Smelt Trawlers CPE From 1987-2002

Smelt Trawlers were required to fish Green Bay at night since 1991. Summer Season = 6/15 through 9/15



CPE = Pounds Harvested Divided By The Length of Cast Reported in Pounds Per Hour. Information Supplied by the Department of Natural Resources

Comments Regarding the Green Bay Smelt Issue – Page 1

- Back in 1997, when the first red flag indicators were noticed that the Green Bay Smelt population was in serious trouble, the Sport Fishermen of Northeastern Wisconsin requested a “Temporary Closure” of the Commercial Harvest in Green Bay to protect the small remaining spawning population of Rainbow Smelt in the bay. The department failed to make the correct management decisions back in 1998 and now we have a “Total Collapse of the Smelt Population in Green Bay”
 - Back in 1998, the department failed to make the hard management decisions necessary to save this valuable commercial and sport resource in Green Bay. This was because of the pressure exerted by several commercial fishermen, several legislators that did not totally understand the problem and the Assembly Natural Resources Committee. Now in 2003, we are again visiting this same issue because of the departments failure to fight for what was right back in 1998.
- “Let’s not make the same mistake again.”**

Comments Regarding the Green Bay Smelt Issue - Page 2

- In 2002, the Green Bay Rainbow Smelt Population / Commercial Harvest hit an all time record low, which was indicated by both the Commercial Smelt Harvest of only 291.# and the Commercial CPE of only 14# per hour - Catch Per Effort.
- The Commercial Fishermen will tell you that they only fished 14 hours in the bay this past summer and the department should not put any value on the 2002 extremely low numbers, but with Smelt prices as high as they are, if the population was viable, they would have put forth more effort to harvest this valuable resource.
- The truth is the smelt population in the bay has "CRASHED".
- We also want to point out that the "Temporary Closure" of the Commercial Smelt Fishery in Green Bay at this time would be consistent with the policy statement developed by the Fisheries Team back in 1998, prior to the modifications from the Assembly Natural Resource Committee and the politics that came into play at that time.

Comments Regarding the Green Bay Smelt Issue – Page 3

- In the draft of the new Lake Michigan Integrated Fisheries Management Plan 2002-2011, the "First Goal of the Department" is and I quote: "A Stable Commercial Fishery". The departments Fisheries Team, who developed the draft of the plan, stated that periodic harvest limit adjustments are needed to address natural variations in fish populations. The team also stated that adjustment of commercial harvest limits is often highly controversial, but the purpose of limiting commercial harvest is to maintain abundant fish populations that can sustain a stable commercial fishery.
- On Tuesday evening, January 21, 2003, at Public Hearings in Cleveland, Mr. Mike LeClair mentioned that they no longer are fishing the bay since the population of smelt is too low. His comments were followed by Mr. Robert Ruale Jr. the other main trawler out of Michigan fishing the bay. He stated that they would consider a voluntary closure of the Commercial Smelt Harvest in Green Bay. Mr. Ruleau also mentioned that he would be willing come down and sample the Smelt population in the bay for the WDNR. These comments were given at the Public Hearings and then clarified by Mr. Horns.
- Preliminary onboard observations of the 1998 U.S. Geological Bottom Trawl Forage Survey appear to indicate that the smelt numbers are continuing to decline Lake Wide. This is according to Guy Fleischer from the U.S. Geological Survey Biological Resource Division and Jim Francis from the Wisconsin Department of Natural Resource stationed in Milwaukee.

Comments Regarding the Green Bay Smelt Issue – Page 4

- Therefore, the Wisconsin Federation of Sport Fishing Clubs, Conservation Congress, Wisconsin Wildlife Federation, Northeastern Wisconsin Great Lakes Sport Fishermen and the Manitowoc County Fish & Game Protective Association, again request that the Wisconsin Department of Natural Resources NR and the Natural Resource Assembly Review Committee,

“Temporarily Close”

the Commercial Smelt Harvest on Green Bay, until such time that a spring run of smelt is again seen by the sport fishermen of the state and the Department of Natural Resources truly believes that a healthy population of Rainbow Smelt in Green Bay can again sustain a 500,000 pound Night-Time Commercial Harvest.

- Information Provided By Mike Rusch - Legislative Coordinator -
Northeastern Wisconsin Great Lakes Sport Fishermen & Legislative
Coordinator - Wisconsin Federation of Great Lakes Sport Fishing Clubs

As Paul Harvey Would Say: And Now For The Rest Of The Story!

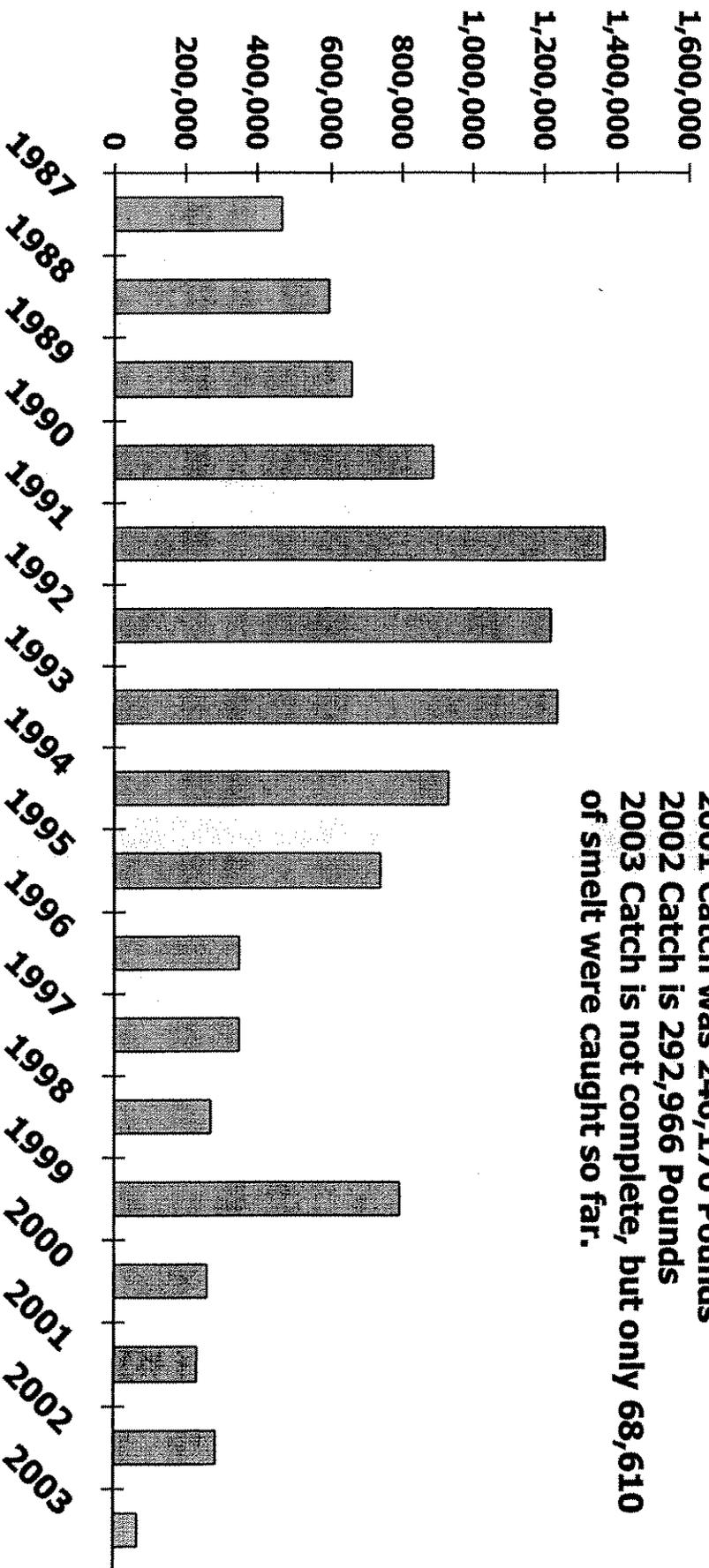
The information on the Lake Michigan Commercial Smelt Trawl, points out the same problem the Commercial Smelt Trawl had on Green Bay, but on top of the low smelt harvest on Lake Michigan this past year, we are having an Extremely High Incidental Catch of Alewife and other Unsorted Forage.

Lake Michigan Smelt Harvest

The Commercial Smelt Trawlers working out of Two Rivers managed to harvest only 77,185 pounds of saleable smelt during this last license year, 2002-2003. Compare this to the 1992-1993 License Year, when they harvested 1,488,460 pounds of saleable smelt. Their CPE, this year was only 71.4 pounds per hour, compared to a 1,100 CPE back in the 1992-1993 License Year.

**"As You Can See, A Serious Problem Also Exists
On Lake Michigan."**

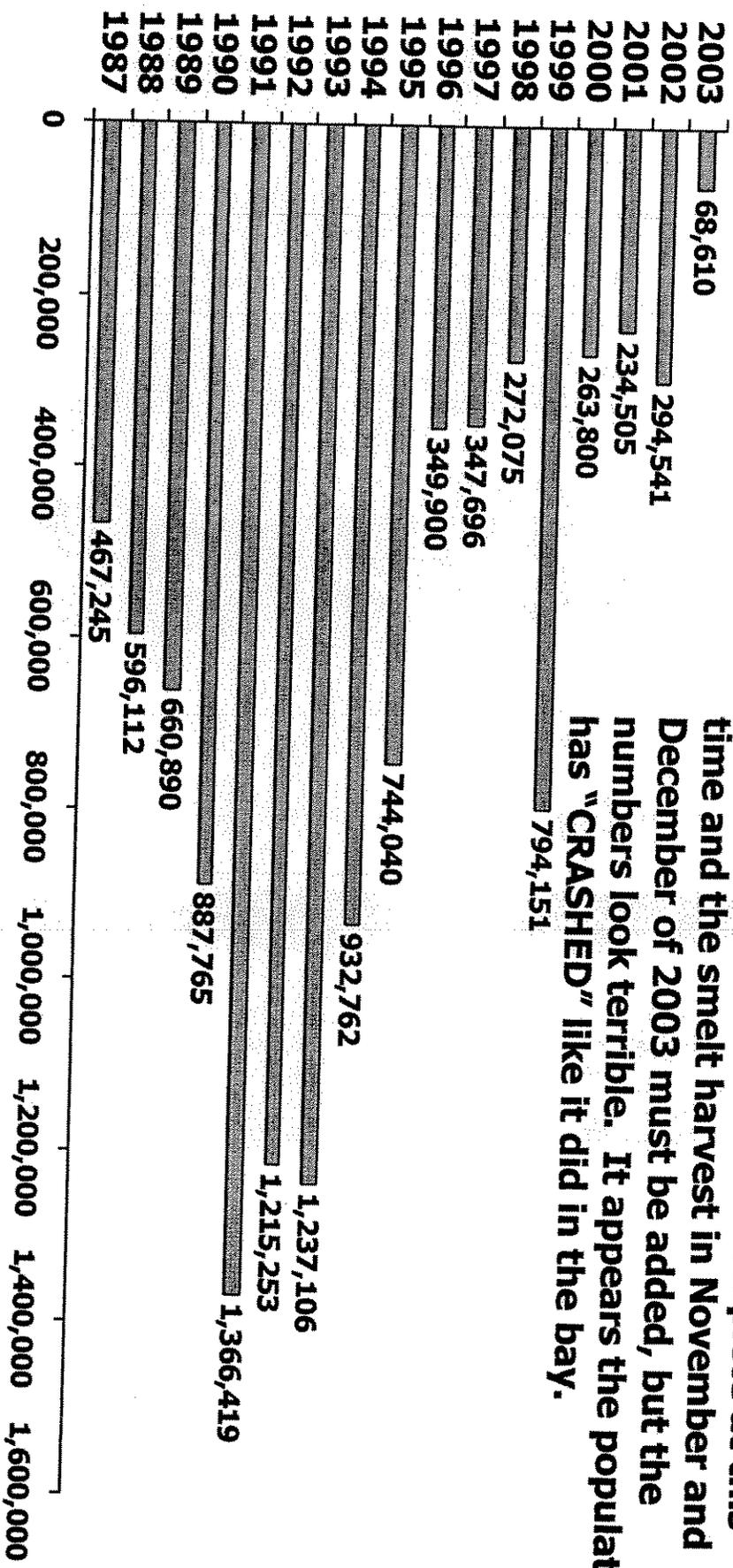
Lake Michigan Commercial Smelt Harvest By Calendar Year



Information Supplied by Allen D. Blizel Commercial Fisheries Specialist - WDNR

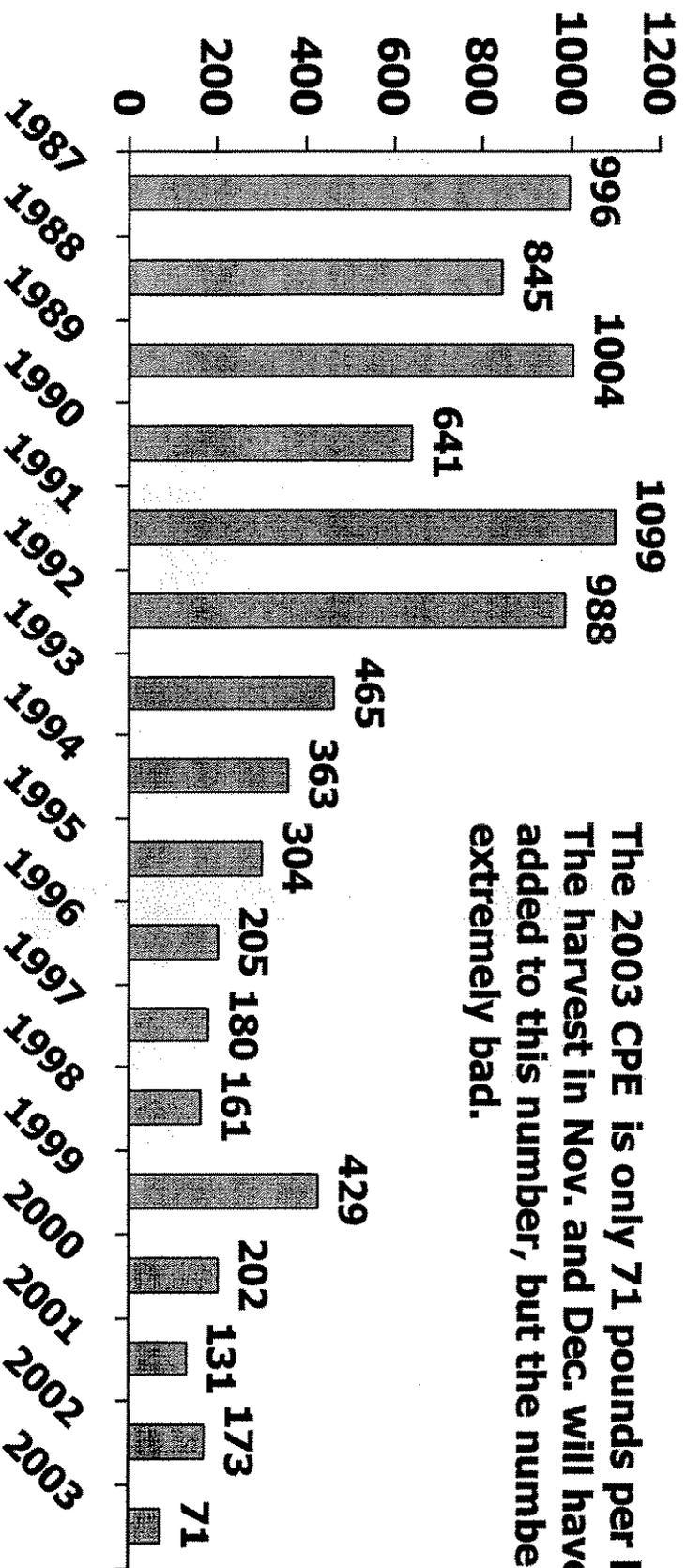
Lake Michigan Commercial Smelt Harvest By Calendar Year

The 2003 Numbers are not complete at this time and the smelt harvest in November and December of 2003 must be added, but the numbers look terrible. It appears the population has "CRASHED" like it did in the bay.



Information Supplied by Allen D. Bizel Commercial Fisheries Specialist - WDNR

Commercial Smelt Trawlers CPE In Lake Michigan From 1987-2003

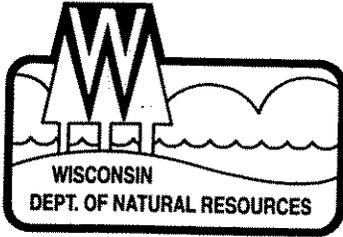


The 2003 CPE is only 71 pounds per hour. The harvest in Nov. and Dec. will have to be added to this number, but the numbers look extremely bad.

CPE = Pounds Harvested Divided By The Length of Cast Reported in Pounds Per Hour. Total Catch Comes From Only The Manitowoc & Two Rivers Grids.

Final Comments Regarding the Lake Michigan Smelt Issue

- The before mentioned organizations also request that the department closely monitor the Lake Michigan Smelt population and Commercial Harvest and make the necessary harvest limit adjustments to protect this fragile smelt population.
- These harvest limit adjustments may also require "Closure of that Fishery" if smelt population numbers do not increase, or the incidental harvest numbers continue to above acceptable levels.
- We are also notifying the department again that several of the above mentioned organizations have requested an "Extensive Benthic Bottom Study" be conducted by the WDNR in the grids historically trawled off Manitowoc and Two Rivers. The sport fishermen in the Manitowoc/Two Rivers area believe there is a "Cause and Effect" related to the historical extensive smelt trawl and subsequent potential damage to the Benthic Bottom Life and Structure of Lake Michigan and the number of Lake Trout in the area. The Lake Trout fishery has declined dramatically in the past several years with the removal of the few remaining smelt and the high incidental alewife catch in the grids off Manitowoc and Two Rivers.



State of Wisconsin \ DEPARTMENT OF NATURAL RESOURCES

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Scott Hassett, Secretary

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October 30, 2003

Honorable DuWayne Johnsrud, Chair
Assembly Committee on Natural Resources
Room 323 North
State Capitol

Honorable Neal Kedzie, Chair
Senate Committee on Environment and Natural Resources
Room 313 South
State Capitol

Re: Clearinghouse Rule No. 02-144
Commercial fishing in Lake Michigan

Gentlemen:

On May 28, 2003, the Assembly Committee on Natural Resources requested the Department of Natural Resources to modify Clearinghouse Rule No. 02-144 pertaining to the commercial harvest of smelt in Green Bay. At its October 22, 2003 meeting, the Natural Resources Board modified the rule by shortening the closure of the commercial season by one year. The sunset date in the proposed rule is now July 2, 2007.

Under s. 227.19(4)(b)2., Stats., the Department of Natural Resources refers this rule to your committees for an additional 10 working day review. If the Department does not hear from you within 10 working days of the receipt of this notification, the Department will continue processing the rule. A copy of the modified order is attached.

Sincerely,

Scott Hassett
Secretary

cc: Bill Horns - FH/3
Peter Flaherty - LS/5
Carol Turner - LS/5

Attach.

**ORDER OF
THE STATE OF WISCONSIN NATURAL RESOURCES BOARD
AMENDING RULES**

The Wisconsin Natural Resources Board adopts an order to amend NR 25.05(1)(gn) and 25.06(2)(c)1. relating to commercial fishing in Lake Michigan

FH-12-03

Analysis Prepared by the Department of Natural Resources

Statutory authority: ss. 29.041, 29.014(1), 29.519(1)(b) and 227.11(2)(a), Stats.
Statutes interpreted: ss. 29.041, 29.014(1) and 29.519(1)(b), Stats.

The order affects Great Lakes commercial fishing rules.

SECTION 1 closes the season for commercial trawling for smelt on Green Bay until July 1, 2007.

SECTION 2 reduces the total annual allowable commercial harvest of smelt that may be taken from Green Bay from 351,993 pounds to 0 pounds until July 1, 2007.

SECTION 1. NR 25.05(1)(gn) is amended to read:

Species	A Green Bay	B Lake Michigan	C Lake Superior
(gn) Smelt	At all times except trawls may not be used prior to July 1, 2007, and after that date may be used only from June 15 to September 30 and only from one hour after sunset to one hour before sunrise	At all times except trawls may be used only from Nov. 15 to April 20	At all times

SECTION 2. NR 25.06(2)(c)1. is amended to read:

NR 25.06(2)(c)1. The total allowable commercial harvest of smelt in any license year may not exceed 1,000,000 pounds in Lake Michigan and Green Bay, of which no more than ~~351,993~~ 0 pounds may be taken from Green Bay until July 1, 2007, after which no more than 351,993 pounds may be taken from Green Bay.

SECTION 3. EFFECTIVE DATE. The rule contained in SECTION 1 shall take effect on the first day of the month following publication in the Wisconsin administrative register, as provided in s. 227.22(2)(intro.), Stats. The rule contained in SECTION 2 of the order shall take effect on July 1, 2004.

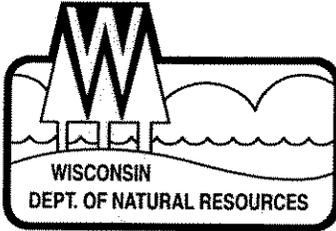
SECTION 4. BOARD ADOPTION. This rule was approved and adopted by the State of Wisconsin Natural Resources Board on April 22, 2003 and October 22, 2003.

Dated at Madison, Wisconsin _____.

STATE OF WISCONSIN
DEPARTMENT OF NATURAL RESOURCES

By _____
Scott Hassett, Secretary

(SEAL)



State of Wisconsin \ DEPARTMENT OF NATURAL RESOURCES

Jim Doyle, Governor
Scott Hassett, Secretary

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November 12, 2003

Honorable DuWayne Johnsrud, Chair
Assembly Committee on Natural Resources
Room 323 North
State Capitol

Dear Representative *DuWayne* Johnsrud:

The Department agrees to consider modifications to Clearinghouse Rule No. 02-144 relating to commercial fishing in Lake Michigan.

Sincerely,

Scott

Scott Hassett
Secretary

cc: **Sen. Neal Kedzie**
Bill Horns – FH/3
Carol Turner – LS/5

Bire Honors DML (Fishes)
Steve Hewitt DML (Fishes)

Smart 2-3 ^{Yes.} ^{percease}
Museum

(Again)

Michael LeClair
2 Rivers, Erie Q Fish Co.

Send on LE Michigan
Forum.

Transfer = \$500/day
To speak

Concerned w/ predator
Levi DML Bears
Scheduling, Fees
Commercial Fishermen
are being blamed.

Louis Kosciuszki (Fishes)

Commercial Fishermen being
in \$2.3 billion -

Q. 251 lbs. harvest in
3 days US 1100 lbs yr.

Before, there is no mortality
for Commercial Fishermen
* 1. ...

Most fish theories take
5 yrs. That is why we
need a 5 yr. closed
season on small harvest

I want you to say that
"Try 2008 there must be
"Sustainable harvest
available"

Charles W. Levin (Favor)

- WI. Fed. of Gr. W. Sports
Fishermen

CR 02-144

DNR SUPPORT

TAKES 2-3 YEARS FOR A SMALT TO BECOME A SMELT

MICHAEL LE CLAIR: OPPOSE

LOUIS KOWIESKI: SUPPORT

OPPOSED TO 100,000 QUOTA; MUST BE 0

POSSIBLE MODIFICATION TO CREATE "SUSTAINABLE REPORT" BEFORE
RE-OPENING ON JULY 1, 2008

CHARLES WEICER: SUPPORT

02 097

DNR: EAGAN / GARBER

MICH. HAS 1000 MATERIALS ON THEIR LIST

CURRENT FED REGS ARE NOT STRICT ENOUGH

IOWA DOES NOT REGULATE BEYOND FEDERAL LAW

GOV BRIEFED AND SUPPORTIVE

HASSETT BRIEFED AND SUPPORTIVE

NO BRIEFING W/DOJ

DHFS: MARK WARNER

LIST NOT UPDATED SINCE 1988

FULL PARTNER IN TAG

WANC: OPPOSE

\$100 MILLION COST TO IMPLEMENT IN THE FIRST YEAR

COMPULSIVE SUBSTANCE: FOR NEED BY DNR

DNR MUST FIND A NEED TO PROMULGATE A NEW TOXIN

ARE THE 144 SUBSTANCES ACTUALLY A THREAT?

SMALL BUSINESSES MUST HIRE A CONSULTANT TO UNDERSTAND RULE (COSTLY)

BUSINESS WILL HAVE TO SPEND \$\$ TO ULTIMATELY PROVE THEY
ARE IN COMPLIANCE

MICH. MAKES THE DETERMINATION IF THERE IS A THREAT

REAL COST ANALYSIS METHOD USED TO DETERMINE COST

JOHN HAYBECK: MANSON PUBLIC HEALTH

CONCERNED ABOUT SAFE HARBOR PROVISION, BUT IS RELATIVELY
COMFORTABLE WITH IT

MARLE BENTLEY

OPPOSE: DIESEL COMPONENT CONCERN; LIABILITY CONCERNS

WITH LISTING DIESEL EXHAUST, SCIENCE IS NOT

CONCLUSIVE IF IT IS A CARCINOGEN

CONCERN WITH "ENGINE TEST FACILITIES" UNDER THE RULE

DNR SHOULD ADOPT FEDERAL ENGINE TEST STANDARDS

SEE COMMENTS FROM GROUP

CAROL TERRELL SIERRA CLUB

SUPPORT

COMPROMISES WERE STRUCK IN ORDER TO MAKE MUCH

NEEDED PROVISIONS