

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Note: Chapter NR 25 as it existed on September 30, 1976, was repealed and a new chapter NR 25 was created effective October 1, 1976.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

(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) "Incapacity" means the inability to communicate in any manner or an adjudication of incompetency as defined in s. 880.01 (4), Stats.

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

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

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

(20) "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.

(21) "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.

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

(23) "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 northeast-

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 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

to the maximum number issued for either of the immediately preceding 2 license years, except that this section does not apply to licenses for fishing only for the harvest of rough fish from outlying waters under a permit or contract issued under s. 29.62 or 29.625, Stats.

(b) Applications for licenses authorizing commercial fishing in Lake Michigan 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 shall 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 Michigan during the previous license year unless unavoidable circumstances prevented the applicant from lifting nets. These circumstances shall be reviewed by the Lake Michigan 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):

1. First to individuals who have been licensed commercial fishers on Lake Michigan 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 Michigan for at least 2 years.

3. Next to individuals who worked as a licensed crew member on Lake Michigan 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 licensing 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.

(3) APPLICATION. Application for licenses authorizing commercial fishing in the outlying waters shall be made on forms provided by the department. 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 and stamped with a date stamp of the department indicating receipt no later than April 30 preceding the license year for which application is being made. This section does not apply to 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.

History: Cr. Register, September, 1976, No. 249, eff. 10-1-76; r. and recr. Register, October, 1979, No. 286, eff. 11-1-79; am. (1), Register, August, 1980, No. 296, eff. 9-1-80; am. (1) (a), (2) (a) and (3), cr. (2) (b) and (c), Register, March, 1981, No. 303, eff. 4-1-81; am. (1) (a), (2) (c) 5. and (3), r. and recr. (1) (b) 2. and 3., (2) (a), r. (2) (b) and (2) (c) 3., renum. (2) (c) (intro.), 1. and 2. to be (2) (b) (intro.) 1. and 2., renum. (1) (b) 4. to be (1) (c) and am., renum. (1) (b) 5. to be (1) (c) 5. and am., renum. (1) (c) to be (1) (d) and am., renum. (2) (c) 4. to be (2) (c) and am., cr. (2) (b) 3., Register, June, 1983, No. 330, eff. 7-1-83.

NR 25.04 Transfer of commercial fishing licenses. Any licensed commercial fisher may transfer their valid license authorizing commercial fishing in the outlying waters to another person who meets the criteria under s. NR 25.03 and s. 29.33, Stats., for obtaining such a license, subject to the conditions stated in this section.

(1) Application for license transfers shall be made on forms provided by the department.

(2) A licensee may designate on the application for their license authorizing commercial fishing in the outlying waters a person to whom the licensee wishes that license 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 would have to 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 license. 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 license 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.

(3) Licenses may not be transferred if the licensee or the transferee is charged with a violation of outlying waters commercial fishing laws under which conviction could cause revocation or suspension of that license. This subsection shall apply from the issuance of the citation or complaint until the matter is adjudicated or dismissed.

(4) Licenses may not be transferred to any person who currently has a license authorizing commercial fishing in the outlying waters under revocation or suspension.

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

(6) This section does not apply to the transfer of a license from one boat to another as provided for under s. 29.33 (2) (d), Stats.

History: Cr. Register, September, 1976, No. 249, eff. 10-1-76; r. and recr. Register, October, 1979, No. 286, eff. 11-1-79; r. and recr. Register, June 1985, No. 354, eff. 7-1-85.

NR 25.05 Open seasons; size limits; possession limits. (1) OPEN SEASONS. In the outlying waters there shall be an open season subject to other conditions established in this chapter and by statute on the various species of fish embraced within specified dates, both inclusive, as follows. During any time other than the open season no person may take, catch or kill fish or fish for fish, except as otherwise expressly provided in this chapter.

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Species	A	B	C
	Green Bay	Lake Michigan	Lake Superior
(a) Lake trout	No open season	No open season	December 1 to September 30, subject to ss. NR 25.06(1)(a) and 25.07(1)(a)
(b) Sisçowet	No open season	No open season	At all times in waters greater than 55 fathoms in depth
(c) Whitefish	December 1 to October 25	December 1 to October 25	December 1 to September 30.
(d) Chubs	No open season	March 15 to December 31, subject to ss. NR 25.06(2)(a), 25.07(2)(a) and 25.09	At all times
(e) Yellow perch	July 1 to April 9 except 1. Commencing May 20, 1984, gill nets may be used from May 20 to April 9; 2. From January 1 to April 9 only commercial ice fishing is legal; 3. All to be subject to ss. NR 25.06(2)(b) and 25.07(2)(b)	June 11 to April 9	No open season
(f) Northern pike	May 20 to March 9	No open season	No open season
(g) Alewives, bullheads, burbot, catfish, gizzard shad, suckers, menominees, smelt, white bass	At all times	At all times	At all times
(gm) Carp	No open season except by permit issued under s. 29.625, Stats.	No open season except by permit issued under s. 29.625, Stats.	At all times
(h) Lake herring	No open season	No open season	At all times
(i) Walleye, sauger	No open season	No open season	No open season
(j) Others	No open season	No open season	No open season

(2) SIZE LIMITS. Except as otherwise expressly provided in this chapter, no fish of a length or size less than that specified for each variety of any of the following varieties may be possessed or under control. The measurement of the length of a fish within the meaning of this chapter shall be taken in a straight line in a natural position without manipulation from the tip of the snout to the end of the fully extended tail fin. The measurement of length shall apply without allowance made for the shrinkage of the fish.

Species	A	B	C
	Green Bay	Lake Michigan	Lake Superior
(a) Lake trout			17 inches
(b) Siscowet			No size limit
(c) Whitefish	17 inches	17 inches	17 inches
(d) Yellow perch	8 inches in northern Green Bay, 7½ inches in southern Green Bay	8 inches	
(e) Walleye	18 inches		
(f) Northern pike	20 inches	20 inches	
(g) Catfish	16 inches	16 inches	
(h) Others	No size limit	No size limit	No size limit

(3) POSSESSION LIMITS. Except as otherwise provided, no person may possess species of fish for which there is no open season. The possession limit for species of fish for which an open season is provided and a quota has been established shall be the individual quota established by commercial fishing boards for the person possessing such fish.

History: Cr. Register, September, 1976, No. 249, eff. 10-1-76; emerg. am. (1)(d) and cr. (3), eff. 5-16-79; am. Register, October, 1979, No. 286, eff. 11-1-79; am. (1) (d), Register, May, 1981, No. 305, eff. 7-1-81; emerg. am. (2) (b), eff. 7-1-81; am. (2) (b), Register, August, 1981, No. 308, eff. 9-1-81; emerg. am. (1) (i), eff. 5-20-82; am. (1) (d) and (i), (2) (e), Register, October, 1982, No. 322, eff. 11-1-82; am. (1) and (2), Register, April, 1983, No. 328, eff. 5-1-83; emerg. am. (1) (g) and cr. (1) (gm), eff. 6-20-84; am. (1) (d), Register, January, 1985, No. 349, eff. 2-1-85; am. (1) (g) and cr. (1) (gm), Register, March 1985, No. 351, eff. 4-1-85; am. (1) (d), Register, July, 1985, No. 355, eff. 8-1-85; am. (1) (d), Register, February, 1986, No. 362, eff. 3-1-86; emerg. am. (1) (a) and (c), eff. 4-22-86.

NR 25.06 Quotas and catch fees. (1) LAKE SUPERIOR. (a) Lake trout. The total allowable annual harvest of lake trout by state and tribal commercial fishers and tribal home use fishers under par. (b) during the open season in Wisconsin waters of Lake Superior east of Bark Point shall be determined by the natural resources board based upon recommendations from the department, the U.S. fish and wildlife service and the Great Lakes fishery commission. No lake trout quota is established for the waters of Lake Superior west of Bark Point for state or tribal commercial and tribal home use fishers. All lake trout harvested by state and tribal commercial and tribal home use fishers in these waters shall be deducted from the lake trout quota established for the waters of Lake Superior east of Bark Point.

1. The total allowable commercial and home use harvest in the waters of Lake Superior east of Bark Point may not exceed 39,000 lake trout during the open season.

2. That number of lake trout to be harvested by non-Indian licensed commercial fishers from the waters of Lake Superior east of Bark Point may not exceed 13,000 lake trout during the open season.

3. That number of lake trout to be harvested by the Red Cliff and Bad River bands, including both commercial and home use fishers, from the waters of Lake Superior east of Bark Point may not exceed 26,000 lake trout during the open season. The Red Cliff and Bad River bands shall inform the department of the extent and method of the allocation between commercial and home use fishers. If the Red Cliff and Bad River bands do not reach an agreement on the method of allocating the tribal quota between them, the department may divide the quota 26.5% for the Bad River band and 73.5% for the Red Cliff band.

4. All lake trout and siscowet harvested by commercial and home use fishers shall be tagged in accordance with sub. (3).

5. The department may recall tags furnished or authorized in accordance with sub. (3), when necessary to implement a quota reduction.

(b) *Harvest of fish from Lake Superior for home use by Lake Superior Chippewas.* Members of the Bad River and Red Cliff bands of Lake Superior Chippewas may harvest species of fish for which there is an open season during said season, under home use permits issued by their respective tribal councils.

1. Home use permits will be issued to the heads of households only, and only one permit will be issued to an individual.

2. Permittees are restricted to the use of no more than 350 feet of gill net and sale of fish pursuant to these permits is prohibited. These fishing activities shall be restricted to waters adjacent to the reservations of the Bad River and Red Cliff bands.

(2) LAKE MICHIGAN AND GREEN BAY. (a) *Chubs.* The total allowable annual commercial harvest of chubs in Wisconsin waters of Lake Michigan shall be determined by the natural resources board based on recommendations from the department.

1. The total allowable commercial harvest for any license year may not exceed 3,000,000 pounds, not including incidental catches allowed elsewhere in this chapter.

2. No more than 350,000 pounds of the total allowable commercial harvest for any license year may be taken in the northern chub fishing zone.

3. No more than 2,550,000 pounds of the total allowable commercial harvest for any license year may be taken in the southern chub fishing zone.

4. The department reserves 100,000 pounds of the total allowable annual commercial harvest of chubs to be used for special assessment.

(b) *Yellow perch.* The total allowable annual commercial harvest of yellow perch in Wisconsin waters of Green Bay shall be determined by the natural resources board based on recommendations from the department.

1. The total allowable commercial harvest in Green Bay for any license year may not exceed 350,000 pounds.

(3) TAGGING OF FISH. All fish species or subspecies required to be tagged in accordance with this section shall be tagged with tags furnished or authorized by the department before being brought to any dock or shore when fishing in open water and before being transported when fishing with nets under ice. Such fish shall be individually tagged.

(b) Untagged fish may not be left unattended.

(c) Untagged fish may not be transferred between watercraft.

(d) Tags shall be locked and remain attached to fish until prepared for final consumption. Tags shall remain with smoked or filleted fish until sold to final consumers. Commercial fishers of the outlying waters or li-

censed wholesale fish dealers shall not be considered final consumers and must be in possession of tags for smoked and filleted fish.

(e) Tags provided or authorized by the department for tagging fish may not be transferred.

(f) No person may possess or use tags furnished or authorized by the department for tagging fish which have been modified or tampered with.

(4) **ALLOCATION.** The harvest quotas established shall be allocated to individual commercial fishing licensees in accordance with s. NR 25.07.

(5) **CATCH FEES.** Catch fees to be charged for commercial harvest of fish species whose populations are sustained or supplemented through stocking shall be determined and assessed as follows:

(a) The department shall determine catch fees annually for each fish species population subject to this subsection and shall provide this information upon request by February 15 of each year.

(b) The catch fee for a given fish species population shall be equivalent to the department's direct cost in providing those fish for commercial harvest.

(c) Catch fees shall be charged on a per fish harvested basis.

(d) Catch fees shall be collected through the sale of fish tags furnished or authorized by the department in accordance with sub. (3) at offices indicated on the quota applications provided under s. NR 25.07 (3). The total number of tags that may be purchased by an individual licensee shall be equivalent to that licensee's individual catch quota as determined in accordance with s. NR 25.07.

(e) Unused fish tags purchased in accordance with par. (d) shall be returned by the licensee to the department at the office where purchased within 15 days of the end of the open season for that fish species population. The department shall return the catch fees paid by that licensee for those unused fish tags.

History: Cr. Register, September, 1976, No. 249, eff. 10-1-76; emerg. am., eff. 5-16-79; am. Register, October, 1979, No. 286, eff. 11-1-79; am. (2) (a), Register, May, 1981, No. 305, eff. 7-1-81; emerg. am. (1) (b) to (d) and (f), r. (1) (e), eff. 7-1-81; am. (1) (b) to (d) and (f), r. (1) (e), Register, August, 1981, No. 308, eff. 9-1-81; emerg. am. (2) (a), eff. 7-1-82; am. (2) (a), Register, September, 1982, No. 321, eff. 10-1-82; am. Register, October, 1982, No. 322, eff. 11-1-82; am. (2) (a) and cr. (2) (b), Register, April, 1983, No. 328, eff. 5-1-83; am. (2) (a) 1. and (3) (f), renum. (2) (a) 3. to be (2) (a) 4., cr. (2) (a) 3., Register, June, 1983, No. 330, eff. 7-1-83; am. (2) (b) 1., Register, June, 1984, No. 342, eff. 7-1-84; am. (2) (a) 1. to 3., Register, July, 1984, No. 343, eff. 8-1-84; reprinted to correct error in (2) 2., Register, August, 1984, No. 344; emerg. am. (1) (a), eff. 1-2-86; emerg. cr. (3) (a) and (g), eff. 4-22-86; emerg. am. (1) (a) 3, eff. 5-1-86; r. and recr. (1) (a), Register, July, 1986, No. 367, eff. 8-1-86.

NR 25.07 Individual licensee catch quotas. (1) **LAKE SUPERIOR.** The allotment of harvest quotas as established in s. NR 25.06 (1) to individual licensed commercial fishers on Lake Superior shall be by the Lake Superior commercial fishing board upon application in accordance with sub. (3), and as follows:

(a) *Lake trout.* 1. Each licensed commercial fisher shall receive an equal share of the annual lake trout harvest quota established under s. NR 25.06 (1) (a) 2.

2. Allocation of the lake trout quota to individual licensees shall be by issuance of appropriate tags by the department. The number of tags issued to each individual licensee shall be based on the average dressed weight of individual lake trout commercially harvested during the previous year.

(2) LAKE MICHIGAN AND GREEN BAY. The allotment of harvest quotas as established in s. NR 25.06 (2) to individual licensed commercial fishers on Lake Michigan and Green Bay shall be by the Lake Michigan commercial fishing board upon application in accordance with sub. (3), as follows:

(a) *Chubs*. 1. Chub fishing permits and individual licensee catch quotas shall be issued to all applicants meeting the following criteria:

- a. Presently licensed commercial fishers;

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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. No more than 125,000 pounds of chubs may be harvested during each of the quota periods of July 1 through September 30, and October 1 through December 31; and no more than 100,000 pounds of chubs may be harvested during the quota period of March 15 through June 30.

b. The department shall notify all permittees to cease fishing upon receipt of information that 85% of the period 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 harvested.

c. The period quota for the following period shall be adjusted based on the actual reported catch of the previous quota periods within a given license year, except that no more than 100,000 pounds of chubs may be harvested during the quota period of March 15 through June 30.

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; am. (1) (d), Register, February, 1986, No. 362, eff. 3-1-86.

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;
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.

Histgory: 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.

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 1¾ 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:

Register, August, 1985, No. 356

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. 5-16-79; 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:

(1) LAKE SUPERIOR. (a) No commercial fishing gear of any kind except nets by permit issued under sub. (4) for the taking of rough or detrimental fish, or entrapping nets by permit issued under sub. (4) for the taking of whitefish may be used, set, placed or operated in the following waters:

1. Allouez bay, Superior bay, and St. Louis bay, all in Douglas county and as described in s. 29.015, Stats.

2. All waters within one-fourth mile of the mouth of any navigable stream flowing into Lake Superior.

3. All waters within one-fourth mile of any harbor, pier or breakwater from April 15 through November 30.

4. That portion of Chequamegon bay lying south of a line beginning at the easternmost point of Houghton point in section 27, township 49 north, range 4 west, Bayfield county, then proceeding northeasterly to the signal light on the western end of Long island in section 13, township 48 north, range 4 west, Ashland county, then along the south or west shore of Long island and on across the cut, if present, along the south or west shore of Chequamegon point to where Chequamegon point joins the mainland in section 1 or 12, township 48 north, range 3 west, Ashland county.

(b) No commercial fishing gear of any kind except nets by permit issued under sub. (4) for the taking of rough or detrimental fish may be used, set, placed or operated in the following waters:

1. All waters bounded by a line beginning at the mouth of Graveyard creek in section 3, township 47 north, range 1 west, extending north to the Gull Island Shoals refuge south boundary as described in s. NR 26.23 (1) (a), then east to the Wisconsin-Michigan state line, then southerly along the state line to the shore at the mouth of the Montreal river in section 7, township 47 north, range 1 east, all in Iron county.

2. That portion of Siskiwit bay lying south of a line extending from Roman (Quarry) point in section 29, township 50 north, range 6 west, to Squaw point in section 22, township 50 north, range 6 west, all in Bayfield county.

3. All waters bounded by a line beginning at the signal light on the western end of Long island in section 13, township 48 north, range 4 west, then extending northeasterly to the southernmost point of Made-line island in section 6, township 49 north, range 4 west, then due east to the western boundary of Gull Island Shoals refuge as described in s. NR 26.23 (1) (a), then southerly along the refuge boundary to the mouth of the Bad river in section 17, township 48 north, range 2 west, then north-westerly along the shoreline to the point of beginning, all in Ashland county, except waters within one mile of the mainland shoreline in Ashland county.

4. All waters less than 90 feet (15 fathoms) deep lying between a point extending due north from the mouth of the Iron river in section 34, township 50 north, range 9 west, and a line extending due north from the mouth of the Cranberry river at Herbster in section 5, township 50 north, range 7 west, all in Bayfield county.

5. All waters less than 210 feet (35 fathoms) deep lying between a line extending due north from the mouth of the Iron river in section 34, town-

ship 50 north, range 9 west, Bayfield county, and the Wisconsin-Minnesota state line, except all waters more than 90 feet (15 fathoms) deep lying between a line extending due north from the mouth of the Iron river and a line extending due north from the mouth of the Bois Brule river in section 10, township 49 north, range 10 west, Douglas county, where gill nets with a mesh size of 3 inches or less stretch measure may be used from November 15 through December 31.

6. All waters less than 72 feet (12 fathoms) deep lying between a line extending due north from the mouth of the Cranberry river at Herbster in section 5, township 50 north, range 7 west, and a line extending due north from the northernmost point of Roman (Quarry) point in section 29, township 50 north, range 6 west, all in Bayfield county, except that portion of Bark bay lying southwesterly of a line beginning at Roman (Quarry) point and extending northwesterly to Bark point in section 24, township 50 north, range 7 west, all in Bayfield county, which shall be open from April 1 through May 31.

7. All waters less than 54 feet (9 fathoms) deep or within one mile of the mouth of any stream flowing into Lake Superior, lying between a line extending due east from the breakwall light at Port Superior in Pikes bay in section 27, township 50 north, range 4 west, and a line extending due east from the easternmost point of Houghton point in section 27, township 49 north, range 4 west, all in Bayfield county, from August 16 through May 31.

8. All waters lying east of Madeline island bounded by a line extending due east from the southernmost tip of Madeline island in section 6, township 49 north, range 4 west to the western boundary of the Gull Island Shoals refuge as described in s. NR 26.23 (1) (a), and a line extending from the east end of Hagen road on Big Bay point on Madeline island in sections 19 and 30, township 50 north, range 2 west, to that same western boundary of the Gull Island Shoals refuge, all in Ashland county, from June 1 through August 31.

(2) LAKE MICHIGAN AND GREEN BAY. (a) No commercial fishing gear of any kind except nets by permit issued under sub. (4) for the taking of rough or detrimental fish, or entrapping nets by permit issued under sub. (4) for the taking of whitefish may be used, set, placed or operated in the following waters:

1. Bailey's harbor, Detroit harbor, Eagle harbor, Egg harbor, Fish Creek harbor, Jackson harbor, Little Sturgeon bay, Moonlight bay, North bay, Riley's bay, Rowley's bay, Sawyer harbor, Sturgeon bay, Washington harbor and West harbor, all in Door county and as described in s. 29.015, Stats.

2. All waters within one-half mile of any harbor, pier or breakwater.

3. All waters within one-half mile of the shoreline of Kenosha, Milwaukee, Ozaukee and Racine counties.

4. All waters within one-fourth mile of the mouth of any navigable stream flowing into Lake Michigan or Green Bay.

5. All waters within one-fourth mile of the shoreline in Door, Kewaunee, Manitowoc and Sheboygan counties.

6. That portion of southern Green Bay bounded by a line beginning at the silo west of Little Sturgeon Bay at 87°35'W longitude in the SE ¼ SE ¼, section 33, township 28 north, range 24 east, then proceeding northeasterly 7.75 statute miles on a 54° bearing through the Sherwood Point shoal signal buoy and 0.37 statute miles beyond to latitude 44°55'N, then due east on a 44°55' bearing, 2.75 statute miles to the shoreline in section 12, township 28 north, range 25 east, all in Door county.

7. That portion of southern Green Bay lying north or east of a line beginning at the south end of Ogden street in the city of Marinette in section 9, and running southeasterly to the most southwesterly point of Seagull bar in section 16, then along the north or east shoreline of Seagull bar to the Red Arrow park public boat landing located in section 9, all in township 30 north, range 24 east, Marinette county.

8. That portion of southern Green Bay lying south and west of a line beginning at the southern side of the base of Long Tail point in section 24, township 25 north, range 20 east, and following the south or west shore of Long Tail point to its southernmost point, then to where the navigation channel intersects latitude 44°35'N, then southwesterly along the west side of the navigational channel, as marked, for 3.5 statute miles to the Wisconsin public service Pulliam plant outlet on the west bank of the Fox river in section 25, township 24 north, range 20 east, all in Brown county.

9. That portion of southern Green Bay lying south or east of a line beginning at the mouth of Renard creek located in SW ¼ NW ¼, section 21, township 26 north, range 23 east, Door county, and running southwesterly to the east end of the concrete sea wall located at the end of Point Comfort road in SW ¼ SE ¼, section 20, township 25 north, range 22 east, Brown county.

10. Fox river including all connected sloughs, bayous, and tributaries from the DePere dam downstream to its mouth lying south of a line beginning at the Wisconsin public service Pulliam plant and running easterly across the Fox river to the outlet of the Green Bay metropolitan sewerage district plant outfall, all in Brown county.

(3) FISH REFUGES-OUTLYING WATERS. No commercial fishing gear of any kind may be used, set, placed or operated at any time in or on those water areas in Lake Superior, Lake Michigan and Green Bay as described in s. NR 26.23.

(4) RESTRICTED AREA PERMITS. Permits allowing commercial fishing in restricted areas as described in subs. (1) and (2), or as required in s. NR 25.09 will be issued as follows:

(a) *Application criteria and procedure.* 1. Applicants shall be licensed commercial fishers, or have contracts for the harvest of rough fish from outlying waters issued under s. 29.62 or 29.625, Stats.

2. Applications shall be made on forms provided by the department, at least one week prior to commencing fishing operations, unless otherwise authorized.

3. A permit shall be issued to an applicant meeting the criteria in this paragraph, unless the department denies the application under par. (b) in writing, within 6 business days of receipt of the application.

4. Permits shall be reapplied for at least once each license year. The permit period may not extend beyond the end of the license year.

(b) *Denial, revocation or temporary suspension of permits.* 1. The department may deny, revoke, or temporarily suspend a permit applied for or issued under this subsection in whole or in part, as resource management requires, if one or more of the following conditions exists or are likely to occur:

- a. Damage to fish habitat.
- b. Excessive incidental catch of illegal fish, as defined in s. NR 25.09 (5).
- c. Spawning concentrations of illegal fish.
- d. Concentrations of recently stocked fish.
- e. Concentrations of immature fish.
- f. Presence of protected or endangered plants or animals as listed in ch. NR 27.

2. The department shall give notice of a denial, suspension, or revocation pursuant to provisions of s. 227.14 (3), Stats. Any telephonic notice of suspension shall be promptly confirmed in writing.

3. Any suspension exceeding 7 days shall be reviewed and approved by the department's district director, or their designee, within the first 6 business days of the suspension period. Any revocation, or suspension in excess of 25 days, shall be reviewed by the office of the secretary, or its designee, with opportunity for the permittee to be heard. The revocation or suspension shall be reviewed within 10 business days of receipt of the permittee's request for opportunity to be heard. A permittee is not required to request to be heard by the office of the secretary prior to seeking judicial review.

4. A denial, suspension, or revocation of a permit under this paragraph shall not bar an otherwise qualified applicant from applying for permits for other locations.

History: Cr. Register, September, 1976, No. 249, eff. 10-1-76; renum. from NR 25.12, Register, October, 1979, No. 286, eff. 11-1-79; r. and recr. Register, June, 1984, No. 342, eff. 7-1-84; renum. from NR 25.09 and am. (4) (intro.) and (5) (b) l.b., Register, January, 1985, No. 349, eff. 2-1-85.

NR 25.11 Handling of illegal fish. All illegal fish taken during commercial fishing operations on the outlying waters shall be immediately returned to the water, except that a department employe on board a vessel or otherwise accompanying fishers engaged in such commercial fishing operations may retain illegal fish taken.

History: Cr. Register, September, 1976, No. 249, eff. 10-1-76; r. and recr. Register, October, 1979, No. 286, eff. 11-1-79; renum. from NR 25.10, Register, January, 1985, No. 349, eff. 2-1-85.

NR 25.12 Processing of fish. (1) It shall be unlawful for any person operating any fishing boat or boats or any other conveyance on the outlying waters to carry or transport on board such boat or boats or any other conveyance used at any time in the transportation of fish or fishing gear, any instrument or device by which fish can be ground up or so mutilated

that identification of the species and measurement of the individual fish are impossible.

(2) It shall be unlawful for any person operating on the outlying waters to have in possession or under control on such waters or to bring to shore any fish ground up or so mutilated that identification and measurement of the individual fish are impossible.

History: Renum. from NR 25.13 (3)(a) and (b), Register, October, 1979, No. 286, eff. 11-1-79; renum. from NR 25.11, Register, January, 1985, No. 349, eff. 2-1-85.

NR 25.13 Commercial fishing reports. (1) All commercial fishing reports shall be signed by the commercial fishing licensee under whose license the fish were taken.

(2) On or before the 10th day of each month each person licensed pursuant to s. 29.33, Stats., or fishing as an eligible member of the Red Cliff and Bad River bands of Lake Superior Chippewas, shall report for the preceding calendar month to the department in writing on forms provided for this purpose by said department such information relative to their fishing activities as may be deemed necessary by the department for management of the fishery, and to prevent depletion of the fish supply.

History: Cr. Register, September, 1976, No. 249, eff. 10-1-76; renum. from NR 25.14 and am. Register, October, 1979, No. 286, eff. 11-1-79; renum. from NR 25.12, Register, January, 1985, No. 349, eff. 2-1-85.

NR 25.14 Possession of fishing equipment. (1) No licensed commercial fisher or any member of the crew or any person aboard the boat shall have in possession any game fish or sport angling equipment while operating commercial fishing gear or while traveling to or from the operation of such gear in any of the outlying waters.

(2) No person shall have in possession any commercial fishing gear while on the outlying waters unless in possession of a valid license issued pursuant to s. 29.33, Stats. or otherwise authorized by the department.

History: Cr. Register, September, 1976, No. 249, eff. 10-1-76; renum. from NR 25.17 and am. Register, October, 1979, No. 286, eff. 11-1-79; renum. from NR 25.14, Register, June, 1984, No. 342, eff. 7-1-84; renum. from NR 25.13, Register, January, 1985, No. 349, eff. 2-1-85.

NR 25.15 Taking of fish by or for the department. Nothing in this chapter shall prohibit the department or its agents from taking fish or authorizing by special permit as prescribed in s. 29.51(2), Stats., the taking of fish for purposes of obtaining spawn for fish propagation or by contract for studies, investigations, and surveys in accordance with s. 23.09(2), Stats.

History: Cr. Register, September, 1976, No. 249, eff. 10-1-76; renum. from NR 25.11, Register, October, 1979, No. 286, eff. 11-1-79; renum. from NR 25.15, Register, June, 1984, No. 342, eff. 7-1-84; renum. from NR 25.12, Register, January, 1985, No. 349, eff. 2-1-85.

NR 25.15 Severability. History: Cr. Register, October, 1979, No. 286, eff. 11-1-79; renum. from NR 25.16, Register, June, 1984, No. 342, eff. 7-1-84; r. under s. 13.93 (2m) (b) 16., Stats., Register, January, 1985, No. 349.

*Emerg. or. 25.17
4/11/84 2-1-86*