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Note: Chapter NR 25 as it existed on September 30, 1976, was repealed and a new chapter NR 25 was created effective October 1, 1976. **Corrections made under s. 13.93 (2m) (b) 7., Stats., Register, December, 1998, No. 516.**

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.

(3) Except as modified by an agreement with the tribe of the treaty fisher, the following sections of this chapter are applicable to treaty fishers fishing in the Wisconsin waters of Lake Superior:

(a) Section NR 25.02
(b) Section NR 25.05
(c) Section NR 25.06
(d) Section NR 25.09
(e) Section NR 25.10
(f) Section NR 25.105
(g) Section NR 25.11
(h) Section NR 25.12
(i) Section NR 25.13
(j) Section NR 25.16
(k) Section NR 25.17

History: Cr. Register, September, 1976, No. 249, eff. 10–1–76; r. and recr. Register, October, 1979, No. 286, eff. 11–1–79; emerg. cr. (3), eff. 4–22–86; cr. (3), Register, October, 1986, No. 370, eff. 11–1–86; emerg. am. (3) (intro.), eff. 3–10–87; am. (3) (intro.), Register, December, 1987, No. 384, eff. 1–1–88.

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.

(7g) "Diverter" means a type of commercial fishing gear inside a trawl net before the cod end, used to sort fish by size, through which all fish caught must pass and which diverts larger fish out of the net.

(7n) "Dressed fish" means fish from which only the viscera have been removed.

(8) "Encircling nets" means purse seines as defined in sub. (24), and seines as described in s. 29.522 (3), Stats.

(9) "Entrapping nets" means trap nets as defined in sub. (29), and entrapping nets as described in s. 29.522 (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.

(12t) "Foreign lake trout tag" means a tag authorized by the department for attachment to lake trout imported into the state.

(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 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, northern pike, 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.

(16m) "Import" includes the transport of fish by a common carrier or out of state fish dealer or producer into the state, or at the request of a licensed wholesale fish dealer, but does not include fish being transported through the state to a destination in another state.

(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. 29.519 (1) (a), 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 from the point where the line extending on a 135° bearing from the mid–channel marker buoy of Baileys Harbor intersects the 35 fathom contour, to the easternmost point of Rock Island, then following the northeast shore of Rock Island to the northernmost point of Rock Island, then proceeding north to the Wisconsin–Michigan state line.

(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 northeasterly direction to the range light (signal light) on Plum island; thence along the north and west shore of Plum island to the U.S. coast guard station; thence northerly to the southwesterly point of Shellswick dock, which is located on Lodbell's point on Washington island; thence along this dock to the shoreline of Lodbell's point; thence along the west shore of Washington island to Boyer's Bluff light; thence due north to the Michigan–Wisconsin boundary line.

(23g) "Pounds" means the avoirdupois weight in pounds of fish in the round with head, gills and viscera intact, except with respect to chubs sorted for human consumption, menominee and whitefish, where it means the avoirdupois weight in pounds of dressed fish.

(23m) "Smoked/fileted lake trout package tag" means an adhesive tag authorized by the department for attachment to packages of smoked, portioned or fileted lake trout.

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

(25) "Southern chub fishing zone" means those waters of Lake Michigan lying south of a line extending east from the entrance of Kewaunee harbor to its intersection with the 45 fathom (270 feet) depth contour, then proceeding northerly along the 45 fathom depth contour to its intersection with 44°32′ north latitude, then proceeding east along 44°32′ north latitude to its intersection with the Wisconsin–Michigan state line except that from January 16 to the end of February during the 1998–1999 and 1999–2000 license years, "southern chub fishing zone" means those waters of Lake Michigan lying south of a line extending east from the entrance of Kewaunee harbor to its intersection with the 45 fathom (270 feet) depth contour, then proceeding northerly along the 45 fathom depth contour to its intersection with a line extending east from the entrance of Algoma harbor, then proceeding east along a line from the entrance of Algoma harbor to its intersection with the Wisconsin–Michigan state line.

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

(27) "Southern Green Bay — Lake Michigan line" means that line commencing at a point on the southwest shore of the Sturgeon Bay ship canal directly beneath the center of the Wisconsin public service company power line and extending in a northeasterly direction directly beneath and parallel to the center of the power line to a point on the northeast shore of the ship canal, all located in NE$^1/_4$ NW$^1/_4$, section 22, township 27 north, range 26 east, Door county.

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

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

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

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

(32) "Treaty fisher" means an enrolled tribal member of either the Bad River or Red Cliff bands of Chippewa Indians exercising off–reservation commercial fishing rights in Lake Superior recognized by *State v. Gurnoe,* 53 Wis. 2d 390 (1972).

(33) "Zone 1" means all waters in southern Green Bay.

(34) "Zone 2" means all waters in northern Green Bay and all Lake Michigan waters north of a line running due east from the eastern shore of Door county along 44°40′ north latitude to the Wisconsin–Michigan state boundary.

(35) "Zone 3" means all waters of Lake Michigan south of a line running due east from the eastern shore of Door county along 44°40F north latitude to the Wisconsin–Michigan state boundary.

History: Cr. Register, September, 1976, No. 249, eff. 10–1–76; r. and recr. Register, October, 1979, No. 286, eff. 11–1–79; renum. (6) to (18) to be (7) to (19), (19) to (21) to be (22) to (24), (22) to be (21), cr. (6) and (20), Register, April, 1983, No. 328, eff. 5–1–83; renum. (8) to (14) to be (10) to (16), (15) to be (18), (16) to (18) to be (20) to (22), (19) to (24) to be (24) to (29), cr. (8), (9), (17), (19) and (23), Register, April, 1983, No. 328, eff. 5–1–83; renum. (16) to (29) to be (17) to (30), cr. (16), Register, June, 1985, No. 354, eff. 7–1–85; am. (20), Register, August, 1985, No. 356, eff. 9–1–85; renum. (16) to (30) to be (15) to (31) and cr. (16), Register, February, 1986, No. 362, eff. 3–1–86; emerg. cr. (32), eff. 4–22–86; emerg. cr. (23f), (23l), (23r), (23x), (27f), (27l), (27r), and (27k), eff. 5–5–86; cr. (12m), (12t), (16m), (23m) and (32), Register, October, 1986, No. 370, eff. 11–1–86; cr. (28m), Register, December, 1986, No. 372, eff. 1–1–87; cr. (7g), (7n), (23g), (33) to (35), am. (14), (21) and (25), Register, June, 1989, No. 402, eff. 7–1–89; emerg. r. (12m) and (28m), eff. 4–1–91; r. (12m) and (28m), Register, August, 1991, No. 428, eff. 9–1–91; am. (21), Register, April, 1997, No. 496, eff. 5–1–97; **am. (25), Register, December, 1998, No. 516, eff. 1–1–99.**

NR 25.03 Commercial fishing licenses. (1) LAKE SUPERIOR. (a) 1. Not more than 10, subject to subd. 2., 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. 29.417 or 29.421, Stats.

2. Notwithstanding the total number of licenses established in subd. 1., the department may issue up to 21 licenses authorizing commercial fishing in Lake Superior if required by the terms of cooperative agreements between the department and persons licensed during the 1995–1996 license year.

Note: The Wisconsin Attorney General and the Department of Natural Resources interpret *LeClair et al. v. Natural Resources Board and DNR,* 168 Wis. 2d 227 (Ct. App. 1992), (review denied June 2, 1992) and prior cases to hold that commercial fishing licenses and quotas do not establish property rights and are subject to the full regulatory authority of the state. By voluntarily withdrawing from the commercial fishery in conjunction with the creation of this subdivision and the amendment of ss. NR 25.03 (1) (a) and 25.06 (1) (a) 2., (effective February 1, 1997), participating commercial fishers acknowledge this interpretation and agree to cooperate in reducing the

size of the commercial fishery while enhancing the lake trout fishery of Lake Superior.

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

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 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. 29.519 (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 number issued for the previous year. 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. 29.417 or 29.421, 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. The applicant shall show proof of a $5,000 investment in commercial fishing equipment not to include vehicles other than those directly employed in operating nets.

2. The applicant held a Lake Michigan commercial fishing license throughout the previous license year or received a license by transfer under s. NR 25.04.

3. Except as provided in subd. 4. or 5., the applicant or, where the applicant obtained the license by transfer, the transferor and applicant jointly shall have reported a minimum commercial harvest during the previous license year of either of the following:

a. Smelt of at least 147,870 total pounds from zone 1 or 76,770 total pounds from zone 3.

b. Yellow perch, menominees, whitefish, chubs or any combination of these species of at least 3,570 or X1 total pounds, whichever is less, from zone 1, 13,656 or X2 total pounds, whichever is less, from zone 2, or 19,638 or X3 total pounds, whichever is less, from zone 3, where X1, X2 and X3 = 30 times the average reported total daily harvest of yellow perch, menominees, whitefish and chubs from zone 1, 2 or 3, respectively, by all licensed commercial fishers during the license year preceding the previous license year.

4. Notwithstanding subd. 3., for the license year immediately following a reduction in the harvest limit of yellow perch, whitefish, chubs or menominee, the minimum commercial harvest from each zone required for licensing shall, for each applicant, be reduced by an amount equal to that applicant's reported harvest or, where the applicant obtained the license by transfer, the transferor's and applicant's combined reported harvest, of that species from that zone for the year before the harvest limit was reduced.

5. Neither subd. 3. or 4. applies if the department determines that unavoidable circumstances prevented the applicant or the transferor from complying with subd. 3 or 4.

(3) APPLICATION. Application for licenses authorizing commercial fishing in the outlying waters shall be made on forms available from the department and shall be returned to the department no later than April 30 preceding the license year for which application is being made. To be timely, applications, if mailed, must be postmarked no later than April 30 preceding the license year for which application is being made and if submitted to the department other than by mail must 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. Late applications for licenses may not be acted upon by the department but shall be returned to the applicant along with the applicant's license fee.

(4) ROUGH FISH LICENSES. 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. 29.417 or 29.421, 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; emerg. am. (2) (a), (b) (intro.) and (c) (intro.), cr. (2) (d), (e) and (f), eff. 5–5–86; am. (2) (a) and (b) (intro.), cr. (2) (d) and (e), Register, December, 1986, No. 372, eff. 1–1–87; am. (2) (a), (b) (intro.) and 1., r. (2) (b) 2. intro. and a., (2) (c) to (e), renum. (2) (b) 2. b. to be (2) (b) 2. and am., r. and recr. (2) (b) 3., Register, April, 1988, No. 388, eff. 5–1–88; cr. (2) (b) 4., Register, June, 1989, No. 402, eff. 7–1–89; emerg. r. (2) (b) 2., renum. (2) (b) 3. and 4. to be 2. and 3. and am. 3., am. (3), cr. (4) eff. 4–1–91; r. (2) (b) 2., renum. (2) (b) 3. and 4. to be 2. and 3. and am. 3., am. (3), cr. (4), Register, August, 1991, No. 428, eff. 9–1–91; am. (1) (b) 2., Register, November, 1993, No. 455, eff. 12–1–93; cr. (1) (a) 2., Register, January, 1997, No. 493, eff. 2–1–97; r. and recr. (2) (b) 3., cr. (2) (b) 4. and 5., Register, March, 1998, No. 507, eff. 4–1–98.

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. 29.519, 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) If, under the criteria of s. 29.519, Stats., and this chapter, a prospective transferee under this subsection is not eligible to receive a license at the time it is offered, but he or she could become eligible within 2 years, the department shall offer the license to the person. If the person accepts the license within 30 days of the offer, the person shall have 2 years from the date of acceptance to show that he or she meets the eligibility requirements of s. 29.519, Stats., and this chapter, during which time the license shall be held in abeyance by the department. However, if it becomes apparent to the department that the person cannot become eligible within 2 years from the date of acceptance; if the person fails to become eligible within the 2 year period; or if the person does not accept the offer within 30 days, the department shall offer the license to the next prospective transferee under this subsection, if any exist.

(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. 29.519 (2) (d), Stats.

(7) Notwithstanding subs. (1) to (6), a licensed commercial fisher may not transfer a license authorizing commercial fishing on Green Bay or Lake Michigan to another person unless:

(a) The person meets the eligibility requirements of subs. (3) and (4) and s. NR 25.03 (2) (b) 1., and

(b) The person is a member of the licensed commercial fisher's immediate family or the person held a non-temporary crew license issued pursuant to s. 29.519 (4) (a), Stats., throughout the previous 2 license years.

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; emerg. cr. (7), eff. 5-22-86; cr. (7), Register, December, 1986, No. 372, eff. 1-1-87; am. (7) (intro.), Register, April, 1988, No. 388, eff. 5-1-88; emerg. am. (7) (b), eff. 4-1-91; am. (7) (b), Register, August, 1991, No. 428, eff. 9-1-91; r. and recr. (2) (b), Register, June, 1997, No. 498, eff. 7-1-97.

NR 25.05 Open seasons; size limits; possession and harvest 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.

	Species	A Green Bay	B Lake Michigan	C Lake Superior
(a)	Lake trout	No open season	No open season	November 28 to September 30, subject to ss. NR 25.06 (1) (a) and 25.07 (1) (a)
(b)	Siscowet	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	November 28 to September 30.
(d)	Chubs	No open season	In the northern and southern chub fishing zones from March 1 to January 15. In the northern and southern chub fishing zones from January 16 to the end of February in water 60 fathoms deep or deeper, subject to ss. NR 25.06 (2) (a), 25.07 (2) (a) and 25.09. From January 16 to the end of February in the 1998-1999 and 1999-2000 license years, a) in the northern chub fishing zone in water 55 fathoms deep or deeper and b) in the southern chub fishing zone in water 60 fathoms deep or deeper.	At all times
(e)	Yellow perch	July 1 to March 15 except: 1. Gill nets may be used from May 20 to March 15; 2. From January 1 to March 15 only commercial ice fishing is legal; 3. September 15 to April 30 in zone 2 west of the Northern Green Bay-Lake Michigan line; 4. All to be subject to ss. NR 25.06 (2) (b) and 25.07 (2) (b)	No open season	No open season
(g)	Menominees (round whitefish)	At all times	At all times	At all times
(gm)	Carp, bullheads, burbot, catfish, gizzard shad, suckers, white bass, white perch	No open season except by permit or contract issued under s. 29.417, 29.421 or 29.424, Stats.	No open season except by permit or contract issued under s. 29.417, 29.421 or 29.424	At all times
(gn)	Smelt	At all times except trawls 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 used only from Nov. 15 to April 20	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 Green Bay	B Lake Michigan	C Lake Superior
(a)	Lake trout			No size limit for gill nets and a maximum of 25 inches for entrapping nets
(b)	Siscowet			No size limit
(c)	Whitefish	17 inches	17 inches	17 inches
(d)	Yellow perch	8 inches in northern Green Bay, $7^1/_2$ inches in southern Green Bay	8 inches	
(e)	Walleye	18 inches		
(g)	Catfish	16 inches	16 inches	
(h)	Others	No size limit	No size limit	No size limit

(3) POSSESSION AND HARVEST LIMITS. Except as otherwise provided, no person may possess species of fish for which there is no open season. No person, while on the water, may possess species of fish outside of the open season for that species. The harvest 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 harvesting such fish. No person may take, catch or kill more fish than authorized by his or her harvest limit. No person may fish for a species of fish in a zone for which the person has no harvest limit.

(4) ICE FISHING. Commercial fishing through the ice in Green Bay and Lake Michigan is prohibited after March 15 during each license year.

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; am. (1) (cr), (e), (g) and (gm), r. (1) (f) and (2) (f), cr. (1) (gn) and (4), Register, June, 1989, No. 402, eff. 7–1–89. emerg. am. (1) (a) and (c), eff. 4–22–86; am. (1) (a), (c), (d) and (e), Register, October, 1986, No. 370, eff. 11–1–86; am. (1) (d), (e), (g) and (gm), r. (1) (f) and (2) (f), cr. (1) (gn) and (4), Register, June, 1989, No. 402, eff. 7–1–89; emerg. am. (2) (a), eff. 11–28–90; emerg. am. (1) (g), (gn) and (3), eff. 4–1–91; am. (2) (a), Register, July, 1991, No. 427, eff. 8–1–91; am. (1) (g), (gn) and (3), Register, August, 1991, No. 428, eff. 9–1–91; emerg. am. (1) (e), eff. 7–1–96; emerg. am. (1) (e), eff. 10–1–96; am. (1) (e), Register, December, 1996, No. 492, eff. 1–1–97; am. (1) (d), Register, April, 1997, No. 496, eff. 5–1–97; **am. (1) (d), Register, December, 1998, No. 516, eff. 1–1–99.**

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 (WI–2) and west of Bark point (WI–1) shall be determined by the natural resources board based upon recommendations from the state/tribal biological committee which consists of state, tribal and national biological service representatives.

1. The total allowable commercial and home use harvest in the waters of Lake Superior east of Bark Point may not exceed 59,510 lake trout. The total allowable commercial and home use harvest in waters of Lake Superior west of Bark Point may not exceed 4,430 lake trout.

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 5,710 lake trout, and from the waters of Lake Superior west of Bark Point may not exceed 1,430 lake trout.

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 53,800 lake trout. 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 west of Bark Point may not exceed 3,000 lake trout. 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 50% for the Bad River band and 50% for the Red Cliff band, or by any other equitable method.

4. All lake trout caught in gill nets not less than $4^7/_{16}$ inch stretch measure set in waters less than 330 feet (55 fathoms) deep shall be kept and tagged except during November 28 through May 31, live lake trout may be released. Lake trout caught in gill nets in waters 330 feet (55 fathoms) deep or deeper or in entrapping nets may be returned to the lake or kept and tagged, except that dead lake trout 25 inches or less in length caught in entrapping nets shall be kept and tagged. All lake trout, dead or alive, larger than 25 inches in length caught in entrapping nets shall be returned to the lake. 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 3,600,000 pounds.

2. No more than 600,000 pounds of the total allowable commercial harvest for any license year may be taken in the northern chub fishing zone.

3. No more than 3,000,000 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 Lake Michigan and

Green Bay shall be determined by the natural resources board based on recommendations from the department.

1. The total allowable commercial harvest in zone 1 for any license year may not exceed 200,000 pounds.

2. The total allowable commercial harvest in zone 2 for any license year may not exceed 4,655 pounds.

3. The total allowable commercial harvest in zone 3 for any license year may not exceed 107,345 pounds.

(c) *Smelt.* The total allowable annual commercial harvest of smelt in Wisconsin waters of Lake Michigan and Green Bay shall be determined by the natural resources board based on recommendations from the department.

1. During April 1 through June 30, 1991, the total allowable commercial harvest of smelt may not exceed 337,665 pounds in Lake Michigan and Green Bay, of which no than 137,665 pounds may be taken from Green Bay. Thereafter, the total allowable commercial harvest of smelt in any license year may not exceed 2,358,000 pounds in Lake Michigan and Green Bay, of which no more than 830,000 pounds may be taken from Green Bay.

2. The department shall notify all licensed commercial fishers to cease fishing for smelt upon receipt of information that 85% of the period quotas as established in subd. 1. have been harvested except that all nets in the water shall be lifted under s. NR 25.09 (2) (a) 10., and the legal fish in the nets harvested.

(d) *Menominees.* 1. The total allowable annual commercial harvest of menominees in Wisconsin waters of Lake Michigan and Green Bay shall be determined by the natural resources board based on recommendations from the department.

2. The total allowable commercial harvest of menominees in Lake Michigan and Green Bay may not exceed 75,000 pounds in any license year, with no more than 1,000 pounds to be taken from zone 1, 46,000 pounds from zone 2 and 28,000 pounds from zone 3.

(e) *Whitefish.* 1. The total allowable annual commercial harvest of whitefish in Wisconsin waters of Lake Michigan and Green Bay shall be determined by the natural resources board based on recommendations from the department.

2. The total allowable commercial harvest of whitefish in Lake Michigan and Green Bay may not exceed 1,770,000 pounds in any license year, with no more than 161,606 pounds to be taken from zone 1, 1,454,454 pounds from zone 2 and 153,940 pounds from zone 3.

(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.

(a) Tags authorized shall be approved in writing by the secretary of the department and shall conform to the following minimum specifications:

1. Tags shall be individually, serially numbered in nonrepeating number series.

2. Tags shall be color–coded by year in a color which does not repeat in the next consecutive year.

3. Tags shall include an appropriate state or tribal identification.

4. Tags shall only be ordered in a number sufficient to limit the harvest to a biologically determined quota.

5. Issuing authorities shall maintain records of tag allotments to individual fishers by tag serial numbers. Tag records shall be open to inspection by state conservation wardens during regular office hours.

6. Tags are valid for use only for the license season.

(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 licensed 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.

(g) No treaty fisher may lift nets in Wisconsin waters while in possession of tags issued by a tribe or another state for fish taken in Michigan waters.

(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) (a) 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; am. (2) (a) 1. to 3. and (b) 1., cr. (2) (c) and (3) (a) and (g), Register, October, 1986, No. 370, eff. 11–1–86; emerg. am. (1) (a) 1. to 3., eff. 3–10–87; am. (1) (a) 1. to 3., Register, December, 1987, No. 384, eff. 1–1–88; am. (2) (c) 3., Register, April, 1988, No. 388, eff. 5–1–88; am. (2) (b) (intro.) and 1., (c) 1., a. (2) (b) 2. and 3., (2) (d) and (e), Register, June, 1989, No. 402, eff. 7–1–89; am. (2) (b) 1., Register, January, 1990, No. 409, eff. 2–1–90; emerg. am. (1) (a) 1. to 4., eff. 11–28–90; emerg. am. (2) (c) (intro.) and 1., r. (2) (c) 2. and 3., eff. 4–1–91; am. (2) (b) 1., Register, June, 1991, No. 426, eff. 7–1–91; am. (1) (a) 1. to 4., Register, July, 1991, No. 427, eff. 8–1–91; am. (2) (c) (intro.) and 1., r. (2) (c) 2. and 3., Register, August, 1991, No. 428, eff. 9–1–91; am. (2) (a) 1. and 2. and (e) 2., Register, March, 1992, No. 435, eff. 4–1–92; emerg. am. (2) (b) 1. eff. 7–1–94; am. (2) (b) 1., Register, January, 1995, No. 469, eff. 2–1–95; am. (2) (a) 2., cr. (2) (c) 2., Register, February, 1995, No. 470, eff. 3–1–95; emerg. am. (2) (b) 2. and 3., eff. 7–1–95; am. (2) (e) 2., Register, July, 1995, No. 475, eff. 8–1–95; am. (2) (b) 2. and 3., Register, September, 1995, No. 477, eff. 10–1–95; am. (1) (a) 2., Register, January, 1997, No. 493, eff. 2–1–97; am. (2) (e) 2., Register, April, 1997, No. 496, eff. 5–1–97; am. (1) (a) (intro.), 1. to 4. and (2) (b) 1., Register, June, 1997, No. 498, eff. 7–1–97.

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.

(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. A chub fishing permit shall be issued under this subdivision to each applicant who selects the northern chub fishing zone under sub. (3) (d), is a licensed commercial fisher and held a Lake Michigan chub harvest permit for the northern chub fishing zone for the 1985–1986, 1986–1987 or 1987–1988 license year.

1m. A chub fishing permit and individual licensee catch quota shall be issued under this subdivision to each applicant who selects the southern chub fishing zone under sub. (3) (d) and is a licensed commercial fisher.

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 150,000 pounds of chubs may be harvested during the quota period of July 1 through September 30; no more than 300,000 pounds of chubs may be harvested during the quota period of October 1 through the end of February except that this amount shall be increased to include the portion of the allowable harvest for the previous period that is not reported as harvested in that period or decreased by the amount the reported harvest during the previous period exceeded the harvest limit for that period; and no more than 150,000 pounds of chubs may be harvested during the quota period of March 1 through June 30 except that this amount shall be increased to include the portion of the allowable harvest for the previous period that is not reported as harvested in that period or decreased by the amount the reported harvest during the previous period exceeded the harvest limit for that period.

b. During the quota periods of July 1 through September 30 and October 1 through January 15, the department shall notify all licensed commercial fishers to cease fishing upon receipt of information that 85% of the period quotas as established in subd. 2. a. have been harvested except that all nets in the water shall be lifted under s. NR 25.09 (2) (a) 10., and the legal fish harvested. During the quota period of March 1 through June 30, the department shall notify all licensed commercial fishers to cease fishing upon receipt of information that 80% of the period quota as established in subd. 2. a. has been harvested except that all nets in the water shall be lifted under s. NR 25.09 (2) (a) 10., and the legal fish harvested.

(am) *Chubs; southern fishing zone limitations.* All permittees under par. (a) 1m. who select the southern chub fishing zone under sub. (3) (d) shall be subject to the following limitations:

1. 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

a. 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 subd. 2.

b. No individual quota allotted under subd. 1. 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.

c. 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 subd. 2. who has the highest total reported regular season chub harvest for the previous 2 license years.

2. 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 subd. 1.

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

c. Whenever the total amount of chubs allocated under subd. 2. a. does not equal the amount provided in subd. 2., the surplus shall be divided equally among permittees under subd. 2.

4. Any permittee with an individual chub quota allotment under subd. 1. a. and b. may transfer up to 100% of his or her allotted chub quota to another permittee with an individual chub quota allotment under subd. 1. a. and b. A quota transfer under this subdivision shall be in effect only during the current license year, and shall be subject to sub. (6).

5. Any permittee with an individual chub quota allotment under subd. 1. may temporarily transfer, for the remainder of the current license year, all or part of his or her individual chub quota allotment to a person who holds a permit under subd. 2., subject to s. NR 25.08 (intro.), (1), (4) and (5). However, a quota transfer approved under s. NR 25.08 (5) is not valid and may not be fished until either of the following occurs:

a. The transferee reaches his or her limit under subd. 2. a. upon taking 10% of the "racehorse" allotment made under subd. 2. during the license year; or

b. The department, acting under subd. 6., has closed the southern chub zone "racehorse" fishery by notifying permittees fishing under subd. 2. to cease fishing; all of the transferee's nets in the water have been lifted and the legal fish in the nets harvested; and one calendar day has passed.

6. The department shall notify permittees to cease fishing upon receipt of information that 85% of their allotment as established in par. (am) 1. and 2. has been harvested except that all nets in the water shall be lifted under s. NR 25.09 (2) (a) 10., and the legal fish therein harvested.

(b) *Yellow perch in zone 1.* 1. No person may fish for yellow perch with commercial gear in zone 1 unless the person has a permit for that zone issued by the department under this paragraph.

2. Yellow perch fishing permits and individual licensee catch quotas for zone 1 shall be issued to all applicants:

a. Holding a valid commercial fishing license issued under s. 29.519, Stats., and

b. Who reported a commercial harvest of yellow perch legally taken while operating under their commercial fishing license issued under s. 29.519, 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 or a yellow perch fishing permit for zone 1 for the license year preceding the license year for which the permit application is 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 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 yellow perch fishing permits under this paragraph until the provisions of subd. 3. b. are applicable.

3. 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. 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 shall be divided equally among all licensed commercial fishers who apply for yellow perch fishing permits, regardless of past yellow perch harvest records.

4. Fishing under permits issued under subd. 2. may be done from any boat listed on the permittee's commercial fishing license or through the ice.

(bg) *Yellow perch in zone 2.* 1. No person may fish for yellow perch with commercial gear in zone 2 unless the person has a permit for that zone issued by the department under this paragraph.

2. A yellow perch fishing permit and individual licensee catch quota for zone 2 shall be issued to each applicant who holds a commercial fishing license issued under s. 29.519, Stats., reported a commercial harvest of yellow perch legally taken from zone 2 between January 1, 1983 and December 31, 1987 and, effective July 1, 1990, applied for and received a yellow perch fishing permit for zone 2 for the license year preceding the license year for which the permit application is being made, unless unavoidable circumstances prevented application for or receipt of that previous year's permit. Those circumstances shall be reviewed by the Lake Michigan commercial fishing board which shall approve or deny the pending permit application.

3. Each permittee shall be allowed a total annual harvest or individual licensee catch quota of yellow perch assigned as a percentage of the harvest limit established by s. NR 25.06 (2) (b) 2. Each individual licensee catch quota shall be determined by dividing the total commercial harvest of yellow perch from zone 2 during the period from January 1, 1983 to December 31, 1987, reported under that license by the total reported commercial harvest of yellow perch from zone 2 during that period, and multiplying the result by 100.

4. In determining individual licensee catch quotas under subd. 3., the resulting percentages shall be rounded off to hundredths of a percent. The individual licensee catch quotas shall be allocated in whole pound increments.

(br) *Yellow perch in zone 3.* 1. No person may fish for yellow perch with commercial gear in zone 3 unless the person has a permit for that zone issued by the department under this paragraph.

2. A yellow perch fishing permit and individual licensee catch quota for zone 3 shall be issued to each applicant who holds a commercial fishing license issued under s. 29.519, Stats., reported a commercial harvest of yellow perch legally taken from zone 3 between January 1, 1984 and December 31, 1988 and, effective July 1, 1990, applied for and received a yellow perch fishing permit for zone 3 for the license year preceding the license year for which the permit application is being made, unless unavoidable circumstances prevented application for or receipt of that previous year's permit. Those circumstances shall be reviewed by the Lake Michigan commercial fishing board which shall approve or deny the pending permit application.

3. Each permittee shall be allowed a total annual harvest or individual licensee catch quota of yellow perch assigned as a percentage of the harvest limit established by s. NR 25.06 (2) (b) 3. Each individual licensee catch quota shall be determined by dividing the total commercial harvest of yellow perch form zone 3 during the period from January 1, 1984 to December 31, 1988, reported under that license by the total reported commercial harvest of yellow perch from zone 3 during that period, and multiplying the result by 100.

4. In determining individual licensee catch quotas under subd. 3., the resulting percentages shall be rounded off to hundredths of a percent. The individual licensee catch quotas shall be allocated in whole pound increments.

(c) *Menominees.* 1. No person may fish for menominees with commercial gear in zone 1, 2 or 3 unless the person has a permit for that zone issued by the department under this paragraph.

2. A menominee fishing permit and individual licensee catch quota for zone 1, 2 or 3, respectively, shall be issued to each applicant who:

a. Holds a commercial fishing license issued under s. 29.519, Stats.,

b. Effective July 1, 1990, applied for and received a menominee fishing permit for the respective zone for the license year preceding the license year for which the permit application is being made; and

c. Reported a commercial harvest of menominees legally taken from zone 1 between January 1, 1979 and December 31, 1988, from zone 2 between January 1, 1983 and December 31, 1987, or from zone 3 between January 1, 1984 and December 31, 1988.

3. Each permittee shall be allowed a total annual harvest or individual licensee catch quota of menominees assigned as a percentage of the harvest limit established by s. NR 25.06 (2) (d) 2. Each individual licensee catch quota shall be determined as follows:

a. In zone 1, by dividing the total menominee commercial harvest from zone 1 during the period from January 1, 1979 to December 31, 1988 reported under that license by the total reported commercial harvest of menominee from zone 1 during that period, and multiplying the result by 100.

b. In zone 2, by dividing the total menominee commercial harvest from zone 2 during the period from January 1, 1983 to December 31, 1987 reported under that license by the total reported commercial harvest of menominee from zone 2 during that period, and multiplying the result by 100, or

c. In zone 3, by dividing the total menominee commercial harvest from zone 3 during the period from January 1, 1984 to December 31, 1988 reported under that license by the total reported commercial harvest of menominee from zone 3 during that period, and multiplying the result by 100.

4. In determining individual licensee catch quotas under subd. 3., the resulting percentages shall be rounded off to hundredths of a percent. The individual licensee catch quotas shall be allocated in whole pound increments.

(d) *Whitefish in zone 1.* 1. No person may fish for whitefish with commercial gear in zone 1 unless the person has a permit for that zone issued by the department under this paragraph.

2. A whitefish fishing permit and individual licensee catch quota for zone 1 shall be issued to each applicant who:

a. Holds a commercial fishing license issued under s. 29.519, Stats.,

b. Effective July 1, 1990, applied for and received a whitefish fishing permit for zone 1 for the license year preceding the license year for which the permit application is being made; and

c. Reported a commercial harvest of whitefish legally taken from zone 1 between January 1, 1979 and December 31, 1988.

3. Each permittee shall be allowed a total annual harvest or individual licensee catch quota of whitefish assigned as a percentage of the harvest limit established by s. NR 25.06 (2) (e) 2. Each individual licensee catch quota shall be determined by dividing the total whitefish commercial harvest from zone 1 during the period from January 1, 1979 to December 31, 1988, reported under that license by the total reported commercial harvest of whitefish from zone 1 during that period, and multiplying the result by 100.

4. In determining individual licensee catch quotas under subd. 3., the resulting percentages shall be rounded off to hundredths of a percent. The individual licensee catch quotas shall be allocated in whole pound increments.

(e) *Whitefish in zone 2.* 1. No person may fish for whitefish with commercial gear in zone 2 unless the person has a permit for that zone issued by the department under this paragraph.

2. A whitefish fishing permit and individual licensee catch quota for zone 2 shall be issued to each applicant who:

a. Holds a commercial fishing license issued under s. 29.519, Stats.,

b. Effective July 1, 1990, applied for and received a whitefish fishing permit for zone 2 for the license year preceding the license year for which the permit application is being made; and

c. Reported a commercial harvest of whitefish legally taken from zone 2 between January 1, 1980 and December 31, 1988.

3. Each permittee shall be allowed a total annual harvest or individual licensee catch quota of whitefish assigned as a percentage of the harvest limit established by s. NR 25.06 (2) (d) 2. Each individual licensee catch quota shall be determined by dividing the total whitefish commercial harvest from zone 2 during the period from January 1, 1980 to December 31, 1988 reported under that license by the total reported commercial harvest of whitefish from zone 2 during that period, and multiplying the result by 100.

4. In determining individual licensee catch quotas under subd. 3., the resulting percentages shall be rounded off to hundredths of a percent. The individual licensee catch quotas shall be allocated in whole pound increments.

(f) *Whitefish in zone 3.* 1. No person may fish for whitefish with commercial gear in zone 3 unless the person has a permit for that zone issued by the department under this paragraph.

2. A whitefish fishing permit and individual licensee catch quota for zone 3 shall be issued to each applicant who:

a. Holds a commercial fishing license issued under s. 29.519, Stats.,

b. Effective July 1, 1990, applied for and received a whitefish fishing permit for zone 3 for the license year preceding the license year for which the permit application is being made; and

c. Reported a commercial harvest of whitefish legally taken from zone 3 between January 1, 1984 and June 30, 1989.

3. Each permittee shall be allowed a total annual harvest or individual licensee catch quota of whitefish assigned as a percentage of the harvest limit established by s. NR 25.06 (2) (d) 2. Each individual licensee catch quota shall be determined by dividing the total whitefish commercial harvest from zone 3 during the period from January 1, 1984 to June 30, 1989 reported under that license by the total reported commercial harvest of whitefish from zone 3 during that period, and multiplying the result by 100.

4. In determining individual licensee catch quotas under subd. 3., the resulting percentages shall be rounded off to hundredths of a percent. The individual licensee catch quotas shall be allocated in whole pound increments.

(g) *Smelt.* 1. No person may fish for smelt with commercial gear in Lake Michigan or Green Bay unless the person is authorized to do so by a permit issued by the department under subd. 2. or 5., and the person complies with the terms and conditions of the permit, this chapter and s. 29.519, Stats.

2. A "racehorse" smelt fishery permit for Lake Michigan and Green Bay shall be issued to each applicant who holds a valid commercial fishing license issued under s. 29.519, Stats. Licensees who hold a permit under both this subdivision and subd. 5. may not fish in the "racehorse" smelt fishery until all individual licensee catch quotas issued under subd. 5. have been reported caught. Trawl gear may not be used to harvest smelt in the "racehorse" smelt fishery except by licensees who hold a permit under both this subdivision and subd. 5.

3. Permittees under subd 2. may harvest smelt from either Green Bay or Lake Michigan, or both, but shall cease fishing for smelt in Green Bay and in Lake Michigan, respectively, when notified by the department. Notwithstanding s. NR 25.06 (2) (c) 1., the department shall notify all "racehorse" smelt fishery permittees to cease fishing in Green Bay or Lake Michigan upon receipt of information that 85% of the smelt allocated under subd. 4. for the "racehorse" fishery for Green Bay or Lake Michigan, respectively, has been caught, except that all nets in the water shall be lifted under s. NR 25.09 (2) (a) 10., and the legal fish harvested.

4. The portion of the total annual Green Bay smelt harvest limit set in s. NR 25.06 (2) (c) 1., allocated to the Green Bay "racehorse" smelt fishery for licensees holding permits issued under subd. 2. is X pounds, where $X = (A)(B)(D)(E)$, and the portion of the total annual Lake Michigan and Green Bay smelt harvest limit set in s. NR 25.06 (2) (c) 1., allocated to the Lake Michigan "racehorse" smelt fishery, excluding Green Bay, by licensees holding permits issued under subd. 2. is Y pounds, where $Y = (A)(C)(D)(E)$. In these equations,

A = the total annual Lake Michigan and Green Bay smelt harvest limit, in pounds, set in s. NR 25.06 (2) (c) 1.;

B = 35.19932%;

C = 64.80067%;

D = in any license year, the total number of Lake Michigan commercial fishing licensees minus the number of licensees issued quota smelt fishery permits under subd. 5; and

E = .0004241

5. A quota smelt fishery permit and individual licensee catch quota for Lake Michigan and Green Bay shall be issued to each applicant who holds a valid commercial fishing license issued under s. 29.519, Stats., and reported a commercial harvest by

trawls of smelt legally taken from the Wisconsin waters of Green Bay or Lake Michigan between July 1, 1991 and June 30, 1992:

a. Individual licensee catch quotas issued under this subdivision shall comprise the remaining portion of the total allowable annual commercial harvest limits set for Green Bay and for Lake Michigan and Green Bay in s. NR 25.06 (2) (c) 1., after subtraction of the pounds of smelt required for the Green Bay and Lake Michigan "racehorse" smelt fisheries established under subd. 2.

b. Two separate individual licensee catch quotas, expressed as percentages of the poundages calculated under subd. 5., shall be calculated for each permittee subject to this subdivision. The first percentage shall be calculated by dividing the total commercial harvest of smelt reported lawfully harvested from the Wisconsin waters of Green Bay under each license during the period of July 1, 1991 through June 30, 1992 by the overall total reported commercial harvest of smelt from Green Bay during that period, and multiplying the result by 100. The second percentage shall be calculated by dividing the total commercial harvest of smelt reported lawfully harvested from the Wisconsin waters of Lake Michigan, excluding Green Bay, under each license during the period of July 1, 1991 through June 30, 1992 by the overall total reported commercial harvest of smelt from Lake Michigan during that period, and multiplying the result by 100. The resulting percentages shall be rounded off to 2 decimal places or to hundredths of a percent. The individual licensee catch quotas shall be allocated in whole pound increments.

c. A quota smelt fishery permittee who receives an individual licensee catch quota for Green Bay may take all or part of the Green Bay quota from either Green Bay or Lake Michigan, but no quota smelt fishery permittee who receives an individual licensee catch quota for Lake Michigan may take any portion of the Lake Michigan quota from Green Bay.

d. Notwithstanding subd. 5. a. and b., for the 1995–1996 license year, before allocating the individual licensee catch quotas under this subdivision, the department shall deduct from each individual licensee catch quota the number of pounds of smelt harvested by the permittee during July 1, 1995 to November 15, 1995.

(3) APPLICATION. (a) Applications for individual licensee catch quotas and fishing permits under this section shall be made annually on forms available from the department and shall be returned to the department no later than April 30 preceding the license year for which application is being made.

(b) To be timely, applications, if mailed, must be postmarked no later than April 30 preceding the license year for which application is being made and if submitted to the department other than by mail must 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. Late applications for individual licensee catch quotas and fishing permits may not be acted upon by the department but shall be returned to the applicant.

(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) and (am) shall select and designate on their applications the northern chub fishing zone, the southern chub fishing zone or both zones as the waters 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. 29.519, Stats., the right to that quota and ranking, if any, shall be reinstated upon reinstatement of the revoked license and upon proper application.

(7) REALLOCATION OF SURPLUS TOTAL ALLOWABLE COMMERCIAL HARVEST. If the number of eligible permittees is inadequate to utilize a total allowable commercial harvest established by s. NR 25.06 (2) (a) 3., (b), (c), (d) or (e) and allocated under sub. (2) (am) 1., (b), (bg), (br), (c), (d), (e), (f) or (g) 5., the surplus shall be divided permanently among the remaining eligible permittees based on the percentage calculated for each permittee under sub. (2) (am) 1., (b), (bg), (br), (c), (d), (e), (f) or (g) 5., respectively.

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; emerg. am. (2) (a) 3. d., eff. 5–5–86; am. (2) (a) 2. a. and b., r. (2) (a) 2. c., Register, October, 1986, No. 370, eff. 11–1–86; r. and recr. (2) (a) 3. d., Register, December, 1986, No. 372, eff. 1–1–87; cr. (2) (c), Register, January, 1988, No. 385, eff. 2–1–88; am. (2) (a) 3. b., Register, July, 1988, No. 391, eff. 8–1–88; r. (2) (a) 3. d. 3), am. (2) (a) 1. and 3. intro., cr. (2) (a) 1m., r. and recr. (2) (a) 2. a., Register, January, 1989, No. 397, eff. 7–1–89, except (2) (a) 3. d. 3), eff. 2–1–89; r. (2) (a) 4., (b) 4. and (c) 5., am. (2) (b) 5., Register, June, 1989, No. 402, eff. 7–1–89; emerg. renum. (2) (b) 1. to 3. to be 2. to 4. and am. 2. intro., c. and d., 3. c. and 4., cr. (2) (b) 1., (bg) and (d) to (g), eff. 7–1–89; renum. (2) (b) 1. to 3. to be 2. to 4. and am. (2) (b) 2. intro., c. and d., 3. c. and 4., cr. (2) (b) 1., (bg), (br) and (d) to (g), Register, October, 1989, No. 406, eff. 11–1–89; emerg. r. (2) (b) 5. and (c), renum. (2) (d) to (g) to be (2) (c) to (f), am. (3) (a) and (b), eff. 4–1–91; r. (2) (b) 5. and (c), renum. (2) (d) to (g) to be (2) (c) to (f), am. (3) (a) and (b), Register, August, 1991, No. 428, eff. 9–1–91; r. (2) (a) 3. b. 2) and c., (b) 3. b., (bg) 4. and (br) 4., am. (2) (a) 3. d., renum. (2) (a) 3. e., (b) 3. c., (bg) 5. and (br) 5. to be (2) (a) 3. f., (b) 3. b., (bg) 4. and (br) 4., cr. (2) (a) 3. e. and (7), Register, November, 1991, No. 431, eff. 12–1–91; am. (2) (a) 2. a., Register, March, 1992, No. 435, eff. 4–1–92; reprinted to correct error in (2) (a) 2. a., Register, May, 1993, No. 449; am. (1) (a) 2., Register, November, 1993, No. 455, eff. 12–1–93; correction in (2) (a) 2. b. and 3. f. made under s. 13.93 (2m) (b) 7., Stats., Register, November, 1993, No. 455; r. and recr. (2) (a) 1. and 1m., am. (3) (d), Register, March, 1994, No. 459, eff. 7–1–94; am. (2) (a) 2. a., b., Register, February, 1995, No. 470, eff. 3–1–95; cr. (2) (g), am. (7), Register, October, 1995, No. 478, eff. 11–15–95; corrections in (2) and (3) (d) made under s. 13.93 (2m) (b) 1. and 7., Stats., Register, February, 1996, No. 482; am. (2) (a) 2. a., Register, April, 1997, No. 496, eff. 5–1–97; corrections in (7) made under s. 13.93 (2m) (b) 7., Stats., Register, April, 1997, No. 496.

NR 25.08 Transfer of individual licensee catch quotas. Individual licensee catch quotas allotted under s. NR 25.07 (1) (a) or (2) (am) 1., (b), (bg), (br), (c), (d), (e) or (f) 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 (1) (a) or (2) (am) 1., (b), (bg), (br), (c), (d), (e) or (f) may be permanently or temporarily transferred by the quota holder.

(2m) A northern chub fishing zone permit issued under s. NR 25.07 (2) (a) 1., may be permanently transferred by the permit

holder only in conjunction with the transfer of the permit holder's valid license authorizing commercial fishing in the outlying waters under s. NR 25.04.

(2t) 1. All or part of an individual licensee catch quota allotted under s. NR 25.07 (2) (g) 5., may be temporarily or permanently transferred by the licensee receiving the quota allocation to another licensee who also holds a valid quota smelt fishery permit and individual licensee catch quota issued under s. NR 25.07 (2) (g) 5.

2. A quota smelt fishery permit and individual licensee catch quota allotted under s. NR 25.07 (2) (g) 5., may be transferred by the licensee receiving the permit and catch quota to a person who does not also hold a valid quota smelt fishery permit and individual licensee catch quota issued under s. NR 25.07 (2) (g) 5., only in conjunction with the transfer of the permit 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) 1. If a prospective transferee under this subsection is not eligible under the criteria of s. 29.519, Stats., and this chapter to receive a Lake Superior quota at the time it is offered, but he or she could become eligible within 2 years, the department shall offer the quota to the person. If the person accepts the quota within 30 days of the offer, the person shall have until 2 years from the date of acceptance to show that he or she meets the eligibility requirements of s. 29.519, Stats., and this chapter, during which time the quota shall be held in abeyance by the department. However, if it becomes apparent to the department that the person cannot become eligible within 2 years from the date of acceptance; if the person fails to become eligible within the 2 year period; or if the person does not accept the offer within 30 days, the department shall offer the quota to the next prospective transferee under this subsection, if any exist.

2. If a prospective transferee under this subsection is not eligible under the criteria of s. 29.519, Stats., and this chapter to receive a Lake Michigan quota at the time it is offered, but he or she could become eligible within 2 years, the department shall offer the quota to the person. If the person accepts the quota within 30 days of the offer, the person shall have until 2 years from the date of acceptance to show that he or she meets the eligibility requirements of s. 29.519, Stats., and this chapter, during which time the quota shall be held in abeyance by the department. However, if it becomes apparent to the department that the person cannot become eligible within 2 years from the date of acceptance; if the person fails to become eligible within the 2 year period; or if the person does not accept the offer within 30 days, the department shall offer the quota to the next prospective transferee under this subsection, if any exist.

(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 Lake Superior commercial fishing board or, for Lake Michigan and Green Bay, by the department. Such review and approval or denial shall occur no later than the next regular quarterly meeting of the Lake Superior commercial fishing board or, in the case of Lake Michigan and Green Bay, within 20 business days after receipt by the department of a complete transfer request. Lake Michigan and Green Bay individual licensee catch quota transfer requests which the department determines meet criteria in this section shall be granted by the department without further action by the Lake Michigan commercial fishing board. The Lake Michigan commercial fishing board may review any individual licensee catch quota transfer request that has been denied by the department and may grant the request if it determines that the request meets the criteria in this section.

History: Cr. Register, January, 1985, No. 349, eff. 2–1–85; emerg. am. (intro.), eff. 7–1–89, am. (intro.), Register, October, 1989, No. 406, eff. 11–1–89; am. (intro.) and (2), cr. (2m), Register, November, 1991, No. 431, eff. 12–1–91; am. (2), Register, November, 1993, No. 455, eff. 12–1–93; am. (2m) and (5), Register, March, 1994, No. 459, eff. 4–1–94; am. (intro.) and (2), cr. (2t), Register, October, 1995, No. 478, eff. 11–15–95; correction in (intro.) and (2) made under s. 13.93 (2m) (b) 7., Stats., Register, February, 1996, No. 482; r. and recr. (3) (b) and cr. (3) (b) 2., Register, June, 1997, No. 498, eff. 7–1–97.

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. (ad) *Gill nets – 1 3/4 inch.* With a mesh size of not more than 1 3/4″ stretch measure.

(ah) *Gill nets – 2 3/8 inch.* With a mesh size of not less than 2 3/8″ and not more than 3″ stretch measure:

1. Not more than 35 meshes in depth in water 12 to 60 feet (2 to 10 fathoms) deep or 210 to 330 feet (35 to 55 fathoms) only from January 16 through November 9;

2. Not more than 35 meshes in depth in water 60 to 330 feet (10 to 55 fathoms) deep only from November 10 through January 15; or

3. Not more than 60 meshes in depth in water of any depth and during any time of the year may be used provided the bottom maitre cord or lead line is at least 6 feet (1 fathom) above the lake bottom.

(am) *Gill nets – 4 inch.* With a mesh size of not less than 4″ stretch measure:

1. Not more than 36 meshes in depth and only when set on the bottom of the lake, including treaty fishers.

2. In waters less than 330 feet (55 fathoms) deep only from November 28 through September 30.

3. In water less than 330 feet (55 fathoms) deep, the total maximum feet of gill net with mesh size equal to 4″ and greater which may be set by commercial fishers shall be determined by the department according to this subparagraph based on catch–per–unit–of–effort (CPE) in order to ensure that total allowable state and tribal annual lake trout harvest quotas and individual fishers' harvest quotas are not exceeded.

a. The lake trout open season under s. NR 25.05 is divided into 3 periods. The department shall determine catch–per–unit–of–effort (CPE) and determine the total maximum feet of gill net with

mesh size equal to 4″ and greater which may be set by commercial fishers during each of the following 3 periods:

period 1: November 28 through March 31

period 2: April 1 through May 31

period 3: June 1 through September 30.

b. Catch–per–unit–of–effort (CPE) for each period shall be determined from department–monitored state and tribal net lifts occurring during each period. Catch–per–unit–of–effort (CPE) is the ratio of dead and live lake trout caught for each period divided by the feet of monitored net in thousands of feet set during each period.

c. The following catch–per–unit–of–efforts (CPEs) shall be used for the lake trout open season of November 28, 1995 to September 30, 1997:

period 1—15.6

period 2—22.5

period 3—5.1

d. After September 30, 1994, 3–year average catch–per–unit–of–efforts (CPEs) shall be calculated by the department as the average of the monitored catch–per–unit–of–efforts (CPEs) for the corresponding periods of the preceding 3 lake trout open seasons using data from department–monitored net lifts, except that if the monitored catch–per–unit–of–effort (CPE) determined under subd. 3. b. for the corresponding period of the most recent lake trout open season exceeds the 3–year average for that period by more than 50%, the period's monitored CPE for the most recent lake trout open season shall be used for the corresponding period in the following lake trout open season in place of the 3–year average catch–per–unit–of–effort (CPE).

e. No commercial fisher may set more than his or her allowable gill net effort during each period of the lake trout open season. The department shall use the following formula to determine each commercial fisher's allowable gill net effort in feet of net:

period 1 allowable gill net effort:

$$\frac{\text{Individual Lake Trout Quota}}{\text{Period 1 CPE}} \times 1000$$

period 2 allowable gill net effort:

$$\frac{[\text{Unused Effort Period 1}][\text{Period 1 CPE}]}{\text{Period 2 CPE}}$$

period 3 allowable gill net effort:

$$\frac{[\text{Unused Effort Period 2}][\text{Period 2 CPE}]}{\text{Period 3 CPE}}$$

f. Allowable gill net effort limitations for period 1 shall be made available by November 1 of each year. If a commercial fisher's allowable gill net effort has not been used by the end of period 1 or 2 and is reported by the commercial fisher according to s. NR 25.13 (1), the remaining balance of allowable gill net effort in feet of net shall be carried over to succeeding periods within the lake trout open season but not carried over to the next lake trout open season. Allowable gill net effort limitations for periods 2 and 3 shall be determined by the department within 5 working days after the start of periods 2 and 3 using remaining allowable gill net effort reported according to s. NR 25.13 (1).

g. The department shall calculate the allowable gill net effort for the overall state commercial and tribal effort in the same manner as described in subd. 3. e., except that the state or tribal lake trout quota shall be used instead of the fisher's individual quota.

h. State commercial and tribal fisheries' allowable gill net effort for period 1 for each lake trout open season shall be determined by the department and made available by November 1 of each year.

4. May not be set in water less than 330 feet (55 fathoms) deep for the remainder of the lake trout open season by a licensed commercial fisher upon use of all tags issued for lake trout to the fisher under s. NR 25.07 (1) (a), or upon use of the total number of feet of gill net permitted to be set in any time period under subpar. bm.

5. Shall be tagged by the licensed commercial fisher using the gill net with an informational tag, supplied by the department, on the buoy staff above the water line. Each tag shall state the time and date upon which the gill net was set, the length of the gang of nets, the license number and the licensee's initials.

6. May not be placed in the waters of Lake Superior from a boat or watercraft from January 15 through March 31.

7. May not be set or placed within $^1/_4$ mile shoreward of the pot and lead of any entrapping net, except that if a trap net is set within $^1/_4$ mile of a gill net, that gill net may continue to be lifted and reset in the same location.

(ar) *Gill nets – unrestricted size.* With no restrictions on mesh size or the number of meshes in depth at any time during the year only in water more than 330 feet (55 fathoms) deep and only when set on the bottom.

(av) *Gill net lifting requirements.* Shall be lifted a minimum of:

1. Once every 72 hours (3 days) in open water less than 96 feet (16 fathoms) deep.

2. Once every 120 hours (5 days) in open water 96 to 210 feet (16 to 35 fathoms) deep.

3. Once every 240 hours (10 days) in open water more than 210 feet (35 fathoms) deep.

4. 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 90 feet (15 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 of a point one mile east of the mouth of the Iron river in section 34, township 50 north, range 9 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, 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 have the fish holding pot portion rendered inoperable during the closed seasons for whitefish and lake trout and shall have the webbing removed from the water within 14 days after the close of the lake trout season.

6. May not be placed within $^1/_2$ mile of any other entrapping net.

7. May not be placed or operated in the waters of Lake Superior during the months of April, May, June, July, August, and September after March 31, 1994, if the twine covering the hearts of submarine trap nets exceeds a minimum of 14″ stretch.

8. May not be placed or operated in the waters of Lake Superior from a boat or water craft from November 28 through March 31.

9. Entrapment nets fished in the area west of Bark Point and also in the area known as the Van Tassells Point area described in s. NR 25.10 (1) (c) may harvest only whitefish and lake herring.

(c) *Encircling nets and trawls.* Encircling nets and trawls are prohibited.

(2) LAKE MICHIGAN AND GREEN BAY. (a) *Gill nets.* 1. With a mesh size of not more than $1^3/_4$ inch stretch measure not exceeding 60 meshes in depth in Green Bay and 30 meshes in depth in Lake Michigan for taking smelt only.

2. With a mesh size of not less than $2^3/_8$ inch and not more than $2^1/_2$ inch stretch measure not exceeding 60 meshes in depth in southern Green Bay only.

3. With a mesh size of not less than $2^3/_8$ inch and not more than $2^3/_4$ inch stretch measure, and not less than 24 meshes and not more than 60 meshes in height, only in the southern chub fishing zone in water more than 150 feet (25 fathoms) deep.

4. With a mesh size of not less than $2^1/_2$ inch and not more than $2^3/_4$ inch stretch measure:

a. For chubs in Lake Michigan and Green Bay, in the northern chub fishing zone only.

b. For other legal fish species in Lake Michigan and Green Bay.

c. May not exceed 18 meshes in depth when set in waters less than 150 feet (25 fathoms) deep in Lake Michigan outside the northern chub fishing zone.

d. May not exceed 60 meshes in depth when set in Green Bay, or in waters 150 feet (25 fathoms) deep or deeper in Lake Michigan, or within the northern chub fishing zone.

6. With a mesh size of not less than 4 inch and not more than $4^1/_2$ inch stretch measure:

a. Only in southern Green Bay in water less than 30 feet (5 fathoms) deep.

c. From May 20 to March 9, except during the closed season for whitefish.

d. Not more than 30 meshes in depth.

7. With a mesh size of not less than $4^1/_2$ inch and not more than $6^1/_2$ 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.

8. With a mesh size of not less than 6½" stretch measure:

b. Only during the open seasons for whitefish and yellow perch.

c. Not more than 12 meshes in depth.

9. 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.

10. Shall be lifted a minimum of:

a. Once every 24 hours (1 day) in open water less than 150 feet (25 fathoms) deep for all mesh sizes in Green Bay and Lake Michigan except as provided in subd. 10. d.

b. Once every 120 hours (5 days) in open water 150 feet (25 fathoms) deep or deeper for mesh sizes of not more than $2^3/_4$ inch stretch measure in Lake Michigan.

c. Once every 48 hours (2 days) in commercial ice fishing.

d. Once every 120 hours (5 days) in open water less than 150 feet (25 fathoms) deep for mesh sizes of not more than $2^3/_4$ inch stretch measure in Lake Michigan.

(b) *Entrapping nets.* 1. Drop nets and fyke nets:

a. Only during the open season for yellow perch, except by permit issued under s. NR 25.10 (4).

b. May be used up to 30 drop nets or fyke nets in aggregate by each licensed commercial fisher, that being the maximum number of pots allowed.

c. Shall be lifted a minimum of once every 72 hours (3 days).

2. Pound nets and trap nets:

a. Only when the pot or crib is set, placed or operated in water not more than 78 feet (13 fathoms) deep.

b. May be used up to 12 pound nets or trap nets in aggregate by each licensed commercial fisher, that being the maximum number of pots or cribs allowed.

c. Shall be lifted a minimum of once every 120 hours (5 days).

d. Shall have the fish holding or pot portion rendered inoperable during the closed season for whitefish and shall have the webbing removed from the water within 14 days after the close of the whitefish season.

e. May be used to take fish in the waters of Lake Michigan lying south of a line extending from the Lake Michigan shoreline along 44°55′50″ north latitude only during the period including the day after Labor Day to June 28. Unless the department has granted an extension of time, the webbing shall be removed from the water by June 28 and may not be reinstalled until the day after Labor Day. If adverse weather conditions or unanticipated equipment problems prevent removal of the webbing by June 28, a licensee may request and the department may grant a brief extension of time sufficient to allow safe removal.

(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 smelt under s. NR 25.06 (2) (c).

b. Only in water more than 65 feet deep.

c. Only north of a line from the southernmost point of Little Tail point to the Green Bay navigation channel entrance light.

d. When used to harvest smelt in Green Bay, diverters with openings no larger than $^7/_8$ inch wide shall be used.

2. In Lake Michigan:

a. Only in waters 60 feet (10 fathoms) deep or deeper bounded by a line beginning at a point where 44° 30′ north latitude intersects with the Wisconsin shore of Lake Michigan, then proceeding east along 44° 30′ north latitude, to its intersection with 87° 10′ west longitude, then proceeding south along 87° 10′ west longitude to its intersection with 44° 10′ north latitude then proceeding west along 44° 10′ north latitude to its intersection with 87° 20′ west longitude, then proceeding south along 87° 20′ west longitude to its intersection with 43° 50′ north latitude, then proceeding west along 43° 50′ north latitude to its intersection with 87° 40′ west longitude, then proceeding north along 87° 40′ west longitude to its intersection with 44° 00′ north latitude, then proceeding west along 44° 00′ north latitude to the Wisconsin shore of Lake Michigan and then north along the shore to the point of beginning. This area can also be described as all of grids 1105, 1205, 1304, 1403 and 1404, and part of grids 1104, 1204 and 1303.

b. Only for taking smelt as provided in s. NR 25.06 (2) (c) except chubs may be harvested during the trawling season for smelt, subject to s. NR 25.07 (2) (a).

c. Beginning July 1, 1991, when used to harvest smelt in Lake Michigan, diverters with openings no larger than $1^1/_2$ inch wide shall be used.

(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 depart-

ment of agriculture, 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; emerg. am. (1) (a) 4. b., eff. 4–22–86; am. (1) (a) 4. b., renum. (2) (a) 3. to 9. to be 4. to 10. and am. 5. and 10. a. and b., cr. (2) (a) 3., 4. c. and d., r. and recr. (2) (d) 2., Register, October, 1986, No. 370, eff. 11–1–86; am. (2) (d) 2. c., Register, April, 1988, No. 388, eff. 5–1–88; am. (2) (a) 10. a., cr. (2) (a) 10. d., Register, July, 1988, No. 391, eff. 8–1–88; am. (2) (a) 1. and 2., 4.a., c. and d., (b) 2.d., r. and recr. (2) (a) 3., r. (2) (a) 5., 6.b. and 8.a., cr. (2) (b) 2.c. and (d) 1.d., Register, June, 1989, No. 402, eff. 7–1–89; emerg. am. (1) (a) 4. a., (2) (b) 2. e., (d) 1. a., b. and d., 2. b., cr. (1) (a) 4. bm. and d. to g., (b) 6., r. and recr. (2) (d) 2. c., eff. 4–1–91; am. (1) (a) 4. a., cr. (1) (a) 4. bm., d. to g. and (b) 6., Register, July, 1991, No. 427, eff. 8–1–91; am. (2) (b) 2. e., (2) (d) 1. a., b. and d., 2. b., r. and recr. (2) (d) 2. c., Register, August, 1991, No. 428, eff. 9–1–91; am. (1), Register, November, 1993, No. 455, eff. 12–1–93; am. (2) (b) 2. e., Register, February, 1995, No. 470, eff. 3–1–95; corrections in (1) (a) made under s. 13.93 (2m) (b) 1. and 7., Stats., Register, April, 1997, No. 496; am. (1) (am) 3. c., 5. and (b) 2., cr. (1) (b) 9., Register, June, 1997, No. 498, eff. 7–1–97.

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. 29.417, 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, except from November 15 through December 15 in water 84 feet (14 fathoms) deep or deeper, when and where gill nets with a mesh size of not less than 2½ inch and not more than 3 inch stretch measure may be used for taking lake herring.

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 Madeline 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 latitude 46° 40′, then due west to the mainland shoreline, then northwesterly along the shoreline to the point of beginning, all in Ashland county, except waters within 1½ miles 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 except float nets described in s. NR 25.09 (1) (a) 2. c. may be fished from October 15 to December 31, a minimum distance of ½ mile from shore.

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, township 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 51 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 51 north, range 7 west, all in Bayfield county, which shall be open from April 1 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.

9. Those waters less than 35 fathoms lying east of a line extending due north from the northwest corner of the Gull Island refuge as described in s. NR 26.23 (1) (a) in management grids 1311, 1312, 1211 and 1212.

(c) No commercial fishing gear of any kind except by permit issued under sub. (4) for the taking of whitefish and lake herring

only from June 1 to August 15 may be used, set, placed or operated in the following waters: the area from the easterly most tip of Houghton Point, section 27, township 49 north, range 4 west, Bayfield county, northerly along the shoreline to the entry to the city of Bayfield marina, then easterly to Point Defroid on Madeline island, section 30, township 50 north, range 3 west, Ashland county, then southerly along the western end of the island to the tip of Grants Point, section 6, township 49 north, range 3 west, Ashland county, then southerly to Chequamegon Point on the western tip of Long island, section 13, township 49 north, range 4 west, Ashland county, thence southwesterly to the eastern tip of Houghton Point, except that float nets as described in s. NR 25.09 (1) (a) 2. c. may be fished under the ice only, gill nets of not less than $4^7/_{16}$ inch minimum stretch measure may be fished under the ice and not from a boat north of latitude 46° 45′ at a minimum depth of 19 fathoms, gill nets of not greater than 1¾ inch stretch measure may be fished for smelt and herring under the ice, but must be at least ½ mile from the mouth of any trout stream, and smelt pound nets may be allowed by permit from ice out to May 15.

(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. 29.417, Stats.

2. All waters within one–half mile of any harbor, pier or breakwater in Door, Kewaunee, Manitowoc or Sheboygan counties.

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

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

5. 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.

6. 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.

7. 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.

8. That portion of southern Green Bay lying south or east of a line beginning at the mouth of Renard creek located in SW $^1/_4$ 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 $^1/_4$ SE $^1/_4$, section 20, township 25 north, range 22 east, Brown county.

9. 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.

(b) No commercial fishing gear of any kind except entrapping nets authorized by permit issued under sub. (4) for the taking of rough or detrimental fish, perch, whitefish or menominee may be used, set, placed or operated in the waters of Lake Michigan lying south of a line extending from the mid–channel marker buoy of Baileys Harbor on a 135° bearing, or north of a line extending east from the entrance of Kewaunee harbor to its intersection with a line that follows the 45 fathom (270 feet) depth contour, then proceeding north along that 45 fathom (270 feet) depth contour to its intersection with 44°32′ north latitude, then east 44°32′ north latitude to the Wisconsin–Michigan state line, except as provided under pars. (c), (d), (e), (f) and (g).

(c) No commercial fishing gear of any kind may be used, set, placed or operated in all waters bounded by a line beginning at the outer end of the north pier at Algoma and proceeding along the north side of that pier to the shore of Lake Michigan, then proceeding north along the shore to its intersection with 44°52′30″ north latitude, then proceeding east along 44°52′30″ north latitude to its intersection with a line extending from the mid–channel marker buoy of Baileys Harbor on a 135° bearing, then proceeding on a line bearing 135° to its intersection with the Wisconsin–Michigan state line, then proceeding south along the Wisconsin–Michigan state line to its intersection with a line extending east from the outer end of the north pier at Algoma, then proceeding west along that line to the point of beginning.

(d) Gill nets not to exceed 18 meshes deep only for yellow perch and menominees authorized by permit under sub. (4) may be used in waters of Lake Michigan lying between a line extending east along 44°55′50″ north latitude from the Lake Michigan shoreline and a line extending from the mid–channel marker buoy to Baileys Harbor on a 135° bearing.

(e) In waters of Lake Michigan lying between a line extending east along 44°55′50″ north latitude from the Lake Michigan shoreline and a line extending east along 44°52′30″ north latitude from the Lake Michigan shoreline entrapping nets for whitefish authorized by permit under sub. (4) may only be used during September 1 to October 25.

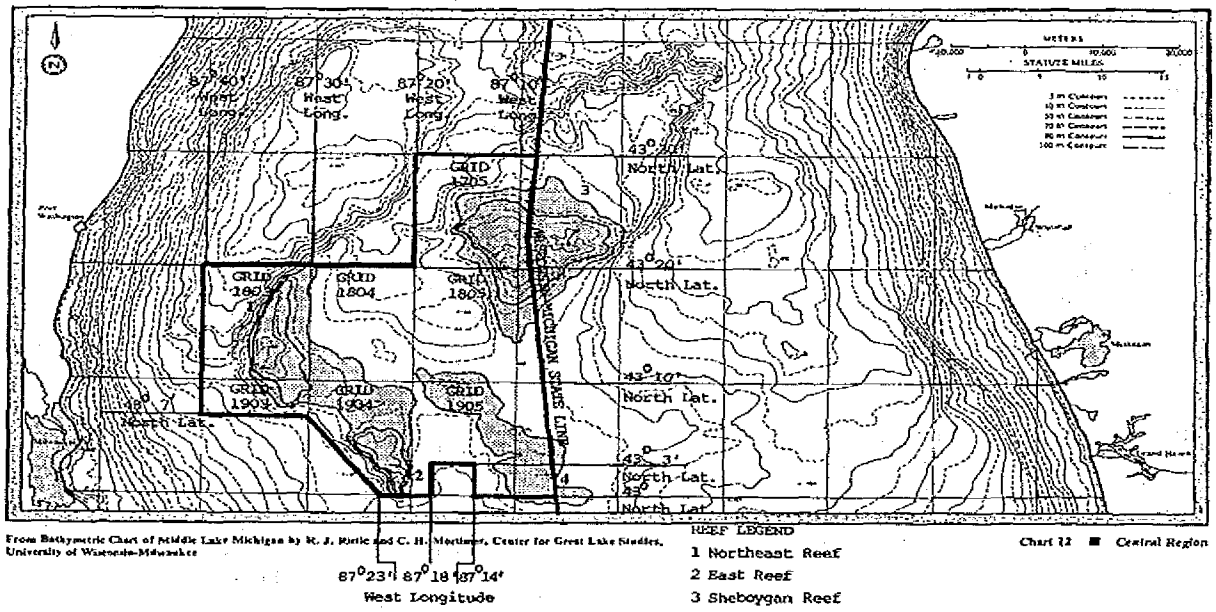
(f) No commercial fishing gear of any kind except pound nets authorized by permit under sub. (4) for the taking of whitefish and rough or detrimental species may be used, set, placed or operated in the waters of Lake Michigan in depths less than 45 fathoms (270 feet) deep in the area between a line extending east from the end of the north pier at Algoma and a line extending east from the entrance of Kewaunee harbor.

(g) Except as provided under par. (a) 2., no commercial fishing gear of any kind may be used, set, placed or operated in any waters within one–half mile of any harbor, pier or breakwater in Green Bay or Lake Michigan.

(h) No commercial fishing gear of any kind may be used, set, placed or operated in any waters within one–half mile of the shoreline of Kenosha, Milwaukee, Ozaukee or Racine county.

(i) No commercial fishing gear of any kind may be used, set, placed or operated in all waters bounded by a line beginning at a point where 43 degrees 7 minutes north latitude and 87 degrees 40 minutes west longitude intersect, northerly to 43 degrees 20 minutes north latitude, easterly to 87 degrees 20 minutes west longitude, northerly to 43 degrees 30 minutes north latitude, easterly to the Wisconsin–Michigan state line, southerly along the Wisconsin–Michigan state line to 43 degrees north latitude, westerly to

87 degrees 14 minutes west longitude, northerly to 43 degrees 3 minutes north latitude, westerly to 87 degrees 18 minutes, southerly to 43 degrees north latitude, westerly to 87 degrees 23 minutes west longitude, northwesterly to 43 degrees 7 minutes north latitude, and westerly to 87 degrees 40 minutes west longitude.



From Bathymetric Chart of Middle Lake Michigan by R. J. Rintz and C. H. Mortimer, Center for Great Lake Studies, University of Wisconsin-Milwaukee

Note: This closed area encompasses the elevated areas of the lake bed commonly known as the Sheboygan reef, the Northeast reef, the Milwaukee reef, and the East reef and can be further described as the northern third of grid 1903, the northeastern two thirds of grid 1904, all of grid 1905 except a rectangular area along its southern border, all of grids, 1705, 1803, 1804 and 1805, and those portions of grids 1706, 1806 and 1906 in Wisconsin waters as shown on the preceding map.

(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. 29.417 or 29.421, 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.

g. Mortality of illegal fish resulting from capture in commercial fishing gear greater than or likely to be greater than 10% of the weight or number of the legal catch.

2. The department shall give notice of a denial, suspension, or revocation pursuant to provisions of s. 227.51 (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) 1.b., Register, January, 1985, No. 349, eff. 2–1–85; emerg. am. (1) (b) 1. and 3., eff. 4–22–86; am. (1) (b) 1. and 3., Register, October, 1986, No. 370, eff. 11–1–86; am. (2) (a) 2. and (b), r. (2) (a) 3., renum. (2) (a) 4. to 10. to be 3. to 9., r. and recr. (2) (c), cr. (2) (d) to (h) and (4) (b) 1.g., Register, June, 1989, No. 402, eff. 7–1–89; am (1) (b) 4. and 6., r. (1) (b) 7., cr. (1) (b) 9. and (c), Register, June, 1997, No. 1997, No. 498, eff. 7–1–97; **cr. (2) (i), Register, December, 1998, No. 516, eff. 4–1–99.**

NR 25.105 Exemptions. Notwithstanding the provisions of this chapter:

(1) From June 1 through March 31, treaty fishers using boats less than 18 feet in length may harvest perch and walleye from the waters of Chequamegon Bay within one mile of the mainland shoreline in Ashland county between the easternmost boundary of the Bad River reservation on Chequamegon Point and a line extending due north from the westernmost boundary of the Bad River reservation as authorized by the department. Only one authorized boat may fish in this area at a time.

(2) From ice out to the Friday before Memorial day, treaty fishers may fish for whitefish and harvest 1,462 incidentally–caught lake trout in those waters defined in s. NR 25.10 (1) (b) 1.

The 1,462 lake trout harvested in this area shall be allocated as part of the quota defined in s. NR 25.06 (1) (a) 3. The department may require distinctive tags for this harvest.

(3) Red Cliff treaty fishers may harvest 5,000 pounds (round weight) of walleye annually within the restricted areas west of Bark Point and east of a point one mile west of Port Wing.

History: Cr. Register, October, 1986, No. 370, eff. 11-1-86; emerg. cr. (3), eff. 3-10-87; cr. (3), Register, December, 1987, No. 384, eff. 1-1-88.

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) Each person licensed pursuant to s. 29.519, Stats., to conduct commercial fishing operations on Lake Superior, or fishing as an eligible member of the Red Cliff or Bad River band of Lake Superior Chippewas, shall report for the preceding biweekly calendar period to the department in writing on forms provided for this purpose by the 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. The biweekly report shall be mailed or delivered to the department at the address provided on the form no later than the Tuesday following the biweekly reporting period.

(a) Biweekly fishing reports shall include but are not limited to all records of harvest, harvest effort, all wholesale fish sales, and all retail fish sales.

(b) Biweekly fishing reports shall be filed by each licensee regardless of whether the licensee fished during the period of time covered by the report.

(c) All department copies of biweekly report forms issued to a licensee for the license year and not previously submitted by the licensee shall be returned by the licensee to the department by the final reporting deadline for that license year.

Note: Biweekly fishing report forms are provided by the department to each licensee at the beginning of the license year. Additional forms may be obtained by writing: DNR, 110 South Neenah Avenue, Sturgeon Bay, WI 54235.

(3) Each person licensed pursuant to s. 29.519, Stats., to conduct commercial fishing operations on Lake Michigan and Green Bay shall report for the preceding biweekly calendar period to the department in writing on forms provided for this purpose by the 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. The biweekly report shall be post mailed or delivered to the department at the address provided on the form no later than the Tuesday following the biweekly reporting period.

(a) Biweekly fishing reports shall include but are not limited to all records of harvest, harvest effort, all wholesale fish sales, and, after July 1, 1990, all retail fish sales.

(b) The biweekly fishing reports shall be carried while fishing by the licensee or by a member of the licensee's crew if the licensee is not present. The information pertaining to the licensee's name, address and license number, date, name and number of the boat fished from, fishing location and depth, fishing effort, gear used and estimated pounds of each fish species caught for each fishing trip shall be recorded on the biweekly fishing reports immediately after completing all net lifts for each trip and before starting to bring the catch to dock or shore. The report shall accompany the fish caught to dock or shore. After a trip's information has been recorded, the report may not be transported for the rest of the day in such a way that it can be altered except to record information pertaining to additional fishing trips taken that day. Biweekly fishing reports shall be filed by each licensee regardless of whether the licensee fished during the period of time covered by the report.

(c) All department copies of biweekly report forms issued to a licensee for the license year and not previously submitted by the licensee shall be returned by the licensee to the department by the final reporting deadline for that license year.

Note: Biweekly fishing report forms are provided by the department to each licensee at the beginning of the license year. Additional forms may be obtained by writing: DNR, 110 South Neenah Avenue, Sturgeon Bay, WI 54235.

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; am. (2), cr. (3), Register, June, 1989, No. 402, eff. 7-1-89; am. (3) (intro.) and (b), Register, August, 1991, No. 428, eff. 9-1-91; am (2), Register, March, 1992, No. 435, eff. 4-1-92.

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. 29.519, 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. 29.705 (1), 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 25.16 Lake trout tagging. (1) IMPORTING UNTAGGED LAKE TROUT. (a) No licensed wholesale fish dealer or producer of fish including treaty fishers may import untagged lake trout without the dealer or producer or his or her agent providing the department with the identity of the transporter in addition to the information required by s. 29.503 (4) (b), Stats. The information shall be given to a department office.

(b) Upon receipt of 12 or more hours notice of the date, time and location of arrival at the state line of untagged lake trout, the department shall meet the transporter at the date, time and location designated by the licensed wholesale fish dealer or producer of fish or identified transporter. If the notice is provided less than 12 hours before the anticipated arrival, the department and the licensed wholesale fish dealer or producer of fish or identified transporter shall establish a mutually acceptable time and location

where the lake trout shipment may be tagged. If the wholesale fish dealer or producer of fish or transporter has informed the department of the time and location at which untagged lake trout will be crossing the border and the quantity of untagged lake trout, and if the department's representative is not at the border to meet the transporter, then the transporter shall wait ½ hour after the designated time. The transporter may then proceed to deliver the lake trout to the wholesaler's place of business or the place of business listed on the invoice. The wholesaler shall notify the department immediately upon receipt of the lake trout from the transporter. No wholesaler may process or market the lake trout until they have been tagged with individual or package tags.

(c) Shipments of lake trout presented for tagging at the state line under s. 29.503 (4) (b), Stats., which contain boxes of lake trout destined for different locations within the state may be sealed on a box–by–box basis. Box seals may not be removed prior to delivery.

(d) Each shipment of lake trout sealed at the state line by a single seal for the entire shipment or on a box–by–box basis shall be inspected by the department at the wholesale fish dealer's or producer's place of business or place of storage. Each fish shall be tagged by the department with a foreign lake trout tag or smoked/fileted lake trout package tags shall be provided to the wholesale fish dealer or producer of fish under sub. (2) (c).

(e) Foreign lake trout tags may be attached to frozen lake trout by inserting the tag through a hole punched in the caudal fin.

(f) All foreign lake trout tags and all commercial fish tags issued or authorized by the department or by a governmental agency of another state or country, when severed from the lake trout are considered state property and may be claimed by the department within one year of the date they were severed.

(2) FILETED, PORTIONED OR SMOKED LAKE TROUT. (a) Lawfully possessed lake trout which are intended for smoking, portioning or fileting may have the tags removed immediately prior to smoking. Except as set forth in par. (b), the department shall issue to wholesale fish dealers, who are actively selling lake trout, sufficient adhesive smoked/fileted lake trout package tags necessary for no more than one month's processing. The package tags shall be used when the initial tags are removed from the lake trout for smoking, portioning or fileting, according to par. (e). Immediately after smoking, fileting or portioning and packaging, each individual package of smoked, portioned or fileted lake trout shall be tagged with smoked/fileted lake trout package tags in denominations which represent the weight of the contents of the package.

(b) In lieu of the procedure set forth in par. (a), the department, if any of the conditions in subds. 1. to 3. are met, may require that the wholesale fish dealer notify the department prior to removing the initial tag from lake trout which are intended for smoking, portioning or fileting. The initial tags shall be exchanged for adhesive smoked/fileted lake trout package tags in denominations which account for an equivalent weight of lake trout less shrinkage for the portioning, smoking or fileting process according to par. (e). Immediately after smoking, portioning or fileting and packaging, each individual package of smoked or fileted lake trout shall be tagged with smoked/fileted lake trout package tags in denominations which represent the weight of the contents of the package. A wholesale fish dealer may be subject to this paragraph if the wholesale fish dealer either:

1. Has been convicted in Wisconsin of any violation resulting in a penalty under s. 29.971 (1) (b), Stats., within the last 2 years, has been convicted of any violation resulting in a penalty under s. 29.971 (1) (c), Stats., within the last 5 years, or has been convicted of any violation resulting in a license revocation under s. 29.971 (1) (e), Stats., within the last 5 years. Convictions prior to July 1, 1985, shall be evaluated according to the standard of s. 29.99, Stats., (1985). This section shall also be applicable to violations that have occurred in any other state or any Canadian province. Such violations shall also be evaluated according to the standard of s. 29.99, Stats., (1985);

2. Is under formal investigation for specific violations relating to the possession or sale of illegal lake trout. Verification that a formal investigation for specific violations is ongoing may be obtained from the investigating officer's supervisor. If the investigation does not result in the issuance of a citation within one year, or the filing of a criminal complaint within 2 years, then package lake trout tags shall be issued under the provisions of par. (a). The system of issuing package lake trout tags set forth in par. (a) may be withheld for a longer period of time, under extenuating circumstances, upon approval by the secretary; or

3. Has within the past 2 years mishandled the tag account system.

(c) Shipments, or boxes in a shipment, of lawfully possessed untagged lake trout which were sealed at the state line by a department representative need not be individually tagged if all the lake trout in the shipment or box are intended for smoking or fileting. The department shall promptly issue adhesive smoked/fileted lake trout package tags to the consignee in denominations which represent the weight of the shipment or box less shrinkage for the fileting or smoking process. Immediately after smoking or fileting and packaging, each individual package of smoked or fileted lake trout shall be tagged with smoked/fileted lake trout package tags in denominations which represent the weight of the contents of the package.

(d) No wholesale fish dealer or producer of fish may sell, buy, barter, trade, possess, control or transport any smoked or fileted lake trout unless each individual package of smoked or fileted lake trout is tagged with department smoked/fileted lake trout package tags in denominations which represent the weight of the contents of the package.

(e) The department shall issue adhesive smoked/fileted lake trout package tags in an amount equal to a percentage of the weight of the whole, dressed lake trout. The following percentages shall be used:

1. For fileting, portioning and smoking — 65%

2. For smoking whole — 85%

(3) USED TAGS. (a) When lawfully possessed, lake trout which were tagged with a commercial fish tag issued or authorized by the department or by a governmental agency of another state or country and imported into this state are sold at retail or to a retail outlet, the wholesale fish dealer shall remove and retain the commercial fish tags. The department may reclaim such tags within one year at the wholesale fish dealer's place of business.

(b) No person may reuse any foreign lake trout tag, smoked/fileted lake trout package tag or any commercial fish tag issued or authorized by the department or by a governmental agency of another state or country.

History: Cr. Register, October, 1986, No. 370, eff. 11–1–86.

NR 25.17 Wholesale fish dealer reports. (1) Licensed wholesale fish dealers who purchase fish outside of Wisconsin for sale within this state, are subject to the reporting requirements of s. 29.503 (5), Stats.

(2) Licensed wholesale fish dealers who make no purchases within a calendar month shall submit a report to the department under s. 29.503 (5), Stats., indicating that they made no purchases for that reporting month.

History: Emerg. cr. eff. 4–22–86; cr. Register, October, 1986, No. 370, eff. 11–1–86.

NR 25.18 Landing of fish. Fish and fish parts caught in commercial fishing operations and kept by Wisconsin licensed commercial fishers for sale or other use shall be brought to shore in Wisconsin to one of no more than 2 ports designated by the licensee on his or her Great Lakes commercial fishing license application for open water operations and to one of no more than

2 ports selected by the licensee from a list of ports designated by the department for ice fishing operations unless otherwise authorized in writing by the department or in the case of an emergency, following notice to the nearest U.S. coast guard station.

History: Cr. Register, October, 1986, No. 370, eff. 11–1–86; am. Register, June, 1989, No. 402, eff. 7–1–89.