

## 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**Note:** Chapter NR 25 as it existed on September 30, 1976, was repealed and a new chapter NR 25 was created effective October 1, 1976.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) "Allouez Bay" means that body of water in Douglas county lying south of a line commencing at the most northerly point in section 29, township 49 north, range 13 west, and running due east in a straight line to the water's edge on north line of section 28, same township and range.

(2) "Baileys Harbor" means that body of water in Door county lying north of a line commencing at the most southerly point in section 21, township 30 north, range 28 east at N45°03.303', W87°05.526', and running in a straight line westerly to the south line of section 20, same township and range at N45°03.294', W87°07.505'.

**Note:** All latitude and longitude coordinates are expressed in degrees and minutes.

(3) "Chunked" means fish from which the viscera, head and tail have been removed.

(4) "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.

(5) "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.

(6) "Commercial fish" is any species of game or rough fish for which an open season has been provided in s. NR 25.05.

(7) "Commercial fisher" means a person required to obtain a license under s. 29.519 (1m), Stats.

(8) "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.

(9) "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.

(10) "Commercial ice fishing" means the setting and operating of commercial fishing gear through and from the surface of the ice.

(11) "Condition of the fish" means the form that fish are in, and includes but is not limited to fresh round, fresh dressed, frozen dressed, fresh fillet, frozen fillet, fresh chunked, frozen chunked, smoked dressed, smoked fillet, smoked chunked, fresh snipped or frozen snipped.

(12) "Department" means the Wisconsin department of natural resources.

(13) "Detroit Harbor" means that body of water in Door county lying north of a line commencing at the most southerly point in section 14, township 33 north, range 29 east at N45°20.016', W86°56.451', and running in a straight line to the most southerly point in section 18, township 33 north, range 30 east at N45°20.054', W86°54.139'.

**Note:** All latitude and longitude coordinates are expressed in degrees and minutes.

(14) "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.

(15) "Domestic lake trout" means a lake trout taken from the waters of the state, but not from a fish farm registered with the department of agriculture, trade and consumer protection.

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

(17) "Eagle Harbor" means that body of water in Door county south and east of a line drawn from the most northeast point in section 9, township 31 north, range 27 east at N45°10.496', W87°13.340', easterly to the water's edge on the north line of section 12, same township and range at N45°11.140', W87°09.679'.

**Note:** All latitude and longitude coordinates are expressed in degrees and minutes.

(18) "Egg Harbor" means that body of water in Door county lying south of a line commencing at the most northeast point in

section 26, township 30 north, range 26 east at N45°03.245', W87° 18.005', and running in a straight line east to the north line of section 25, same township and range at N45°03.265', W87°16.938'.

**Note:** All latitude and longitude coordinates are expressed in degrees and minutes.

(19) "Electronic fish reporting system" means a system established or authorized by the department for reporting daily commercial fishing activity and other required information to the department by electronic means.

(20) "Encircling nets" means purse seines as defined in sub. (52), and seines as described in s. 29.522 (3), Stats.

(21) "End of the day" means 11:59 p.m. of the day the fish are landed.

(22) "Entrapping nets" means trap nets as defined in sub. (65), and entrapping nets as described in s. 29.522 (1), Stats.

(23) "Fillet" means the slab side of fish from which the viscera, head, tail and bones have been removed, except for the pin bones, which may or may not have been removed.

(24) "Final consumer" means the last or ultimate person who obtains a fish for its final use for eating or otherwise.

(25) "Final consumption" means the last or ultimate use of a fish by eating or otherwise.

(26) "Fish" means any processed or unprocessed fish of those species which are found in the waters of the state as defined in s. 281.01 (18), Stats., including parts of fish, fish eggs or fish products.

(27) "Fish Creek" means that body of water in Door county lying south and east of a line commencing at the most northerly point in the southwest quarter of section 29, township 31 north, range 27 east at N45°07.925', W87°14.926', and running northeasterly in a straight line to the water's edge on the north line of that section, township and range at N45°08.480', W87°14.505'.

**Note:** All latitude and longitude coordinates are expressed in degrees and minutes.

(28) "Fisher" means any person engaged in fishing.

(29) "Fleet reporting program" means a program of catch assignment and reporting under s. NR 25.135.

(30) "Float plan" means a description of the day's proposed commercial fishing activity that includes the commercial fisher's name, commercial fishing license number or fleet reporting number, date and intended time of leaving the pier or shore for commercial fishing activity, targeted species, port of departure, intended port of return, intended time of return, and the type of commercial fishing gear involved.

(31) "Foreign lake trout" means lake trout harvested outside of Wisconsin and imported into the state.

(32) "Harvest limit", "harvest quota", "total allowable annual commercial harvest", or "the total allowable commercial harvest" means the total number of pounds of fish as established in this chapter which may be landed in a license year from the outlying waters or any portion thereof, except as otherwise prescribed in this chapter.

(33) "High value species" means whitefish when a commercial fisher's whitefish individual catch quota is less than 13,656 pounds and yellow perch.

(34) "Illegal fish" means any fish taken, possessed or controlled in violation of this chapter or a statute, including fish that have not been reported or for which a record has not been created as required.

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

(36) "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.

(37) "Incapacity" means the inability to communicate in any manner, hospitalization with a terminal illness or terminal injuries

as certified by a licensed physician, or an adjudication of incompetency as defined in s. 54.10 (3), Stats.

(38) "Jackson Harbor" means that body of water in Door county lying south and west of a line commencing at the most northerly point in section 27, township 34 north, range 30 east at N45°24.061', W86°50.876', and running in a straight line northwesterly to the most easterly point in the northeast quarter of section 28, same township and range at N45°24.226', W86°51.141'.

**Note:** All latitude and longitude coordinates are expressed in degrees and minutes.

(39) "License year" means that period from July 1 through June 30 of the succeeding year until June 30, 2010, after which "license year" means the period of July 1, 2010 through December 31, 2011. Beginning January 1, 2012, "license year" means the period of January 1 through December 31.

(40) "Licensed commercial fisher" means a person currently licensed under s. 29.519 (1m) (a), Stats.

(41) "Little Sturgeon Bay" means that body of water in Door county lying south of a line commencing at the most northeast point in section 35, township 28 north, range 24 east at N44°51.098', W87°33.022', and running in a northeasterly direction to the most northerly point in section 36, same township and range at N44°51.486', W87°31.900'.

**Note:** All latitude and longitude coordinates are expressed in degrees and minutes.

(42) "Lost net" means a commercial fishing net that cannot be located by the commercial fisher within 24 hours after the net was required to be lifted or a commercial fishing net that is missing or was stolen, regardless of the net's last known location.

(43) "Moonlight Bay" means that body of water in Door county lying north and west of a line commencing at the most northeast point in section 15, township 30 north, range 28 east at N45°04.403', W87°04.823', and running in a straight line northwesterly to the most southerly point in section 14, same township and range at N45°04.706', W87°03.909'.

**Note:** All latitude and longitude coordinates are expressed in degrees and minutes.

(44) "Non-work days" for a commercial fisher licensed under s. 29.519 (1m), Stats., means Sundays, January 1 (New Year's Day), third Monday in January (Martin Luther King Jr.'s birthday), Good Friday, last Monday in May (Memorial Day), July 4<sup>th</sup> (Independence Day), first Monday in September (Labor Day), fourth Thursday in November (Thanksgiving Day), December 24<sup>th</sup> (Christmas Eve), December 25<sup>th</sup> (Christmas Day) and December 31<sup>st</sup> (New Year's Eve).

(45) "North Bay" means that body of water in Door county lying north of a line commencing at the most northeast point in section 35, township 31 north, range 28 east at N45°07.492', W87°03.455', and running in a straight line to the west line of section 25, same township and range at N45°08.200', W87°03.017'.

**Note:** All latitude and longitude coordinates are expressed in degrees and minutes.

(46) "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 at N45°07.925', W87°14.926', 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 at N45°09.505', W87°19.714'; thence along the southwest shoreline to the most southwesterly point of Chambers island at N45°10.680', W87°27.610'; thence due west to the Wisconsin-Michigan boundary line at N45°10.680', W87°24.750'.

**Note:** All latitude and longitude coordinates are expressed in degrees and minutes.

(47) "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 at N45°24.454', W86°48.313', then following the northeast shore of Rock Island to the northernmost point of Rock Island at N45°25.709', W86°49.691', then proceeding north to the Wisconsin-Michigan state line at N45°26.648', W86°49.691'.

**Note:** All latitude and longitude coordinates are expressed in degrees and minutes.

**(48)** “Northern Green Bay” means those waters of Green Bay lying north of the northern and southern Green Bay line.

**(49)** “Northern Green Bay–Lake Michigan line” means that line commencing at the northwest side of the Northport dock where it joins the shoreline in section 29, township 33 north, range 29 east at N45°17.443', W86°58.647'; thence in a northeasterly direction to the range light (signal light) on Plum island at N45°18.225', W86°57.298'; thence along the north and west shore of Plum island to the U.S. coast guard station at N45°18.782', W86°56.877'; thence northerly to the southwesterly point of Shellswick dock at N45°20.016', W86°56.451', 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 at N45°25.211', W86°56.189'; thence due north to the Michigan–Wisconsin boundary line at N45°26.648', W86°56.362'.

**Note:** All latitude and longitude coordinates are expressed in degrees and minutes.

**(50)** “Portable electronic reporting unit” means a department–approved, portable electronic device programmed by the department to enter, receive and transmit electronic commercial fishing data.

**(51)** “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.

**(52)** “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.

**(53)** “Record” has the meaning given it in s. 29.503 (1) (cm), Stats.

**(54)** “Riley's Bay” means that body of water in Door county lying south of a line commencing at the most northerly point in section 36, township 28 north, range 24 east at N44°51.486', W87°31.900', and running in a northeasterly direction to the most northerly point in section 30, township 28 north, range 25 east at N44°52.369', W87°31.007'.

**Note:** All latitude and longitude coordinates are expressed in degrees and minutes.

**(55)** “Rowley's Bay” means that body of water in Door county lying north of a line commencing at the water's edge on south line of section 25, township 32 north, range 28 east at N45°12.535', W87°01.954' and running southeasterly to the most southerly point in section 32, township 32 north, range 29 east at N45°12.695', W87°00.158'.

**Note:** All latitude and longitude coordinates are expressed in degrees and minutes.

**(56)** “Snipped” means headless with viscera partially removed.

**(57)** “Southern chub fishing zone” means those waters of Lake Michigan lying south of a line extending east from the entrance of Kewaunee harbor at N44°27.459', W87°29.522' 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 at N44°36.397', W87°25.792', then proceeding east along a line from the entrance of Algoma harbor at N44°36.397', W87°25.792' to its intersection with the Wisconsin–Michigan state line at N44°36.397', W86°48.390'.

**Note:** All latitude and longitude coordinates are expressed in degrees and minutes.

**(58)** “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, and westerly of the Southern Green Bay — Lake Michigan line.

**(59)** “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 NE1/4 NW1/4, section 22, township 27 north, range 26 east, Door county.

**(60)** “St. Louis Bay” means that body of water in Douglas county lying between a line commencing at the most northerly point of section 10, township 49 north, range 14 west, running due north to the Minnesota boundary, and the north line of sections 20 and 21, running due west to the Minnesota boundary.

**(61)** “Standard fish box” means any container with outer dimensions no greater than 18 inches in width, 32 inches in length and 12 inches in depth used or designed for holding fish.

**(62)** “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.

**(63)** “Sturgeon Bay” means that body of water in Door county lying south and east of a line commencing at the most northerly point of section 23, township 28 north, range 25 east at N44°53.582', W87°26.043', and running in a northeasterly direction to the water's edge on north line of section 13, same township and range at N44°54.451', W87°24.390'.

**Note:** All latitude and longitude coordinates are expressed in degrees and minutes.

**(64)** “Superior Bay” means that body of water in Douglas county lying south and east between Minnesota point and the main land of Douglas county extending from a line drawn from the most southerly point in section 20, township 49 north, range 13 west, to the most northerly point in section 29, same township and range.

**(65)** “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.

**(66)** “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.

**(67)** “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).

**(68)** “Washington Harbor” means that body of water in Door county lying south of a line commencing at the water's edge on the north line of section 25, township 34 north, range 29 east at N45°24.344', W86°55.714', and running in a straight line easterly to the water's edge on the north line of section 25, same township and range at N45°24.357', W86°55.014'.

**Note:** All latitude and longitude coordinates are expressed in degrees and minutes.

**(69)** “West Harbor” means that body of water in Door county and adjoining water in sections 2, 10 and 11, township 33 north, range 29 east, lying east of a line starting at the most northwesterly point of land in section 10 of township 33 north, range 29 east at N45°21.511', W86°57.224', and running in a northerly direction to the most northwesterly point of land in section 2, township 33 north, range 29 east at N45°22.453', W86°57.077'.

**Note:** All latitude and longitude coordinates are expressed in degrees and minutes.

**(70)** “Zone 1” means all waters in southern Green Bay.

**(71)** “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 at N44°40.000', W86°46.820'.

(72) "Zone 3" means all waters of Lake Michigan south of a line running due east from the eastern shore of Door county along 44° 40' north latitude to the Wisconsin-Michigan state boundary at N44°40.000', W86°46.820'.

**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), (23i), (23r), (23x), (27f), (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; am. (25), Register, December, 2000, No. 540, eff. 1-1-01; correction in (19) made under s. 13.93 (2m) (b) 7., Stats., Register July 2006 No. 607; reprinted to correct error in (35) Register February 2007 No. 614; correction in (16) made under s. 13.93 (2m) (b) 7., Stats., Register February 2007 No. 614; CR 08-060; am. Register June 2009 No. 642, eff. 7-1-09; correction in (44) made under s. 13.92 (4) (b) 7., Stats., Register June 2009 No. 642; CR 09-016; am. (39) Register January 2010 No. 649, eff. 2-1-10.

**Note:** See the table of Appellate Court Citations for Wisconsin appellate cases citing s. NR 25.02.

**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.

3. A person may hold more than one license under s. 29.519 (1m), Stats., for commercial fishing on Lake Superior, if the person meets the criteria of par. (b) for each license separately.

**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. 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. Except as provided in subd. 3. or 4., for the license years beginning January 1, 2012 and thereafter, 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 at least 5,000 pounds or X pounds, whichever is less, where X = 20 times the lesser of the average reported daily harvest of commercial fish taken by gill nets or the average reported daily harvest of commercial fish taken by trap nets by all licensed commercial fishers on Lake Superior during the 12 months preceding 2 months before the end of the license year preceding the license year for which application is being made.

3. Notwithstanding subd. 2., for the license year immediately following a reduction in the harvest limit of any commercial fish species, the minimum commercial harvest required for licensing shall, for each applicant, be reduced by an amount equal to that

applicant's reported harvest of that species for the license year before the harvest limit was reduced or, where the applicant obtained the license by transfer, the transferor's and applicant's combined reported harvest, of that species for the license year before the harvest limit was reduced.

4. Neither subd. 2. or 3. applies if the department determines that unavoidable circumstances prevented the applicant or the transferor from complying with subd. 2. or 3. Examples of unavoidable circumstances may include but are not limited to serious injury to or illness of the applicant or an immediate family member, sudden unavailability of qualified crew members, mechanical breakdown of or structural damage to the applicant's vessel, and extended or recurring bad weather.

5. Any applicant failing to meet the criteria of this paragraph will not be eligible to reapply for a 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 and who are applying for renewal of that license.

2. Next to individuals who were not licensed the preceding license 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 subds. 1. to 4., 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 one month before the end of the license year preceding the license year for which application is being made.

**(2) LAKE MICHIGAN.** (a) No more than 65 licenses authorizing commercial fishing in Lake Michigan may be issued for each license 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.

(am) A person may hold more than one license under s. 29.519 (1m), Stats., for commercial fishing on Lake Michigan, if the person meets the criteria of par. (b) for each license separately.

(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. Except as provided in subd. 3. or 4., 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 or X1 total pounds, whichever is less, from zone 1, or 76,770 or X3 total pounds, whichever is less, from zone 3, where X1 and X3 = 30 times the average reported total daily harvest of smelt taken by trawls from zone 1 or 3, respectively, by all licensed commercial fishers during the 12 month period preceding 2 months before the end of the license year preceding the license year for which application is being made.

b. Commercial fish other than smelt 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 = 20 times the average reported total daily harvest of commercial fish other than smelt from zone 1, 2 or 3, respectively, by all licensed commercial fishers on Lake Michigan during the 12 months preceding 2 months before the end of the license year preceding the license year for which application is being made.

3. Notwithstanding subd. 2., for the license year immediately following a reduction in the harvest limit of any commercial fish other than smelt, 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 license year before the harvest limit was reduced.

4. Neither subd. 2. or 3. applies if the department determines that unavoidable circumstances prevented the applicant or the transferor from complying with subd. 2. or 3. Examples of unavoidable circumstances may include but are not limited to serious injury to or illness of the applicant or an immediate family member, sudden unavailability of qualified crew members, mechanical breakdown of or structural damage to the applicant's vessel and extended or recurring bad weather.

5. Any applicant failing to meet the criteria of this paragraph will not be eligible to reapply for a license until the application period for the succeeding license year.

(c) Licenses shall be issued according to the following priorities to applicants otherwise qualified under par. (b):

1. First to individuals who have been licensed commercial fishers on Lake Michigan during the preceding license year and who are applying for renewal of that license.

2. Next to individuals who were not licensed the preceding license year, but who had been licensed commercial fishers on Lake Michigan for at least 2 years.

3. Next to individuals who worked as a licensed crew member on Lake Michigan under s. 29.519 (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 subds. 1. to 4., the licenses shall be awarded on the basis of random selection from all eligible applications.

(d) The Lake Michigan commercial fishing board shall review applications for licenses and recommend approval or denial of licenses to the department no later than one month before the end of the license year preceding the license year for which application is being made.

**(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 60 days before the license year for which application is being made. To be timely, applications, if mailed, must be postmarked no later than 60 days before 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 60 days before 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; am. (2) (b) 3. a. and b., Register, June, 2001, No. 546, eff. 7-1-01; CR 08-060: cr. (1) (a) 3. and (2) (am) Register June 2009 No. 642, eff. 7-1-09; CR 09-016: am. (1) (b) to (d), (2) (a) and (3), (2) (b) 2., renum. (2) (b) 3. to 5. to be (2) (b) 2. to 4. and am., cr. (2) (b) 5., (c) and (d) Register January 2010 No. 649, eff. 2-1-10.

### 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 boat from one license to another as provided for under s. 29.519 (2) (e), Stats.

(7) In addition, a licensed commercial fisher may not transfer a license authorizing commercial fishing on Lake Michigan to

another person unless the proposed transferee meets the eligibility requirements of s. NR 25.03 (2) (b) 1.

**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; CR 08-060: am. (6) and (7) Register June 2009 No. 642, eff. 7-1-09.

**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.

	A	B	C
Species	Green Bay	Lake Michigan	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	1. In the northern chub fishing zone:  a. From April 26 to January 15.  b. From January 16 to April 25, only in water 45 fathoms deep or deeper.  2. In the southern chub fishing zone:  a. From April 26 to January 15, only in water south of 44° 32' north latitude.  b. From January 16 to the end of February, only in water 45 fathoms deep or deeper.  c. From March 1 to April 25, only in water south of 44° 32' north latitude which is 45 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 be 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	B	C
	Green Bay	Lake Michigan	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, 7½ 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 in this chapter, no person may do any of the following:

- (a) Possess species of fish for which there is no open season.
- (b) While on the water, possess species of fish outside of the open season for that species.
- (c) Catch, take or kill more fish than authorized by his or her harvest limit, except as provided in par. (g). 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 or the department for the person harvesting the fish.
- (d) Fish for a species of fish in a zone for which the person has no harvest limit.
- (e) At the time of landing, possess fish eggs that weigh more than 25% of the simultaneously landed dressed carcasses of fish of the species from which the eggs were taken.
- (f) At the time of landing, possess fish viscera that weighs more than 50% of the simultaneously landed dressed carcasses of fish of the species from which the viscera were taken.
- (g) Take, catch or kill more fish, by species and zone, than authorized by the total of the person's individual catch quotas and permits under the person's fleet reporting program, if the person is engaged in fleet reporting under s. NR 25.135.

**(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; am. (3), Register, July, 1999, No. 523, eff. 8-1-99; am. (1) (d), Register, December, 2000, No. 540, eff. 1-1-01; CR 01-115: am. (1) (d), Register February 2002 No. 554, eff. 3-1-02; CR 01-145: r. and recr. (1) (d), Register July 2002 No. 559, eff. 8-1-02; CR 06-111: r. and recr. (1) (d) Register June 2007 No. 618, eff. 7-1-07; CR 08-060: am. (3) Register June 2009 No. 642, eff. 7-1-09.

**Note:** See the table of Appellate Court Citations for Wisconsin appellate cases citing s. NR 25.05.

**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 87,900 lake trout. The total allowable commercial and home use harvest in waters of Lake Superior west of Bark Point may not exceed 2,850 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 8,600 lake trout, and from the waters of Lake Superior west of Bark Point may not exceed 2,150 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 79,300 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 700 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 47/16 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 100,000 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. The total allowable commercial harvest of smelt in any license year may not exceed 1,000,000 pounds in Lake Michigan and Green Bay, of which no more than 25,000 pounds may be taken from Green Bay.

(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. a. If the total allowable commercial harvest of whitefish in Lake Michigan and Green Bay set in subd. 2. b. is less than or equal to 2,470,000 pounds, no more than 9.13028% may be taken from zone 1, no more than 82.17255% may be taken from zone 2, and no more than 8.69716% may be taken from zone 3. If the total allowable commercial harvest of whitefish in Lake Michigan and Green Bay set in subd. 2. b. is greater than 2,470,000 pounds and less than or equal to 2,880,001 pounds, no more than 225,518 plus one-third X may be taken from zone 1, no more than 2,029,662 plus one-third X may be taken from zone 2, and no more than 214,820 plus one-third X may be taken from zone 3, where X equals the difference between the total allowable commercial harvest and 2,470,000 pounds. If the total allowable commercial harvest of whitefish in Lake Michigan and Green Bay set in subd. 2. b. exceeds 2,880,001 pounds, no more than 362,185 plus 0.0913028 times Y may be taken from zone 1, no more than 2,166,329 plus 0.8217255 times Y may be taken from zone 2, and no more than 351,487 plus 0.0869716 times Y may be taken from zone 3, where Y equals the difference between the total allowable commercial harvest and 2,880,001 pounds.

b. The total allowable commercial harvest of whitefish in Lake Michigan and Green Bay may not exceed 2,880,001 pounds in any license year.

(3) TAGGING OF FISH. All harvested fish species or subspecies required to be tagged in accordance with this section shall be tagged with tags furnished or authorized by the department upon completing the net lift and before being transported by boat when fishing in open water and before being transported when fishing with nets under ice. 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 lake trout open season in a color which does not repeat in the next consecutive lake trout open season.

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 lake trout open season for which they are issued.

(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.

(3m) TEMPORARY EXCEPTION FOR LAKE MICHIGAN. Notwithstanding the amounts in sub. (2) (a) 1. to 4., (b) 1. to 3., (c) 1., (d) 2. and (e) 2., for the license year July 1, 2010 through December 31, 2011, the amounts shall be 2.0 times those specified in sub. (2) (a) 1. to 4., (b) 1. to 3., (c) 1., (d) 2. and (e) 2., except that for the license year July 1, 2010 through December 31, 2011, for each fish species for which individual licensee catch quotas are allotted or allocated under s. NR 25.07 (2), no licensee may harvest more than one-half of his or her individual catch quota for that license year for each species during July 1, 2010 through June 30, 2011, or harvest more than one-half of his or her individual catch quota for that license year for each species during January 1, 2011 through December 31, 2011.

(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; am. (2) (e) 2., Register, April, 1999, No. 520, eff. 5-1-99; am. (2) (c) 1., Register, September, 1999, No. 525, eff. 10-1-99; CR 01-037; am. (2) (b) 1., Register February 2002 No. 554, eff. 3-1-02; CR 01-115; r. (2) (c) 2., Register February 2002 No. 554, eff. 3-1-02; emerg. am. (1) (a) 1. to 3. eff. 11-1-02; CR 02-096; am. (1) (a) 1. to 3. Register April 2003 No. 568, eff. 5-1-03; CR 02-144; am. (2) (c) 1. Register June 2004 No. 582, eff. 7-1-04; CR 03-107; am. (2) (b) 1. Register June 2004 No. 582, eff. 7-1-04; CR 05-085; am. (2) (b) 1. Register March 2006 No. 603, eff. 4-1-06; CR 05-115; am. (1) (a) 1. to 3. Register July 2006 No. 607, eff. 8-1-06; CR 07-075; am. (2) (b) 1. Register April 2008 No. 628, eff. 5-1-08; CR 08-060; am. (3) (intro.) Register June 2009 No. 642, eff. 7-1-09; CR 09-016; am. (3) (a) 2. and 6., cr. (3m) Register January 2010 No. 649, eff. 2-1-10; corrections in (3m) made under s. 13.92 (4) (b) 7., Stats., Register January 2010 No. 649; CR 09-083; r. and recr. (2) (e) 2. Register March 2010 No. 651, eff. 4-1-10.

**Note:** See the table of Appellate Court Citations for Wisconsin appellate cases citing s. NR 25.06.

**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 department 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 department 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 through December 31, 2011:

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.

3. All permittees under subd. 1. who select the northern chub fishing zone under sub. (3) (d) shall be subject to the following limitations beginning January 1, 2012:

a. No more than 150,000 pounds of chubs may be harvested during the quota period of January 1 through the end of February; no more than 300,000 pounds of chubs may be harvested during the quota period of March 1 through September 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; and no more than 150,000 pounds of chubs may be harvested during the quota period of October 1 through December 31, 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 January 1 through the end of February and March 1 through September 30, 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. 3. 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 October 1 through December 31, 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. 3. 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 department 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 department 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 department 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 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 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 "race-

horse" 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 on forms available from the department and shall be returned to the department no later than 60 days before the license year for which application is being made.

(b) To be timely, applications, if mailed, must be postmarked no later than 60 days before 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 60 days before the license year for which application is being made. Late applica-

tions 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 15 days before the license year for which application is being made, unless there are circumstances that may prevent the applicant from being a licensed as a commercial fisher on the first day 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; am. (1) (intro.), (2) (intro.), (b) 1.c, (bg) 2. and (br) 2., Register, July, 1999, No. 523, eff. 8-1-99; CR 09-016: am. (2) (a) 2. (intro.) and (3) (a) to (c), cr. (2) (a) 3. Register January 2010 No. 649, eff. 2-1-10; corrections in (2) (a) 2. (intro.) and 3. made under s. 13.92 (4) (b) 1., Stats., Register January 2010 No. 649.

**Note:** See the table of Appellate Court Citations for Wisconsin appellate cases citing s. NR 25.07.

**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) (a) 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.

(b) 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 department. Such review and approval or denial shall occur within 20 business days after receipt by the department of a complete transfer request. The department shall notify the appropriate commercial fishing board of any transfer denial.

**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; am. (5), Register, July, 1999, No. 523, eff. 8-1-99; correction in (2t) made under s. 13.93 (2m) (b) 1., Stats., Register, July, 1999, No. 523, eff. 8-1-99.

**Note:** See the table of Appellate Court Citations for Wisconsin appellate cases citing s. NR 25.08.

**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 inch stretch measure.

(ah) *Gill nets* – 2 3/8 inch. With a mesh size of not less than 2 3/8 inch and not more than 3 inch 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 and the top maitre cord or float line is at least 12 feet (2 fathoms) below the surface of the water.

(am) *Gill nets* – 4 7/16 inch. With a mesh size of not less than 4 7/16 inch 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 7/16 inch and greater which may be set by commercial fishers shall be determined by the department according to this subdivision 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 7/16 inch 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.

d. The 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.

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:

Individual Lake Trout Quota x 1000

Period 1 CPE

period 2 allowable gill net effort:

[Unused Effort Period 1] [Period 1 CPE]

Period 2 CPE

period 3 allowable gill net effort:

[Unused Effort Period 2] [Period 2 CPE]

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 (2) or (5).

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 deter-

mined 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 subd. 3.

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 or fleet reporting 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, except as authorized by the department in a permit issued under sub. (6).

7. May not be set or placed within  $\frac{1}{4}$  mile shoreward of the pot and lead of any entrapping net, except that if a trap net is set within  $\frac{1}{4}$  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.

(as) *Gill net marking requirements.* Shall be legibly marked on each float or on each lead with the license number or fleet reporting number of the commercial fishing license holder to whom it belongs.

(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  $\frac{1}{2}$  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 if the mesh covering the top of the hearts of the nets is less than 14 inch 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.

10. May not be placed or operated within 1 mile of a designated trout stream.

11. Shall each be marked and maintained with 2 flags, one above the other, on a single staff attached to the inside or shallow lead end of the net, one flag on a staff attached to the pot or lifting buoy, one flag on a staff attached to the anchor at the outward end of the king line, and one float measuring a minimum of 5 inches in diameter attached to the anchor at the outward end of each net wing. All staffs shall be marked with reflective tape. All flags shall measure not less than 9 inches high by 18 inches wide and shall be displayed so that the top edge of the flag is not less than 5 feet above the water, except that the lower of 2 flags on one staff shall be displayed so that the bottom edge is not less than 3 feet above the water. Two flags displayed on one staff shall be separated by not less than 6 inches. All floats and all flags except the flag attached to the king line anchor shall be of a highly visible color commonly referred to as hunter orange or blaze orange with a color range between 595 nm and 605 nm. The flag attached to the king line anchor shall be a dark color other than orange. The license number or fleet reporting number of the commercial fishing license holder to whom each net belongs shall be displayed and maintained in legible, block figures at least 1 inch high on the bowl of the pot or lifting buoy. Flags are not required October 16 through April 14.

(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  $1\frac{3}{4}$  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  $2\frac{3}{8}$  inch and not more than  $2\frac{1}{2}$  inch stretch measure not exceeding 60 meshes in depth in southern Green Bay only.

3. With a mesh size of not less than  $2\frac{3}{8}$  inch and not more than  $2\frac{3}{4}$  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  $2\frac{1}{2}$  inch and not more than  $2\frac{3}{4}$  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  $4\frac{1}{2}$  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  $4\frac{1}{2}$  inch and not more than  $6\frac{1}{2}$  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  $135^\circ$  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 inch 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 under each license 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 2¾ 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 2¾ 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 under each license, that being the maximum number of pots or cribs 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 150 feet (25 fathoms) deep and from June 29 to Labor Day south of a line extending from the Lake Michigan shoreline along 44°52'30" north latitude only when entire net, including the lead, is set, placed or operated in water not more than 150 feet (25 fathoms) or less than 60 feet (10 fathoms).
  - b. No more than 12 pound nets and trap nets in aggregate may be used under each license, that being the maximum number of pots or cribs allowed, except that from June 29 to Labor Day no more than 3 pound nets and trap nets in aggregate may be used under each license in the waters of Lake Michigan lying south of a line extending from the Lake Michigan shoreline along 44°52'30" north latitude.
  - 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 between a line extending from the Lake Michigan shoreline along 44°52'30" north latitude and a line extending from the Lake Michigan shoreline along 44°8'55" north latitude, between a line extending from the Lake Michigan shoreline along 44°5'33" north latitude and a line extending from the Lake Michigan shoreline along 43°40'50" north latitude, and south of a line extending from the Lake Michigan shoreline along 43°34'39" 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.
  - f. Shall each be marked and maintained with 2 flags, one above the other, on a single staff attached to the inside or shallow lead end of the net, one flag on a staff attached to the pot or lifting buoy, one flag on a staff attached to the anchor at the outward end of the king line, and one float measuring a minimum of 5 inches in diameter attached to the anchor at the outward end of each net

wing. All staffs shall be marked with reflective tape. All flags shall measure not less than 9 inches high by 18 inches wide and shall be displayed so that the top edge of the flag is not less than 5 feet above the water, except that the lower of 2 flags on one staff shall be displayed so that the bottom edge is not less than 3 feet above the water. Two flags displayed on one staff shall be separated by not less than 6 inches. All floats and all flags except the flag attached to the king line anchor shall be of a highly visible color commonly referred to as hunter orange or blaze orange with a color range between 595 nm and 605 nm. The flag attached to the king line anchor shall be a dark color other than orange. The license number or fleet reporting number of the commercial fishing license holder to whom each net belongs shall be displayed and maintained in legible, block figures at least 1 inch high on the bowl of the pot or lifting buoy. Flags are not required October 16 through April 14.

- g. For legal fish species in Lake Michigan and Green Bay.
    - (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 1½ 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.
  - (c) Upon finding that a net has been lost, stolen or is missing, the owner or operator of the net shall immediately inform the department by notifying a department conservation warden. A net owner or operator who recovers a lost, stolen or missing net shall also immediately notify a department conservation warden of the recovery of the net.
  - (d) A commercial fisher who is engaged in fleet reporting shall display the fleet reporting number issued by the department on the buoys of all nets operated under the fleet reporting program of s.



NR 25.135 in place of the individual commercial fishing license numbers.

(e) 1. All gill nets in the water and marked with a commercial fishing license number or a fleet reporting number shall count toward the total allowable gill net effort authorized under sub. (1) (am) or the linear feet of nets authorized under sub. (2) (a) 9.

2. All entrapment gear in the water and marked with a commercial fishing license number or fleet reporting number shall count toward the total allowable number of nets under subs. (1) (b) 3. and (2) (b) 1. b. and 2. b., whether the pots are open or closed.

(4) NET MESH MEASUREMENT. Whenever the size of mesh of any net is specified in this chapter, the size shall be considered stretch measure.

(a) Stretch measure shall be determined by exerting a one pound strain on a mesh knot and measuring the mesh opening immediately above that knot on which the strain is applied from the inside edge of that knot to the inside edge of the knot directly opposite. Measurement shall be made by inserting the measuring device at the uppermost knot in the mesh and reading at the lowermost knot.

(b) The weight and measuring devices to be used under par. (a) shall be tested, approved and certified by the Wisconsin department of 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.

(6) LAKE SUPERIOR OPEN WATER PERMIT. The department may issue a permit authorizing the setting of nets from a boat or watercraft in the waters of Lake Superior for specific time periods during the period of January 15 to March 31 if it determines that open water conditions exist and weather forecasts predict that there will be adequate time to recover the nets prior to ice formation.

**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. b.m. 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. b.m., 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 and renumbering of (1) (a) 1. to 5. to be (1) (ad), (ah), (am), (ar) and (av) made under s. 13.93 (2m) (b) 1., 2. 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; am. (2) (b) 2. a., Register, April, 1999, No. 520, eff. 5-1-99; CR 01-115: am. (2) (b) 2. a. and e., Register February 2002 No. 554, eff. 3-1-02; CR 02-096: am. (1) (ah) 3., r. (1) (am) 3. c., cr. (1) (as) Register April 2003 No. 568, eff. 5-1-03; CR 02-143: am. (2) (b) 2. a., b. and e. Register September 2003 No. 573, eff. 10-1-03; CR 03-106: cr. (2) (b) 2. f. Register July 2004 No. 583, eff. 8-1-04; CR 05-115: am. (1) (am) 3. d. and (b) 7. Register July 2006 No. 607, eff. 8-1-06; CR 08-060: am. (1) (am) 5., 6., (as), (2) (a) 9., (b) 1. b., 2. b. and f., cr. (2) (b) 2. g., (3) (c), (d), (e) and (6) Register June 2009 No. 642, eff. 7-1-09; correction in (1) (am) 3. f. made under s. 13.92 (4) (b) 7., Stats., Register June 2009 No. 642; correction in (1) (am) 4. made under s. 13.92 (4) (b) 7., Stats., Register January 2010 No. 649; CR 11-008: cr. (1) (b) 11., am. (2) (b) 2. a., f. Register November 2011 No. 671, eff. 12-1-11.

**Note:** See the table of Appellate Court Citations for Wisconsin appellate cases citing s. NR 25.09.

**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 entrapment 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 at N46°43.708', W90°48.587', then extending northeasterly to the southernmost point of Madeline island in section 6, township 49 north, range 4 west at N46°45.150', W90°34.500', then due east to the western boundary of Gull Island Shoals refuge as described in s. NR 26.23 (1) (a), then southerly along the refuge boundary to latitude N46°40' at N46°400', W90°37.910', then due west to the mainland shoreline commonly known as Long Island, 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) (ah) 3. may be fished from October 15 to December 31, a minimum distance of  $\frac{1}{2}$  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 at N46°45.150', W90°47.241' to the western boundary of the Gull Island Shoals refuge at N46°45.150', W90°34.500', as described in s. NR 26.23 (1) (a), and a line extending from the east end of Hagen road along latitude N46°47.274' 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 at N46°47.274', W90°33.071', all in Ashland county, from June 1 through August 31.

9. Those waters less than 35 fathoms lying north of latitude 46° 59.3' refuge line, in grids 1212, 1312 and east of longitude 90° 25' and south of latitude 47° 05' in grids 1311 and 1211.

(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) (ah) 3. may be fished under the ice only, gill nets of not less than  $\frac{4}{16}$  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  $1\frac{3}{4}$  inch stretch measure may be fished for smelt and herring under the ice, but must be at least  $\frac{1}{2}$  mile from the mouth of any trout stream, and entrapment gear for smelt 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  $\frac{1}{4}$  SE  $\frac{1}{4}$ , 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 at N45°05.049', W87°35.810', and running southeasterly to the most southern point of Seagull bar in section 15 at N45°04.154', W87°34.536', then along the north or east shoreline of Seagull bar to the Red Arrow park public boat landing located in section 9 at N45°05.233', W87°35.225', all in township 30 north, range 24 east, Marinette county.

**Note:** All latitude and longitude coordinates are expressed in degrees and minutes.

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 at N44°37.558', W88°00.575', and following the south or west shore of Long Tail point to its southernmost point at N44°35.126', W87°58.908', then easterly 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 at N44°32.363', W88°00.395' on the west bank of the Fox river in section 19, township 24 north, range 21 east, all in Brown county.

**Note:** All latitude and longitude coordinates are expressed in degrees and minutes.

8. That portion of southern Green Bay lying south or east of a line beginning at the mouth of Renard creek located in SW  $\frac{1}{4}$  NW  $\frac{1}{4}$ , section 21, township 26 north, range 23 east at N44°42.837', W87°43.251', Door county, and running southwesterly to the east end of the concrete sea wall located at the end of Point Comfort road in SW  $\frac{1}{4}$  SE  $\frac{1}{4}$ , section 20, township 25 north, range 22 east, Brown county at N44°37.180', W87°51.307'.

**Note:** All latitude and longitude coordinates are expressed in degrees and minutes.

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, and north of a line extending east from the entrance of Kewaunee harbor at N44°27.459', W87°29.522' 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 proceeding east along 44°32' north latitude to

the Wisconsin-Michigan state line, except as provided under pars. (c), (d), (f) and (g).

**Note:** All latitude and longitude coordinates are expressed in degrees and minutes.

(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 at N44°36.405', W87°25.769' 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 at N44°36.405', W87°25.769', then proceeding west along that line to the point of beginning.

**Note:** All latitude and longitude coordinates are expressed in degrees and minutes.

(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.

(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

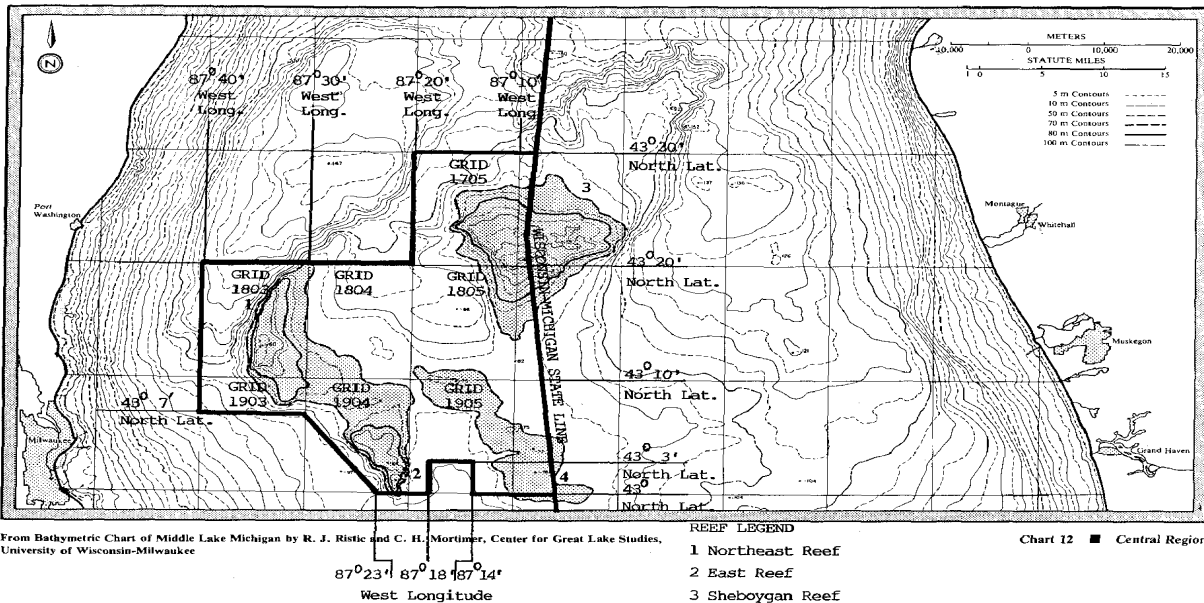
feet) deep in the area between a line extending east from the end of the north pier at Algoma at N44°36.415', W87°25.760' and a line extending east from the entrance of Kewaunee harbor at N44°27.450', W87°29.500'.

(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.

**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 following 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.

**Note:** District directors are now known as regional directors.

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. 498, eff. 7-1-97; cr. (2) (i), Register, December, 1998, No. 516, eff. 4-1-99; CR 01-115: am. (2) (b), r. (2) (e), Register February 2002 No. 554, eff. 3-1-02; CR 05-115: am. (1) (b) 9. Register July 2006 No. 607, eff. 8-1-06; CR 08-060: am. (1) (b) 3., 8., (c), (2) (a) 6. to 8., (b), (c) and (f) Register June 2009 No. 642, eff. 7-1-09.

**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 employee 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)** SIGNATURE. All commercial fishing reports shall be signed by the commercial fishing licensee under whose license the fish were taken.

(2) LAKE SUPERIOR REPORTING. Except as provided under sub. (4), each person required to be licensed pursuant to s. 29.519 (1m), 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 the person's 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 all records of harvest, harvest effort and all other information called for on the report form.

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

(c) All department copies of biweekly report forms issued to a person for the license year and not previously submitted by the person shall be returned by the person 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) LAKE MICHIGAN REPORTING. Except as provided under sub. (4), each person required to be licensed pursuant to s. 29.519 (1m), Stats., to conduct commercial fishing operations on Lake Michigan 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 the person's 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 all records of harvest, harvest effort and all other information called for on the report form.

(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 or fleet reporting 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.

(4) **DEADLINE.** For a person required to be licensed under s. 29.519 (1m), Stats., the biweekly reporting requirements of sub. (2) or (3) shall apply until July 1, 2010, or until the person elects to report pursuant to sub. (5), whichever occurs first. Beginning July 1, 2010, all persons required to be licensed under s. 29.519, Stats., shall comply with the electronic reporting requirements of sub. (5).

(5) **ELECTRONIC REPORTING.** Beginning July 1, 2010, each person required to be licensed under s. 29.519 (1m), Stats., to engage in commercial fishing on Lake Superior or Lake Michigan shall report daily fishing activity to the department by means of the electronic fish reporting system as follows:

(a) The person shall use a portable electronic reporting unit provided by the department, subject to the following conditions:

1. The person shall exercise reasonable care to prevent loss, destruction or damage to the portable electronic reporting unit. Some examples of unreasonable damage include preventable damage caused by submersion, undue exposure to moisture and physical damage rendering the unit unusable for its intended purpose.

2. Unless otherwise authorized by the department, once the person starts reporting daily fishing activity under this subsection, the person may not engage in commercial fishing activities unless in possession of a functioning portable electronic reporting unit issued to the person by the department.

3. The person shall immediately notify the department if the unit issued to that person malfunctions or is damaged or lost. The department shall promptly replace the malfunctioning, damaged or lost unit with a replacement unit. After notifying the department that the person's portable electronic reporting unit is malfunctioning, lost or damaged, the person may continue to engage in commercial fishing activities without possessing a functioning portable electronic reporting unit until the replacement unit arrives, provided that the person follows the procedures of par. (c) 2., 3. and 4. Upon receiving the replacement unit, the person shall enter all required daily fishing activity information and submit it electronically to the department as required under par. (d) 2. The person shall deliver or arrange shipment of the malfunctioning or damaged unit back to the department as directed by the department.

4. Unless the department determines that unavoidable circumstances prevented the person from complying with subd. 1., the person is responsible for reimbursing the department for the actual replacement cost for any unit lost, destroyed or suffering unreasonable damage as determined by the department. The person shall reimburse the department within 30 days of being notified of the reimbursement obligation by the department. Except as provided in par. (b), or unless otherwise authorized by the department, no person may engage in commercial fishing operations until the department has been reimbursed for the cost of the replacement unit. Each day fishing in violation of this subdivision constitutes a separate violation.

(b) A person who is notified that he or she is responsible for reimbursing the department for the replacement cost for any unit may seek a hearing before the department by filing a petition with the department within 30 days after the date of the notice. The petition shall set forth specifically why the damage or loss was not preventable, the reasons why a hearing is warranted and the relief desired. Following receipt of a complete petition, the department

shall hold a hearing after at least 10 days' notice. The hearing shall be a contested case under ch. 227, Stats. At the beginning of the hearing the petitioner shall present evidence in support of the relief sought in the petition. Following the hearing the department's action may be affirmed, modified or withdrawn. Until a decision is issued by the department following the hearing, the person may engage in commercial fishing provided that the person has a functioning replacement portable electronic reporting unit issued by the department, or is authorized under par. (a) 3. to engage in commercial fishing activities without possessing a functioning portable electronic reporting unit.

(c) The special reporting requirements of this paragraph apply to fishing on Lake Michigan.

1. The commercial fisher, or a member of the commercial fisher's crew if the commercial fisher is not available, shall carry the portable electronic reporting unit while fishing on Lake Michigan, and after completing the last net lift, but before starting for shore, shall enter and save the estimated weight in pounds of each fish species caught by zone for each fishing trip. The portable electronic reporting unit shall accompany the fish to dock or shore, and shall be immediately produced for inspection and verification of entered data upon the request of a department representative.

2. If the estimated weight in pounds cannot be entered or saved due to mechanical failure or other problems associated with the portable electronic reporting unit, the commercial fisher or crew member shall immediately notify the department of the problem and orally provide the date, licensee's name, commercial fishing license number or fleet reporting number, boat name, zone of fishing and the estimated weight in pounds of the fish by species by calling a department designated telephone number after completing all net lifts and before bringing the catch to dock or shore for each fishing trip.

3. If the estimated weight in pounds cannot be entered or saved due to mechanical failure or other problems associated with the portable electronic reporting unit, and the commercial fisher or crew member is unable to reach the department designated telephone number, the commercial fisher or crew member shall complete a report on a form available from the department, upon the completion of the last lift, but before starting for shore for each fishing trip. The report shall include the date, licensee's name, commercial fishing number or fleet reporting number, boat name, zone of fishing and the estimated weight in pounds of the fish by species, and the signature of the individual completing the form. 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. The report shall be presented to a department representative upon request and shall be retained as part of the commercial fisher's records under s. 29.519 (5), Stats.

4. Upon reestablishing the functionality of the electronic reporting unit, the licensee shall enter the estimated catch for the date under subd. 2. or 3. and submit it electronically to the department as required under par. (d) 2.

(d) Except as provided in par. (e), by the end of the day, the commercial fisher or a crew member of the commercial fisher shall:

1. Weigh the pounds of landed catch.

2. Log on to the electronic fish reporting system by computer or hooking up the portable electronic reporting unit as required by the department and enter and submit all the daily fishing activity information required on the electronic form. The report of daily fishing activity shall include the complete name, address and commercial fishing license number or fleet reporting number of the commercial fisher; the name or number of the boat fished from; the location fished; the date of each day's fishing activity; the kind and amount of commercial fishing gear used; the weight

in pounds of each species of fish or fish parts landed; and any other information required on the electronic form.

3. Every 2 weeks, the commercial fisher shall print and sign the printed biweekly confirmation report of daily fishing activity generated by the electronic reporting system and keep the report as part of his or her commercial fishing records required under s. 29.519 (5), Stats.

(e) When the landed catch cannot be weighed by the end of the day, the commercial fisher or crew member shall call a department designated telephone number before the end of the day and notify the department of the commercial fisher's name, commercial fishing license number or fleet reporting number, species of fish and that the landed catch cannot be weighed and reported until the next day.

(f) The special electronic reporting requirements of this paragraph apply to fishing with trawls.

1. After the last lift of the trip and prior to returning to dock or port, a commercial fisher or crew member fishing by trawl shall record the estimated weight in pounds of fish harvested by species and zone as provided under par. (c).

2. By the end of the day, the commercial fisher or crew member fishing by trawl on the waters of Green Bay shall report to the department, as provided under par. (d), including the landed pounds of smelt and pounds of incidental catch as authorized by s. 29.519 (4m) (b), Stats.

3. A commercial fisher or crew member fishing by trawl on the waters of Lake Michigan other than Green Bay, within 24 hours of landing the catch on all days except non-work days and days immediately preceding non-work days, shall electronically report to the department as provided under par. (d), the landed pounds of chubs and roe intended for human consumption, pounds of smelt and pounds of incidental catch as authorized by s. 29.519 (4m) (b), Stats. When trawl caught fish are landed on days that immediately precede non-work days and on non-work days, the commercial fisher or crew member shall report the landed catch within 48 hours of the estimated catch entry.

(g) No commercial fisher, crew member or agent may transport or cause to be transported, or deliver or receive or offer to deliver or receive for transportation to a location outside of Wisconsin, any fish or fish parts taken from outlying waters, unless the fish have been reported as part of a weighed catch as required under this section, unless otherwise authorized in writing by the department.

**(6) FISH INTENDED FOR HUMAN CONSUMPTION.** The weight in pounds of any fish that in whole or in part is ultimately used for or intended for human consumption shall be reported as part of the commercial fisher's individual catch quota harvest or chub zone permit harvest by the commercial fisher who caught it.

**(7) DISPOSITION RECORDS.** Each commercial fisher shall maintain a printed disposition record in the English language of all fish harvested by the commercial fisher as required by s. 29.519 (5) (a) and (c), Stats., that includes all of the following:

(a) The complete name, address and commercial fishing license number of the commercial fisher.

(b) For each wholesale sale, each retail sale over 15 pounds and each donation over 15 pounds: the complete name, address and wholesale fish dealer license number, if any, of the buyer or recipient; the weight in pounds of each species of fish; condition of the fish and the date of each sale or donation.

(c) For each retail sale of 15 pounds or less and donation of 15 pounds or less, the condition of the fish, weight in pounds of each species of fish and the date of each sale or donation.

(d) For fish spoiled or otherwise destroyed or utilized, the condition of the fish, weight in pounds of each species of fish and the date of disposal or utilization.

**(8) UNRECORDED OR UNREPORTED FISH.** No person may possess, control, transport or cause to be transported any fish which

has not been recorded or reported as required under ss. 29.503 and 29.519, Stats., and this chapter.

**(9) ANNUAL INVENTORY.** (a) Each commercial fisher required to be licensed under s. 29.519 (1m), Stats., shall complete an annual inventory of fish in possession, ownership or under control, including fish in cold storage facilities, and report that inventory to the department within 15 days of completion as required under s. 29.519 (5m), Stats. The inventory report shall be on forms available from the department and shall include the species, condition and weight in pounds of fish, the location of the fish by street address, date of the inventory, the commercial fishing license number or fleet reporting number, signature of the licensee and any other information required on the inventory report form.

(b) No later than 30 days after July 1, 2009, each commercial fisher shall complete the inventory required by par. (a) and submit the inventory report to the department. At the time the initial inventory report is submitted to the department, the commercial fisher shall also designate and advise the department of the month and day in which future annual inventory reports will be submitted. The licensee shall thereafter complete the annual inventory within 10 working days preceding that designated month and day.

(c) Within 30 days after the transfer of a commercial fishing license, the transferee shall complete an inventory of fish and submit an inventory report as required under par. (a). At the time the inventory report is submitted, the transferee shall designate and advise the department of the month and day on which the transferee will subsequently submit the annual inventory report. The transferee shall thereafter complete the annual inventory within 10 working days preceding that designated month and day.

(d) Upon written request to the department, a licensed commercial fisher may request a change in the date of the designated annual inventory report submittal. The effective date for the change may not be more than 15 months from the previous designated inventory report submittal date. A change in the annual inventory report submittal date may not be requested more than once per 12 months.

(e) A commercial fisher who does not possess, own or control any Great Lakes fish or sturgeon on the date of the annual inventory shall submit the inventory report to the department as required by pars. (a) and (b) indicating that the commercial fisher does not have any Great Lakes fish or sturgeon in possession, ownership or under control, including in cold storage facilities on the date of the inventory.

**(10) HIGH VALUE SPECIES.** In addition to the reporting requirements contained in subs. (2) to (4), when fishing for a high value species, each commercial fisher or designated crew member shall file a float plan each day prior to the start of the day's fishing activity by calling a department designated telephone number.

**(11) ENHANCED REPORTING.** In addition to the reporting requirements contained in subs. (1) to (4), any person convicted of 2 or more violations of s. 29.503 or 29.519, Stats., or this chapter is subject to the enhanced reporting requirements of this section in addition to any court-ordered penalties, at the following levels:

(a) For conviction of harvesting more than 1,000 pounds of fish in excess of the person's annual quota, failing to report more than 2,000 pounds of catch during a 12-month period, fishing during the closed season, or possessing 200 pounds or more of fish in violation of ch. 29, Stats., or this chapter, the commercial fisher or designated crew member shall file a float plan each day prior to the start of the day's fishing activity by calling a department designated telephone number.

(b) For 3 or more violations of s. 29.503 or 29.519, Stats., or this chapter within a 36-month period, the commercial fisher or designated crew member shall file a float plan each day prior to the start of the day's fishing activity by calling a department designated telephone number.

(c) For more than 5 violations of s. 29.503 or 29.519, Stats., or this chapter within a 36-month period or 3 or more violations of s. 29.503 or 29.519, Stats., or this chapter within a 12-month period, in addition to the requirements of par. (b), upon returning to the dock, the commercial fisher or crew member shall weigh the catch not more than 30 minutes after landing and prior to loading or moving the fish from the dock or landing site, and enter and save the species and weight in pounds of the fish in the portable electronic reporting unit. If the actual weight in pounds of the fish is entered and saved in the portable electronic reporting unit prior to returning to shore, the commercial fisher or crew member is exempt from this paragraph.

(d) In the event that the weight of the fish cannot be entered or saved due to mechanical failure or other problems associated with the portable electronic reporting unit:

1. The commercial fisher or crew member shall immediately notify the department of the problem and verbally provide the date, time, licensee's name, commercial fishing license number or fleet reporting number, boat name, zone of fishing and the weight in pounds of fish by species by calling a department designated telephone number.

2. If the commercial fisher or crew member is unable to reach the department designated telephone number, the commercial fisher or crew member shall immediately complete a report on a paper form available from the department upon weighing the fish, but before loading the fish for transport. The report shall include the date, licensee's name, commercial fishing license number or fleet reporting number, boat name, zone of fishing and the weight in pounds of the fish by species and grid, and the signature of the individual completing the report. The report shall be presented to a department representative upon request and shall be retained as part of the commercial fisher's records under s. 29.519 (5), Stats.

3. Upon reestablishing the functionality of the electronic reporting unit, the licensee shall enter the weighed catch and other requested daily fishing activity data for the date and submit it electronically to the department as required under sub. (5) (c).

(e) A commercial fisher shall remain under the enhanced reporting requirements of this subsection for a period of 24 months from the date of conviction of the offense triggering this subsection.

**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; CR 08-060: cr. (1) (title), (3) (title), (4) to (11), am. (2), (3) (intro.) to (b) Register June 2009 No. 642, eff. 7-1-09; corrections in (4) and (5) (c) 4. made under s. 13.92 (4) (b) 2. and 7., Stats., Register June 2009 No. 642.

**Note:** See the table of Appellate Court Citations for Wisconsin appellate cases citing s. NR 25.13.

**NR 25.135 Fleet reporting programs.** (1) **FLEET REPORTING FOR LAKE SUPERIOR.** (a) The department may authorize a person who holds more than one license under s. 29.519 (1m) (a), Stats., and s. NR 25.03 (1) (a) 3. for commercial fishing on Lake Superior to participate in a fleet reporting program involving those licenses if the person applies for fleet reporting on a form available from the department in accordance with s. NR 25.03 (3) prior to the start of the license year.

1. The application shall include the person's name, commercial fishing license numbers, descriptions of the boats to be included in the fleet reporting program, and the order of the licenses to which the person's daily reported catch will be credited until the minimum production criteria of s. NR 25.03 (1) (b) are met for each license.

2. All commercial fishing licenses held by the person shall be included in the fleet reporting program.

(b) The allowable gill net effort authorized under s. NR 25.09 (1) (am) and the number of nets authorized under s. NR 25.09 (1) (b) 3. for any license included in a person's fleet reporting pro-

gram may be used for commercial fishing operations under the other licenses included in that person's fleet reporting program.

(2) **FLEET REPORTING FOR LAKE MICHIGAN.** (a) The department may authorize a person who holds more than one license under s. 29.519 (1m) (a), Stats., and s. NR 25.03 (2) (am) for commercial fishing on Lake Michigan to participate in a fleet reporting program involving those licenses if it determines that all of the following conditions are met:

1. The person applies for fleet reporting on a form available from the department in accordance with s. NR 25.03 (3) prior to the start of the license year and the application includes all of the following:

a. The person's name, commercial fishing license numbers and descriptions of the boats to be included in the fleet reporting program.

b. For each license, a description of the individual catch quotas, by species and zone, "racehorse" chub fishing permits or "racehorse" smelt fishery permits to be included in the fleet reporting program.

c. The order of the licenses to which the person's daily reported catch will be credited until the minimum production criteria of s. NR 25.03 (2) (b) are met for each license.

d. After the minimum production criteria of s. NR 25.03 (2) (b) are met for all of the person's licenses, either the percentages of the person's daily reported catch, by species and zone, that will be credited to each license, until the applicable individual catch quotas under each license are reached, or the applicable "racehorse" fisheries close, or the order of the licenses to which all of the daily reported catch, by species and zone, will be applied until the applicable individual catch quota under each license is reached or the applicable "racehorse" fisheries close.

2. The person holds or will hold individual allocated quotas of sufficient size or "racehorse" chub fishing permits or "racehorse" smelt fishery permits under each license to allow the person to meet the minimum production criteria of s. NR 25.03 (2) (b) independently for the issuance of each license.

3. All commercial fishing licenses held by the person are included in the fleet reporting program.

(3) **FLEET REPORTING NUMBER.** Upon approval of a person's fleet reporting program under sub. (1) or (2), the department shall issue a fleet reporting number for the person's use in place of commercial fishing license numbers to identify commercial fishing gear under s. NR 25.09 (1) and (2) and in reports under s. NR 25.13.

(4) **QUOTA TRANSFERS LIMITED.** In addition to any other transfer limitations, individual catch quotas may not be transferred between the person's licenses included in a fleet reporting program except in conjunction with license applications under s. NR 25.03 (3) prior to the start of the license year.

(5) **CREW.** Crew members licensed under s. 29.519 (4), Stats., to engage in commercial fishing for a person whose fleet reporting program has been approved under sub. (1) or (2) may engage in commercial fishing activities for the person under the person's other commercial fishing licenses without being specifically listed as crew members under the person's other licenses.

(6) **BOATS.** Boats authorized under any license included in a person's fleet reporting program approved under sub. (1) or (2) may be used for commercial fishing operations under the other licenses included in that person's fleet reporting program without being specifically authorized under the person's other licenses and without any additional fee.

(7) **NETS.** The linear feet of nets authorized under s. NR 25.09 (2) (a) 9. and the number of nets authorized under s. NR 25.09 (2) (b) 1. b. and 2. b. for any license included in a person's fleet reporting program approved under sub. (2) may be used for commercial fishing operations under the other licenses included in that person's fleet reporting program.

**(8) LICENSE TRANSFERS.** A person authorized to participate in fleet reporting under sub. (1) or (2) who obtains a commercial fishing license by transfer shall add the transferred commercial fishing license to the person's fleet reporting plan at the time that the license transfer is approved by the department. A person authorized to participate in fleet reporting under sub. (1) or (2) who transfers a commercial fishing license shall remove the transferred commercial fishing license from the person's fleet reporting plan at the time that the license transfer is approved by the department.

**(9) WITHDRAWAL FROM FLEET REPORTING.** A person participating in a fleet reporting program may withdraw from the program by providing written notice to the department. The notice shall include the person's name, address, fleet reporting number, commercial fishing license numbers, a statement indicating the person's desire to withdraw from the program, signature and date of signature. The withdrawal from the fleet reporting program shall take effect at the end of the license year.

**History:** CR 08-060: cr. Register June 2009 No. 642, eff. 7-1-09; CR 09-016: am. (1) (a) 1. Register January 2010 No. 649, eff. 2-1-10.

**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.

**(3)** Unless otherwise authorized by the department, no person may raise, remove or otherwise tamper with another person's commercial fishing gear set in any water. This restriction does not apply to agents of the department or to a person licensed as a crew member for the person whose gear the licensed crew member is raising, removing or otherwise tending.

**(4)** Unless authorized by the department, no commercial fisher licensed by the department under s. 29.519 (1m), Stats., may do any of the following:

(a) Operate or allow any of the commercial fisher's crew members to operate any boat listed on the commercial fisher's license if there are any lake trout tags on board the boat that were not issued by the department to a department-licensed commercial fisher.

(b) Allow any boat listed on the commercial fisher's license to be used for setting, removing, raising or otherwise tending any net that was not placed by a department-licensed commercial fisher in accordance with s. NR 25.09.

(c) Allow any of the commercial fisher's nets that are marked or identified as department-licensed nets to be used by any person who is not a commercial fisher licensed by the department under s. 29.519 (1m), Stats., or who is not the commercial fisher's crew member.

**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; CR 08-060: cr. (3) and (4) Register June 2009 No. 642, eff. 7-1-09.

**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 and identification.

**(1) IMPORTING FOREIGN LAKE TROUT.** (a) No person may import or cause to be imported into Wisconsin any foreign lake trout by means of a boat authorized to be used under a license issued pursuant to s. 29.519 (1m), Stats.

(b) No wholesale fish dealer or producer of fish may sell, buy, barter, trade, possess, control, transport or cause to be transported any domestic lake trout unless the fish is tagged with a valid, current commercial fish tag issued or authorized by the department. The tag shall be attached through the gills and mouth of whole or dressed lake trout. Producers of fish and their crew members may not possess filleted or chunked domestic lake trout on the ice or on board a boat.

(c) 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) FILLETED, PORTIONED OR SMOKED DOMESTIC LAKE TROUT.** Lawfully possessed domestic lake trout which are intended for smoking, portioning or filleting may have the tags removed immediately prior to smoking, portioning or filleting.

**(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 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; CR 08-060: am. (title), (1) (title), (a), (2) (title) and (3) (b), r. and recr. (1) (b), r. (1) (c) to (e) and (2) (b) to (e), renum. (1) (f) and (2) (a) to be (1) (c) and (2) and am., Register June 2009 No. 642, eff. 7-1-09.

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

**(2) ANNUAL INVENTORY.** (a) Each wholesale fish dealer shall complete an annual inventory of Great Lakes fish and all species of sturgeon in possession, ownership or under control, including in cold storage facilities, and report that inventory to the department within 15 days of completion as required under s. 29.503 (5) (br), Stats. The inventory report shall be on forms available from the department and shall include the species, condition and weight of fish, the location of the fish by street address, date of the inventory, wholesale fish dealer license number, signature of the licensee and any other information required on the inventory report form.

(b) No later than 30 days after July 1, 2009, each wholesale fish dealer shall complete the inventory required by par. (a) and submit the inventory report to the department. At the time the initial inventory report is submitted, the wholesale fish dealer shall designate and advise the department of the month and day in which future annual inventory reports will be submitted. The wholesale fish dealer shall thereafter complete the inventory on an annual basis within 10 working days preceding that designated month and day.

(c) Within 30 days after receipt of a new wholesale fish dealer license, the wholesale fish dealer shall complete an inventory of fish and submit an inventory report as required under par. (a). At the time the inventory report is submitted, the wholesale fish dealer shall designate and advise the department of the month and day in which future inventory reports will be submitted. The wholesale fish dealer shall thereafter complete the inventory on an



annual basis within 10 working days preceding that designated month and day.

(d) Upon written request to the department, a wholesale fish dealer may request a change of the designated date for the annual inventory report submittal. The effective date for the change may not be more than 15 months from the previous designated inventory report submittal date. A change in the annual inventory report submittal date may not be requested more than once per 12 months.

(e) A wholesale fish dealer who does not possess, own or control any Great Lakes fish or sturgeon on the date of the inventory shall submit the inventory report to the department as required by pars. (a) and (b) indicating that the wholesale fish dealer does not have any Great Lakes fish or sturgeon in possession, ownership or under control, including in cold storage facilities on the date of the inventory.

**History:** Emerg. cr. eff. 4-22-86; cr. Register, October, 1986, No. 370, eff. 11-1-86; CR 08-060: am. (1), r. and recr. (2) Register June 2009 No. 642, eff. 7-1-09.

**NR 25.18 Landing and transportation of fish.**

(1) **LANDING OF FISH.** Fish and fish parts caught in commercial fishing operations and kept by 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 for ice fishing operations from the following Wisconsin primary or secondary ports and unloaded and transported by land, 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. Commercial fishers, crew members and their agents who do not comply with the department's written authorization shall be considered to be in violation of this section and the written authorization shall be revoked.

(a) The primary ports for Lake Superior are Bayfield (includes Bodins and Bay Fisheries docks), Cornucopia, Port Wing, Raspberry Bay, Red Cliff and Superior (Siverson's dock). The secondary ports for Lake Superior are LaPointe and Washburn.

(b) The following ports are primary ports for Lake Michigan:

1. Brown County: Suamico.
2. Door County: Baileys Harbor, Ellison Bay, Gills Rock (includes Teskie's, Weborg's and Voight's docks), Sand Bay (includes Sand Bay, Old Sand Bay and Rowley's Bay docks), Jackson Harbor (Washington Island) and Sturgeon Bay.
3. Kenosha County: Kenosha.
4. Kewaunee County: Algoma and Kewaunee.

5. Manitowoc County: Two Rivers.
6. Marinette County: Marinette (includes Menekaunee open water port).
7. Milwaukee County: Milwaukee.
8. Oconto County: Oconto and Pensaukee.
9. Ozaukee County: Port Washington.
10. Racine County: Racine.
11. Sheboygan County: Sheboygan.

(c) The following ports are secondary ports for Lake Michigan:

1. Brown County: Duck Creek, Windjammers and Green Bay.
2. Door County: Chadoir's dock, Detroit Harbor (Washington Island), Egg Harbor, Jacksonport, Murphy park, Nordheim (Washington Island), Sister Bay and Wave Pointe Resort.
3. Marinette County: Peshtigo river.
4. Oconto County: Little Suamico and Geano Beach.

(d) The following ports are secondary ice fishing only ports for Green Bay:

1. Brown County: Hook Road.
2. Door County: Ern Joy's, Oak Orchard, Pagel's Resort, Porcupine Bay, Sand Bay Resort, Sugar Creek and Waters End (at Sister Bay).
4. Marinette County: Red Arrow park, Pond Road and Leaf Road Landing.

(2) **SECONDARY PORT USE.** No commercial fisher or crew member may land fish or fish parts at a secondary port unless the commercial fisher or crew member called in a float plan each day to a department designated telephone number prior to the start of the day's fishing activity advising that the secondary port would be used.

**History:** Cr. Register, October, 1986, No. 370, eff. 11-1-86; am. Register, June, 1989, No. 402, eff. 7-1-89; CR 08-060: am. Register June 2009 No. 642, eff. 7-1-09.

**NR 25.19 Vehicle identification requirements.** As required under s. 29.503 (4) (e), Stats., no wholesale fish dealer or producer of fish may transport or cause to be transported any fish unless the transporting vehicle or boat is clearly marked on each side of the vehicle or boat with the word "FISH" in letters of block characteristic at least 4 inches high and of contrasting color with the background, and the correct business name of the wholesale fish dealer or producer of fish in letters one inch high, all in the English language.

**History:** CR 08-060: cr. Register June 2009 No. 642, eff. 7-1-09.