

Clearinghouse Rule 08-060

ORDER OF THE STATE OF WISCONSIN NATURAL RESOURCES BOARD REPEALING, RENUMBERING AND AMENDING, AMENDING, REPEALING AND RECREATING AND CREATING RULES

The Wisconsin Natural Resources Board proposes to repeal s. NR 25.16 (1) (c), (d) and (e) and (2) (b) to (e); to renumber and amend NR 25.16 (1) (f); to amend ss. NR 25.02, 25.04 (6) and (7), 25.05 (3), 25.06 (3) (intro.), 25.09 (1) (am) 6. and (2) (a) 9. and (b) 1. b. and 2. b., 25.10 (1) (b) 3. and 8., (c) and (2) (a) 6., 25.13 (2) and (3) (intro.) and (a), 25.16 (title) and (1) (title) and (a), (2) (title) and (a) and (3) (b), 25.17 (1) and 25.18; to repeal and recreate ss. NR 25.16 (1) (b) and 25.17 (2); and to create ss. NR 25.03 (1) (a) 3. and (2) (am), 25.09 (2) (b) 2. g., (3) (c), (d) and (e) and (6), 25.13 (4) to (11), 25.135, 25.14 (3) and (4) and 25.19, relating to wholesale fish dealing and commercial fishing in outlying waters and affecting small business

FH-13-08

Analysis Prepared by Department of Natural Resources

- 1. Statutes interpreted.** Sections 29.014 (1), 29.041, 29.503, 29.516, 29.519 and 29.973, Stats.
- 2. Statutory authority.** Sections 29.014 (1), 29.041, 29.503 (4) (b) and (e), 29.519 (1m) (b) and (c), (2) (d) and (5), 29.973 and 227.11 (2) (a), Stats.
- 3. Explanation of agency authority to promulgate the proposed rules under the statutory authority.** Commercial fishing harvest limits (and sport fishing bag limits) are authorized under s. 29.014 (1), Stats., which directs the department to establish and maintain any bag limits and conditions governing the taking of fish that will conserve the fish supply and ensure the citizens of this state continued opportunities for good fishing, while s. 29.041, Stats., provides that the department may regulate fishing on and in all interstate boundary waters, and outlying waters.

Section 29.503 (4) (b) and (e), Stats., require wholesale fish dealers and producers of fish who sell, buy, barter, trade, possess, control, transport, or cause to be transported any lake trout to identify the lake trout in the form and manner required by the department, and to mark any vehicle used to transport any fish in a manner prescribed by the department that identifies the vehicle's ownership and that confirms that the vehicle contains fish.

Section 29.519 (1m) (b), Stats., authorizes the department to limit the number of Great Lakes commercial fishing licenses and to designate the areas in the outlying waters under the jurisdiction of this state where commercial fishing operations are restricted. It also grants discretion to the department to establish commercial fish species harvest limits after giving due consideration to the recommendations made by the commercial fishing boards, and it specifies that the limitations on harvests must be based on the available harvestable population of fish and in the wise use and conservation of the fish, so as to prevent over-exploitation. Section 29.519 (1m) (b), Stats., also authorizes the department to promulgate rules to establish formulas for the allocation of the species harvest limits among commercial fishing licensees or for the allotment of individual licensee catch quotas. The department may designate the kind, size and amount of gear to be used in the harvest. The limitations on licenses, restricted fishing areas, harvests and gear must be based on the available harvestable population of fish and in the wise use and conservation of the fish so as to prevent overexploitation.

Under s. 29.519 (1m) (c), Stats., the department may promulgate rules defining the qualifications of licensees in the reasonable exercise of this authority, giving due consideration to residency, past record

including compliance with the records requirements, fishing and navigation ability and quantity and quality of equipment possessed.

Under s. 29.519 (2) (d), Stats., the department must promulgate rules governing the transfer of commercial fishing licenses between individuals equally qualified to hold the licenses and to members of a licensee's immediate family provided the rules assure the wise use and conservation of the fish resources being harvested under the license. These rules shall relate only to those waters in which the number of licenses is limited.

Under s. 29.519 (5), Stats., the department may require commercial fishers to keep records and make reports in the form and manner prescribed by the department

Section 29.973, Stats., requires the department to establish and maintain a commercial fish reporting system under which the department shall establish specific reporting or recordkeeping requirements that apply to any person who has committed a certain number of violations of subch. VI of ch. 29, Stats., as determined by the department; any person who holds a license issued under s. 29.519 (1m), and who is convicted of harvesting more than 1,000 pounds of fish above their annual quota, failing to report over 2,000 pounds of catch during a 12-month period, fishing during the closed season, or possessing 200 or more pounds of fish in violation of this chapter.

Finally, s. 227.11 (2) (a), Stats., expressly confers rulemaking authority on the department to promulgate rules interpreting any statute enforced or administered by it, if the agency considers it necessary to effectuate the purpose of the statute.

4. Related statutes.

- 23.09 Conservation.
- 29.539 Sale of game or fish.
- 29.563 Fee schedule.
- 29.924 Investigations; searches.
- 29.931 Seizures.
- 29.971 General penalty provisions.
- 29.973 Commercial fish reporting system.
- 29.984 Commercial fish protection surcharge.
- 29.99 Great Lakes resource surcharge.
- 29.991 Fishing net removal surcharge.

5. Plain language analysis of the proposed rule. SECTION 1 of the Order amends definitions and creates several new definitions relating to wholesale fish dealing and Great Lakes commercial fishing.

SECTIONS 2 and 3 allow an individual to hold multiple commercial fishing licenses on Lake Superior or on Lake Michigan and Green Bay.

SECTION 4 eliminates licensing criteria limiting transfers to immediate family members and persons holding non-temporary crew cards. Also, this section includes some housekeeping provisions updating and clarifying current rule language.

SECTION 5 requires commercial fishers to land and report all fish from which eggs are harvested and limits

the quantity of roe landed to a weight percentage of the fish landed. It also establishes the individual species harvest limit for a commercial fisher with multiple licenses engaged in fleet reporting as being the sum total of that person's quotas held under the individual licenses.

SECTION 6 requires commercial fishers to attach any required tags to harvested fish upon completing the last net lift and before beginning transport of the fish, instead of at the dock or shore.

SECTIONS 7 and 12 allow by permit the placement of nets during the winter months in open water on Lake Superior.

SECTIONS 8, 9, 13, 14, 15, 16, 17, 18, and 30 are housekeeping provisions to correct language, clarify use of gear and clarify the specific locations of particular lines and boundaries, and eliminates requirements for commercial fishers to submit bi-weekly sales reports to the department.

SECTION 10 creates a requirement for commercial fishers to notify a Conservation Warden of any lost or recovered commercial fishing nets and requires that nets used in a fleet reporting program be tagged accordingly.

SECTION 11 states that all nets in the water bearing a license number or fleet reporting number shall count toward the maximum number of nets allowed whether or not the net is actively fishing.

SECTION 19 requires state regulated commercial fishers on Wisconsin waters of the Great Lakes to change from a "paper" bi-weekly reporting system to a daily Electronic Fish Harvest Reporting System (EFHRS) by July 1, 2010. To allow a smooth transition to EFHRS, this section allows commercial fishers to report daily fishing activity to the department by either the current biweekly reporting system or by means of the EFHRS until June 30, 2010.

SECTION 20 implements the statutory fish harvest report requirements of s. 29.519 (5) (a) and (b), Stats., for commercial fishers and creates the related procedures for EFHRS replacing the current biweekly "paper" reporting system by July 1, 2010 for recording and reporting all elements of the Great Lakes commercial fish harvest. Included are procedures for issuance of department-owned computers to commercial fishers, specification of the commercial fishers' responsibilities for care of the computers and reimbursement obligations for loss or damage of a computer, special procedures for the reporting of estimated catch on Lake Michigan and Green Bay, and procedures for the special electronic reporting requirements for trawl catch.

SECTION 21 clarifies that the weight of all fish used or intended for use for human consumption shall be reported as part of the harvest limits or quotas of the commercial fisher.

SECTION 22 implements the statutory record keeping requirements of s. 29.519 (5) (a) and (c), Stats., for commercial fishers relating to disposition of harvested fish.

SECTION 23 makes it illegal to possess, control, transport or cause the transportation of any fish for which a record or report has not been created or been submitted to the department as required.

SECTION 24 implements the statutory requirements of s. 29.519 (5m), Stats., for outlying waters commercial fishers to submit an annual fish inventory report to the department.

SECTION 25 requires commercial fishers harvesting high value species (whitefish by fishers with quota of

less than 13,656 lbs. and yellow perch) to call in a daily float plan to the department prior to the start of daily fishing activity.

SECTION 26 implements requirements of s. 29.973, Stats., regarding enhanced reporting by persons convicted of specific commercial fishing violations. This section also requires any person convicted of specific commercial fishing violations to call in a daily float plan to the department prior to the start of daily fishing activity for a period of 24 months following conviction.

SECTION 27 creates a fleet reporting program whereby a person holding multiple commercial fishing licenses on Lake Superior or Lake Michigan and Green Bay can consolidate the quotas and fish harvested under these licenses and permits for reporting purposes. This section authorizes crew members to operate all the commercial fishing gear and vessels included under the fleet reporting number without obtaining additional crew cards for each license; requires the licensee to mark all commercial fishing nets with a common "fleet reporting number" in place of the individual license numbers; and requires the licensee to specify the allocation of the fleet reported catch between licenses for the purposes of meeting minimum production relicensing criteria and contributing to the catch history of each license.

SECTION 28 prohibits unauthorized persons from lifting or tampering with commercial fishing gear. Also, state commercial fishing licensees and their crew members are prohibited from operating a boat used by the licensee in commercial fishing under ch. NR 25 if there are any lake trout tags on board that were not issued by the department to a state licensed commercial fisher. In addition, the rule prohibits a state licensed commercial fisher from allowing his or her licensed boats to be used to tend nets that were not set by a state licensed commercial fisher, and from allowing his or her licensed nets to be used by a person who is not a state licensed commercial fisher or crew member.

SECTIONS 29, 30, 31 and 32 eliminate the mandatory inspection and tagging of foreign (imported) lake trout by Conservation Wardens upon entry of the fish into Wisconsin and prohibit the use of a boat authorized for commercial fishing operations on the Great Lakes to import foreign lake trout by water. SECTION 30 also continues the requirement for commercial fishers to tag domestic lake trout upon harvest.

SECTIONS 33, 34, 35 and 36 allow the removal of the locked tag from lawfully possessed lake trout immediately prior to preparation of the fish for smoking, portioning or filleting; and eliminates the tagging of processed lake trout with adhesive lake trout tags.

SECTION 37 implements the requirements of s. 29.503 (5) (br), Stats., that wholesale fish dealers conduct an annual inventory and submit an annual fish inventory report to the department.

SECTION 38 designates primary and secondary ports of landing for commercial fishers on Lake Superior, Lake Michigan and Green Bay. To facilitate monitoring efforts, this section requires commercial fishers landing their catch at a secondary ports to call in a daily float plan to the department prior to starting the day's fishing activities, and it requires the department to revoke a written landing authorization for failure to comply with the conditions of the authorization.

SECTION 39 creates the vehicle identification requirements for transportation of fish in vehicles belonging to commercial fishers and wholesale fish dealers as required under s. 29.503 (4) (e), Wis. Stats.

6. Summary of and preliminary comparison with any existing or proposed federal regulation that is intended to address the activities to be regulated by the proposed rule. The department is not

aware of any existing or proposed federal regulation that would govern wholesale fish dealing in Wisconsin or commercial fishing in Wisconsin's waters of Lake Michigan and Green Bay or Lake Superior.

7. Comparison of similar rules in adjacent states (Minnesota, Iowa, Illinois and Michigan).

Illinois – Commercial fishing: In Illinois, there are 5 commercial fishing licenses, but none are currently active. Illinois allows only the targeted harvest of yellow perch and bloater chub. Incidentally caught rainbow smelt and alewife may be retained by commercial fishers. Illinois manages the two commercial fish stocks by means of quotas and gear restrictions, with a current quota of “0” lbs for yellow perch and 125,000 lbs for chubs. Commercial harvest methods are limited to gill nets with licensing criteria requiring a 12+ ton vessel and a minimum investment in 6,000 ft. of gill net. Commercial fishers must submit a report monthly documenting daily fishing activity. In addition each commercial fisher must submit a yearly operational plan identifying the port from which they will operate and the exact location for landing the catch. Penalties for violations include forfeitures and suspension of licenses.

Illinois – Wholesale fish dealers: Illinois law requires persons engaged in the wholesale purchase and sale of fish to have a wholesale fish dealers license. Wholesale fish dealers are also required to maintain records of fish purchases. Illinois does not require tagging or special reporting for imported lake trout.

Iowa – Iowa has no Great Lakes waters and therefore no commercial fishing regulations applicable to such waters. Iowa has no wholesale fish dealer (buyers) license, but is working on legislation to create such a license with record keeping and reporting requirements.

Michigan – Commercial fishing: In Michigan there are 12 active licensed commercial fishers on Lake Michigan and 6 active licenses on Lake Superior. Michigan law allows the targeted harvest of whitefish and bloater chubs on Lake Superior with incidental harvest of herring and menominee. Whitefish are the primary commercial species on Lake Michigan with chubs under quota and a trawl fishery for smelt on the northern waters of Green Bay. Commercial fish are managed by seasons, quotas and gear restrictions for individual commercial fish species. On Lake Superior, whitefish can only be legally harvested by trap nets. Whitefish on Lake Michigan are harvested by trap nets and a trawl fishery. Chubs are harvested by gill net. Gear restrictions included limitations on the number of nets, net mesh size and locations and depths for placement or use of such gear. Nets must be mark so the owner can be identified. Commercial fishers must file “paper” reports monthly with Michigan DNR on daily fishing activity. Michigan is working on replacing the current paper reporting for commercial fishers with an electronic fish harvest reporting system.

Michigan – Wholesale fish dealer: In Michigan a wholesale fish dealer license is required to conduct business in the wholesale purchase and sale of fish. Each wholesale fish dealer is required to maintain records and file a monthly report of all fish purchased with the Michigan DNR. For approximately the past 2 years, wholesale fish dealers have been filing their purchase reports electronically with the DNR. Michigan does not require tagging or special reporting for imported lake trout

Minnesota – Commercial fishing: Minnesota has 24 licensed commercial fishers on Lake Superior, most of whom are part time. Minnesota allows the targeted harvest of herring with an incidental harvest of menominee, lake trout (< 300 lbs.), bloater chub (50,000 lbs.) and rainbow smelt. Commercial fish are managed by seasons, quotas and gear restrictions with an annual harvest quota of less than 400,000 lbs. for herring. Each commercial fisher has limitations on the feet of gill net he or she can use. There are also permits issued allowing the use of 5 trap nets on Lake Superior

Minnesota – Wholesale fish dealers: Minnesota has a very low number of licensed wholesale fish dealers (buyers) and is in the process of attempting to repeal the buyer's license requirement. Minnesota does not require tagging or special reporting for imported lake trout.

8. Summary of the factual data and analytical methodologies that the agency used in support of the proposed rule and how any related findings support the regulatory approach chosen for the proposed rule. During the early 1990's, two major law enforcement investigations of illegal harvest and sale of yellow perch by commercial fishers were initiated by the department based on complaints. The "CAN-AM Investigation" started in 1991, and concluded in 1996 with multiple convictions in federal court for the illegal harvest and sale of Zone 3 yellow perch (Wisconsin waters of southern Lake Michigan). The "Marinette Perch Investigation" started in 1993 and also concluded in 1996 with multiple convictions for taking fish over the quota, inaccurate catch and catch disposition reports, operating without a wholesale fish dealer license and inaccurate wholesale fish purchase reports. Additional smaller investigations were concluded during this same time period with convictions for a variety of commercial fishing and wholesale fish dealer violations.

During the mid-1990's the commercial fishing season for yellow perch in Zone 3 was closed due to declining perch populations and remains closed today. The annual commercial harvest quota for yellow perch in Zone 1 (southern Green Bay) was reduced from 400,000 lbs. to 300,000 lbs. on July 1, 1994, from 300,000 lbs. to 200,000 lbs. on July 1, 1997 and finally to 20,000 lbs. on July 1, 2001. Since then, the yellow perch population has recovered and the annual Zone 1 yellow perch harvest limit was increased to 60,000 lb on May 20, 2006 and will increase to 100,000 lb. on May 20, 2008. While it is believed that many factors may have contributed to the overall decline and fluctuations of these fish stocks, the over-harvest of yellow perch and non-compliance with commercial fishing laws had a significant impact on these fish populations. Furthermore, compliance with these annual harvest quotas and the reporting requirements to the department are critical components of the management strategies for the recovery of any fish population.

While the aforementioned investigations concluded with the successful prosecution and conviction of the responsible parties, it was clear that the existing laws and procedures did not serve as an adequate deterrent to illegal behavior. A Commercial Fisheries Task Force of commercial fishers, wholesale fish dealers, sport fishers and other public interests was convened. The Task Force was guided by the following problem definition:

"The long term stability of Great Lakes fish stocks are in jeopardy. Under current laws and limited Department resources, we cannot determine or control the number of fish being harvested. Current laws fail to deter false reporting, unlawful harvest, and unlawful sale of commercial fish species. As a result, consumers, sport fishers, commercial fishers, wholesale fish dealers, and others suffer from reduced bag limits, reduced quotas, and lost business opportunities."

After numerous meetings, the Task Force concluded their work in the year 2000 with 12 key recommendations. The recommendations focused on addressing the needs of law enforcement to ensure compliance with the commercial fishing laws, while also recognizing the business needs of the industry by streamlining reporting and related business processes. Statutory revisions were implemented with the enactment of 2005 Wisconsin Act 288, effective April 21, 2006. This Natural Resources Board Order addresses the aforementioned law enforcement concerns and completes implementation of the new statutory requirements and the recommendations of the integrated Task Force. It has broad support within

the commercial fishing industry and among sport fishers.

9. Analysis and supporting documentation that the agency used in support of the agency's determination of the rule's effect on small businesses under s. 227.114, Stats., or that was used when the agency prepared an economic impact report. We know that small businesses relating to commercial fishing and wholesale fish dealing may be affected by the rule. However, we currently have no basis for quantifying the economic impacts of the rule. The rule changes relating to creating an electronic fish reporting system, allowing fleet reporting and eliminating tagging of foreign lake trout had the endorsement of individual wholesale fish dealers and commercial fishers during the Task Force proceedings. These small business owners explained that implementation of these changes would streamline their business processes and reduce associated labor costs.

10. Effects on small business, including how the rule will be enforced. As noted under item 8. above, this Order is part of a comprehensive rewrite of Wisconsin's laws regulating wholesale fish dealers and Great Lakes commercial fishing which involved extensive public input through a citizen Task Force. While the primary focus of the Task Force was to improve the enforceability of the commercial fishing and wholesale fish dealer laws, all parties agreed that this was also an opportunity to streamline business processes and eliminate burdensome paperwork, which would benefit both the department and these small businesses. This Order implements those recommendations of the Task Force and subsequent statutory mandates created under 2005 Wisconsin Act 288. The following revisions should result in increased efficiencies, significant savings in labor and effort, and the streamlining of record keeping and reporting procedures for commercial fishers and wholesale fish dealers:

- The cornerstone of the Task Force recommendations was creation of an Electronic Fish Harvest Reporting System (EFHRS) allowing daily reporting of commercial fishing activity via the internet and thereby eliminate the requirement for separate "paper" reports to be completed and mailed to the department. This Order implements the EFHRS along with a "Fleet Reporting" system allowing consolidation of individual harvest quotas held by the same individual, thereby significantly reducing the number of required reports to the department.
- This Order eliminates the tagging of individual foreign lake trout by Conservation Wardens. This expedites the flow of the fish through wholesale fish dealer businesses without having to wait for a personal inspection by the local warden.
- The single annual inventory report from wholesale fish dealers and commercial fishers will allow Conservation Wardens to efficiently conduct meaningful audits of these businesses to ensure compliance with harvest limits (quotas). The Order allows commercial fishers and wholesale fish dealers to complete the annual inventory at a time of their own choosing, such as at the same time that they complete a similar inventory for tax purposes or to meet other business needs. Therefore, the proposed recordkeeping requirement compliments current business procedures rather than resulting in a new procedure.
- Eliminating the licensing requirement for a transferee to be a licensed crew member or family member expands opportunities for commercial fishers to sell their businesses.

The rule will be enforced by Conservation Wardens under the authorities of chapters 23 and 29, Stats.,

through routine patrols, record audits of wholesale fish dealers and commercial fishers and follow up investigations of citizen complaints.

11. Agency contact person (including e-mail and telephone number).

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12. Place where comments are to be submitted and deadline for submittal: To be determined.

SECTION 1. NR 25.02 is amended to read:

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 known 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, and running in a straight line westerly to the south line of section 20, same township and range.

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

~~(4)~~ (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)~~ (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)~~ (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)~~ (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)~~ (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.

~~(6)~~ **(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, but is not limited to, whether the fish are 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.

~~(7)~~ **(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, and running in a straight line to the most southerly point in section 18, township 33 north, range 30 east.

~~(7g)~~ **(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.

~~(7h)~~ **(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, easterly to the water's edge on the north line of section 12, same township and range.

(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, and running in a straight line east to the north line of section 25, same township and range.

(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.

~~(8)~~ **(20)** "Encircling nets" means purse seines as defined in ~~sub. (24)~~ sub. (53), and seines as described in s. 29.522 (3), Stats.

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

~~(9)~~ **(22)** "Entrapping nets" means trap nets as defined in ~~sub. (29)~~ sub. (66), and entrapping nets as described in s. 29.522 (1), Stats.

(23) "Fillet" means the slab side of fish which from which the viscera, head, tail and bones have

been removed, except for the pin bones which may or may not have been removed.

~~(10)~~ **(24)** "Final consumer" means the last or ultimate person who obtains a fish for its final use for eating or otherwise.

~~(11)~~ **(25)** "Final consumption" means the last or ultimate use of a fish by eating or otherwise.

(26) "Fish" means, for the purposes of this chapter, 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, and running northeasterly in a straight line to the water's edge on north line of said section, township and range.

~~(12)~~ **(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.

~~(12t)~~ **(31)** "Foreign lake trout tag" means ~~a tag authorized by the department for attachment to lake trout~~ harvested outside of Wisconsin and imported into the state.

~~(13)~~ **(32)** "Harvest limit", "harvest quota", "total allowable annual commercial harvest", "the total allowable commercial harvest" or "the annual allowable commercial harvest" means the total number of pounds of fish as established in this chapter which may be ~~taken~~ 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.

~~(14)~~ **(34)** "Illegal fish" means any fish ~~taken at a time other than the open season, or of sizes other than prescribed in s. NR 25.05 or in excess of quotas as prescribed in s. NR 25.06, or taken by methods other than those prescribed in this chapter, or of the following species: smallmouth bass, largemouth bass, rock bass, crappie, muskellunge, northern pike, sturgeon, all species of salmon and trout except as otherwise prescribed in this chapter,~~ 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.

~~(15)~~ **(35)** "Illegal nets" mean those nets possessed or used in violation of this chapter or a statute.

~~(16)~~ "Incapacity" ~~means the inability to communicate in any manner or an adjudication of incompetency as defined in s. 54.10 (3), Stats.~~

~~(16m)~~ **(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.

~~(17)~~ **(37)** "Immediate family" means the spouse, children by birth or adoption, parents or siblings.

(38) "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. 880.01 (4), Stats.

(39) "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, and running in a straight line northwesterly to the most easterly point in the northeast quarter of section 28, same township and range.

~~(18)~~ **(40)** "License year" means that period from July 1 through June 30 of the succeeding year.

~~(19)~~ **(41)** "Licensed commercial fisher" means a person currently licensed under s. 29.519 (1m) (a), Stats.

(42) "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, and running in a northeasterly direction to the most northerly point in section 36, same township and range.

(43) "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.

(44) "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, and running in a straight line northeasterly to the most southerly point in section 14, same township and range.

(45) "Non-work days" for a commercial fisher licensed under s. 29.519(1), 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 4th (Independence Day), first Monday in September (Labor Day), fourth Thursday in November (Thanksgiving Day), December 24th (Christmas

Eve), December 25th (Christmas Day) and December 31st (New Year's Eve).

(46) "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, and running in a straight line to the west line of section 25, same township and range.

~~(20)~~ (47) "Northern and southern Green Bay line" means that line described as a line in Green Bay drawn from the most northerly point of Friedmann's point at Fish creek, located in the southwest quarter of section 29, township 31 north, range 27 east, Door county; thence northwesterly to the most southeasterly point of Chambers island; thence along the southwest shoreline to the most southwesterly point of Chambers island; thence due west to the Wisconsin-Michigan boundary line.

~~(21)~~ (48) "Northern chub fishing zone" means those waters of Lake Michigan lying north of a line extending from the mid-channel marker buoy of Baileys Harbor on a 135° bearing, and east of a line from the point where the line extending on a 135° bearing from the mid-channel marker buoy of Baileys Harbor intersects the 35 fathom contour, to the easternmost point of Rock Island, then following the northeast shore of Rock Island to the northernmost point of Rock Island, then proceeding north to the Wisconsin-Michigan state line.

~~(22)~~ (49) "Northern Green Bay" means those waters of Green Bay lying north of the northern and southern Green Bay line.

~~(23)~~ (50) "Northern Green Bay-Lake Michigan line" means that line commencing at the northwest side of the Northport dock where it joins the shoreline in township 32 or 33 north, range 29 east; thence in a northeasterly direction to the range light (signal light) on Plum island; thence along the north and west shore of Plum island to the U.S. coast guard station; thence northerly to the southwesterly point of Shellswick dock, which is located on Lodbell's point on Washington island; thence along this dock to the shoreline of Lodbell's point; thence along the west shore of Washington island to Boyer's Bluff light; thence due north to the Michigan-Wisconsin boundary line.

(51) "Portable electronic reporting unit" means a department-approved, portable electronic device programmed by the department to enter, receive and transmit electronic commercial fishing data.

~~(23g)~~ (52) "Pounds" means the avoirdupois weight in pounds of fish in the round with head, gills and viscera intact, except with respect to chubs sorted for human consumption, menominee and whitefish, where it means the avoirdupois weight in pounds of dressed fish.

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

~~(24)~~ (53) "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.

(54) "Record" has the meaning given it in s. 29.503 (1) (cm), Stats.

(55) "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, and running in a northeasterly direction to the most northerly point in section 30, township 28 north, range 25 east.

(56) "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 26, township 32 north, range 28 east, and running east to the most southerly point in section 32, same township and range.

(57) "Snipped" means headless with viscera partially removed.

~~(25)~~ (58) "Southern chub fishing zone" means those waters of Lake Michigan lying south of a line extending east from the entrance of Kewaunee harbor to its intersection with the 45 fathom (270 feet) depth contour, then proceeding northerly along the 45 fathom depth contour to its intersection with a line extending east from the entrance of Algoma harbor, then proceeding east along a line from the entrance of Algoma harbor to its intersection with the Wisconsin-Michigan state line.

~~(26)~~ (59) "Southern Green Bay" means those waters of Green Bay lying south of the northern and southern Green Bay line, including the Fox river as far as the dam at DePere.

~~(27)~~ (60) "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.

(61) "St. Louis Bay" means all of 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.

(62) "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.

~~(28)~~ (63) "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.

(64) “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, and running in a northeasterly direction to the water's edge on north line of section 13, same township and range.

(65) “Superior Bay” means all of 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.

~~(29)~~ (66) "Trap net" means a device constructed of netting, which may employ wings or wings and leads, directing the movement of fish through a tunnel of netting into inner hearts or built-in forebays wherein they are trapped by their own movement. Such nets may be referred to as shallow trap nets, submarine trap nets or deep water trap nets but shall not include drop nets or fyke nets.

~~(30)~~ (67) "Trawl" means a large conical bag of netting to which are often attached wings of netting, which is towed in the water and captures fish by scooping rather than encircling them. The mouth of the bag is normally kept open laterally by 2 large boards, one on each side so rigged that they serve to spread the entire net, and these boards are secured to towing lines running to the vessel or vessels engaged in towing the net through the water.

~~(31)~~ (68) "Trawl cast" means the single placement, towing and retrieval of a trawl.

~~(32)~~ (69) "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).

(70) “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 26, township 34 north, range 29 east, and running in a straight line easterly to the water's edge on the north line of section 25, same township and range.

(71) “West Harbor” means all 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, and running in a northerly direction to the most northwesterly point of land in section 2, township 33 north, range 29 east.

~~(33)~~ (72) "Zone 1" means all waters in southern Green Bay.

~~(34)~~ (73) "Zone 2" means all waters in northern Green Bay and all Lake Michigan waters north of a line running due east from the eastern shore of Door county along 44° 40' north latitude to the Wisconsin-Michigan state boundary.

~~(35)~~ **(74)** "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.

SECTION 2. NR 25.03 (1) (a) 3. is created to read:

NR 25.03 (1) (a) 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.

SECTION 3. NR 25.03 (2) (am) is created to read:

NR 25.03 (2) (am) A person may hold more than one license under s. 29.519 (1m), Stats., for commercial fishing on Green Bay and Lake Michigan, if the person meets the criteria of par. (b) for each license separately.

SECTION 4. NR 25.04 (6) and (7) are amended to read:

NR 25.04 (6) This section does not apply to the transfer of a boat from one license ~~from one boat~~ to another as provided for under s. 29.519 (2) ~~(d)~~ (e), Stats.

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

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

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

SECTION 5. NR 25.05 (3) is amended to read:

NR 25.05 (3) Except as otherwise provided in this chapter, ~~no~~

(a) ~~No~~ person may possess species of fish for which there is no open season.

(b) No person, while on the water, may possess species of fish outside of the open season for that species.

(c) 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 ~~such~~ the fish. ~~No~~ Except as provided in par. (g), no person may take, catch or

kill more fish than authorized by his or her harvest limit.

(d) No person may fish for a species of fish in a zone for which the person has no harvest limit.

(e) No person at the time of landing may 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) No person at the time of landing may 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) No person who is engaged in fleet reporting under s. NR 25.135 may 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.

SECTION 6. NR 25.06 (3) (intro.) is amended to read:

NR 25.06 (3) (intro.) 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 ~~before being brought to any dock or shore~~ upon completing the last lift and before being transported by boat when fishing in open water and before being transported when fishing with nets under ice. Such fish shall be individually tagged.

SECTION 7. NR 25.09 (1) (am) 6. is amended to read:

NR 25.09 (1) (am) 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).

SECTION 8. NR 25.09 (2) (a) 9. and (b) 1. b. and 2. b. are amended to read:

NR 25.09 (2) (a) 9. With a mesh size of 4 inch or larger stretch measure, not to exceed 12,000 feet may be used ~~by each licensed commercial fisher~~ under each license at any one time.

(b) 1. b. May be used up to 30 drop nets or fyke nets in aggregate ~~by each licensed commercial fisher~~ under each license, that being the maximum number of pots or cribs allowed.

2. b. No more than 12 pound nets and trap nets in aggregate may be used ~~by each licensed commercial fisher~~ 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 ~~by each licensed commercial fisher~~ 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.

SECTION 9. NR 25.09 (2) (b) 2. g. is created to read:

NR 25.09 (2) (b) 2. g. For legal fish species in Lake Michigan and Green Bay.

SECTION 10. NR 25.09 (3) (c) and (d) are created to read:

NR 25.09 (3) (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 all nets operated under the fleet reporting program of s. NR 25.135 in place of the individual commercial fishing license numbers.

SECTION 11. NR 25.09 (3) (e) is created to read:

NR 25.09 (3) (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.

SECTION 12. NR 25.09 (6) is created to read:

NR 25.09 (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.

SECTION 13. NR 25.10 (1) (b) 3. is amended to read:

NR 25.10 (1) (b) 3. All waters bounded by a line beginning at the signal light on the western end of Long island in section 13, township 48 north, range 4 west, then extending northeasterly to the southernmost point of Madeline island in section 6, township 49 north, range 4 west (46° 45.00'), then

due east to the western boundary of Gull Island Shoals refuge as described in s. NR 26.23 (1) (a), then southerly along the refuge boundary latitude $46^{\circ} 40'$, then due west to the mainland shoreline, then northwesterly along the shoreline to the point of beginning, all in Ashland county, except waters within $1\frac{1}{2}$ miles of the mainland shoreline in Ashland county.

SECTION 14. NR 25.10 (1) (b) 8. is amended to read:

NR 25.10 (1) (b) 8. All waters lying east of Madeline island bounded by a line extending due east from the southernmost tip of Madeline island in section 6, township 49 north, range 4 west to the western boundary of the Gull Island Shoals refuge as described in s. NR 26.23 (1) (a), and a line extending from the east end of Hagen road ($46^{\circ} 47.30'$) on Big Bay point on Madeline island in sections 19 and 30, township 50 north, range 2 west, to that same western boundary of the Gull Island Shoals refuge, all in Ashland county, from June 1 through August 31.

SECTION 15. NR 25.10 (1) (c) is amended to read:

NR 25.10 (1) (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 $4\frac{7}{16}$ inch minimum stretch measure may be fished under the ice and not from a boat north of latitude $46^{\circ} 45'$ 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 ~~pond nets~~ may be allowed by permit from ice out to May 15.

SECTION 16. NR 25.10 (2) (a) 6. is amended to read:

NR 25.10 (2) (a) 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 ($45^{\circ} 05.049'N$, $87^{\circ} 35.810'W$), and

running southeasterly to the most southwesterly point of Seagull bar in section 16 (45° 04.137'N, 87° 34.568'W), then along the north or east shoreline of Seagull bar to the Red Arrow park public boat landing located in section 9 (45° 05.219'N, 87° 35.226'W), all in township 30 north, range 24 east, Marinette county.

SECTION 17. NR 25.13 (2) is amended to read:

NR 25.13 (2) (intro.) 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 their fishing activities as may be deemed necessary by the department for management of the fishery, and to prevent depletion of the fish supply. The biweekly report shall be mailed or delivered to the department at the address provided on the form no later than the Tuesday following the biweekly reporting period

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

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

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

SECTION 18. NR 25.13 (3) (intro.) and (a) are amended to read:

NR 25.13 (3) (intro.) ~~Each~~ 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 and Green Bay shall report for the preceding biweekly calendar period to the department in writing on forms provided for this purpose by the department such information relative to their fishing activities as may be deemed necessary by the department for management of the fishery, and to prevent depletion of the fish supply. The biweekly report shall be ~~post~~ mailed or delivered to the department at the address provided on the form no later than the Tuesday following the biweekly reporting period.

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

SECTION 19. NR 25.13 (4) is created to read:

NR 25.13 (4) 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 reporting requirements of sub. (5).

SECTION 20. NR 25.13 (5) is created to read:

NR 25.13 (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, Lake Michigan or Green Bay 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. Damage caused by submersion or undue exposure to moisture is considered unreasonable damage.

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 is damaged, lost or malfunctions. The department shall take steps to immediately replace the malfunctioning unit with delivery of a replacement unit to the person. The person shall deliver or arrange shipment of the malfunctioning unit back to the department as directed by the department.

4. 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. 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 subsection constitutes a separate violation.

(b) Special reporting on Lake Michigan and Green Bay. 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 or Green Bay, 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 subd. 1.

(c) Except as provided in par. (d), 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, but is not limited to 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; and weight in pounds of each species of fish or fish parts landed.

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.

(d) 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.

(e) Special electronic reporting requirements for trawl catches. 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. (b).

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. (c), 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, 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. (c), 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.

(f) 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.

SECTION 21. NR 25.13 (6) is created to read:

NR 25.13 (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.

SECTION 22. NR 25.13 (7) is created to read:

NR 25.13 (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

(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.

SECTION 23. NR 25.13 (8) is created to read:

NR 25.13 (8) No person may possess, control, transport or cause to be transported any fish which has not been recorded or reported as required under s. 29.503, Stats., and 29.519, Stats., and this chapter.

SECTION 24. NR 25.13 (9) is created to read:

NR 20.13 (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, but is not limited to the species, condition and weight in pounds of fish, the location by address of the fish by street address, date of the inventory, the commercial fishing license number or fleet reporting number and signature of the licensee.

(b) No later than *30 days after effective date of this paragraph* [LRB insert date.], 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.

SECTION 25. NR 25.13 (10) is created to read:

NR 25.13 (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.

SECTION 26. NR 25.13 (11) is created to read:

NR 25.13 (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 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 in a 36 month period or 3 or more violations of s. 29.503 or 29.519, Stats., or this chapter in 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 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.

SECTION 27. NR 25.135 is created to read:

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 and descriptions of the boats to be included in the fleet reporting program.

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 program 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 AND GREEN BAY. (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 and Green Bay 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:

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; and

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.

SECTION 28. NR 25.14 (3) and (4) are created to read:

NR 25.14 (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.

SECTION 29. NR 25.16 (title) and (1) (title) and (a) are amended to read:

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

SECTION 30. NR 25.16 (1) (b) is repealed and recreated to read:

NR 25.16 (1) (b) Special tagging for domestic lake trout. 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.

SECTION 31. NR 25.16 (1) (c), (d) and (e) are repealed.

SECTION 32. NR 25.16 (1) (f) is renumbered to be NR 25.16 (1) (c) and amended to read:

NR 25.16 (1) (c) All ~~foreign lake trout tags and all~~ commercial fish tags issued or authorized by the department or by a governmental agency of another state or country, when severed from the lake trout are considered state property and may be claimed by the department within one year of the date they were severed.

SECTION 33. NR 25.16 (2) (title) and (a) are amended to read:

NR 25.16 (2) (title) ~~FILETED~~ FILLETED, PORTIONED OR SMOKED DOMESTIC LAKE TROUT. ~~(a)~~ Lawfully possessed domestic lake trout which are intended for smoking, portioning or ~~fileting~~ filleting may have the tags removed immediately prior to smoking, portioning or filleting. ~~Except as set forth in par. (b), the department shall issue to wholesale fish dealers, who are actively selling lake trout, sufficient adhesive smoked/fileted lake trout package tags necessary for no more than one month's processing. The package tags shall be used when the initial tags are removed from the lake trout for smoking, portioning or fileting, according to par. (c). Immediately after smoking, fileting or portioning and packaging, each individual package of smoked, portioned or fileted lake trout shall be tagged with smoked/fileted lake trout package tags in denominations which represent the weight of the contents of the package.~~

SECTION 34. NR 25.16 (2) (b) to (e) are repealed.

SECTION 35. NR 25.16 (3) (b) is amended to read:

NR 25.16 (3) (b) No person may reuse any ~~foreign lake trout tag, smoked/fileted lake trout package tag or any~~ commercial fish tag issued or authorized by the department or by a governmental agency of another state or country.

SECTION 36. NR 25.17 (1) is amended to read:

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

SECTION 37. NR 25.17 (2) is repealed and recreated to read:

NR 25.17 (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 include, but is not limited to the species, condition and weight of fish, the location of the fish by street address, date of the inventory, wholesale fish dealer license number and signature of the licensee.

(b) No later than *30 days after the effective date of this paragraph* [LRB insert date.], 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.

SECTION 38. NR 25.18 is amended to read:

NR 25.18 Landing and transportation of fish. (1) (title) LANDING OF FISH. Fish and fish parts caught in commercial fishing operations and kept by ~~Wisconsin-licensed~~ commercial fishers for sale or other use shall be brought to shore in Wisconsin to one of no more than 2 ports designated by the licensee on his or her Great Lakes commercial fishing license application for open water operations and to

one of no more than 2 ports selected by the licensee from a list of ports designated ~~by the department~~ for ice fishing operations 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 and Green Bay:

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 docks Sand Bay, Old Sand Bay and Rowley's Bay), 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 and Green Bay:

1. Brown County: Duck Creek, Windjammers and Green Bay.

2. Door County: Chaudoir'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.

SECTION 39. NR 25.19 is created to read:

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 1" high, all in the English language.

SECTION 40. EFFECTIVE DATE. This rule shall take effect on the first day of the month following publication in the Wisconsin administrative register, as provided in s. 227.22 (2) (intro.), Stats.

SECTION 41. BOARD ADOPTION. The foregoing rule was approved and adopted by the State of Wisconsin Natural Resources Board on _____.

Dated at Madison, Wisconsin _____.

STATE OF WISCONSIN
DEPARTMENT OF NATURAL RESOURCES

By _____
Matthew J. Frank, Secretary

(SEAL)