

Commercial fishing rule (9)

Form 1101-1 NATURAL RESOURCES BOARD AGENDA ITEM ItemNo.  
Rev. 11-82

SUBJECT: Authorization for hearing on revision of Chapter NR 25, Wis. Adm. Code, pertaining to commercial fishing on Lake Michigan and Green Bay and to fish refuges.

FOR September BOARD MEETING  
(month)  
TO BE PRESENTED BY: Doug Morrissette

SUMMARY:

Current regulations affecting the Lake Michigan commercial fishery are not fully effective in protecting the resource or in assuring a stable and viable commercial fishery. Too many fishers are utilizing too much gear to harvest from limited resources. Expanded commercial operations have increased conflict between sport and commercial fishers, and jeopardize achievement of sport fishing goals.

The proposed rule revisions will proceed toward full implementation of the Limited Entry management program authorized by Chapter 418, Laws of 1977. The proposal will protect major fish stocks by setting annual harvest limits based on sustainable yield. Mortality of sport fish in commercial gear will be reduced. The number of commercial fishers participating in the harvest will be reduced to better balance fishing effort, thus enhancing the viability of the remaining fishery. Some harvest regulations will be relaxed to improve efficiency of commercial operations. The proposal will also improve enforcement of commercial harvest regulations. The attached background memo summarizes 25 rule revisions within the proposal, their predicted impacts and alternatives considered ut not recommended.

RECOMMENDATION: That the Natural Resources Board authorize the Department to hold public hearings on the revision of Ch. NR 25 and 26, Wis. Adm. Code, pertaining to Lake Michigan commercial fishing.

LIST OF ATTACHED REFERENCE MATERIAL:

No  Fiscal Estimate Required Yes  Attached  
No  Environmental Assessment or Impact Statement Required Yes  Attached  
No  Background Memo Yes  Attached  
cc: Judy Scullion AD/S  
APPROVED: Jim Addis AD/5  
Ralph Christensen LE/5  
Pete Flaherty LC/5  
Carol Turner - LC/5  
Douglas W. Morrissette Charlie Hiiggs LMD  
Doug Morrissette FM/4  
Mike Talbot FM/4 (20 copies)  
James T. Addis Gloria McCutcheon SED  
Date

Secretary C. D. Besadny

STATE OF WISCONSIN

DATE: September 6, 1988 File Ref: 1020

TO: C. D. Besadny

FROM: D. W. Morrissette

SUBJECT: Request for Authorization to Hold Public Hearings on Revision of Ch. NR 25 and 26, Wisconsin Administrative Code, Pertaining to Lake Michigan Commercial Fishing (FM 40 88).

Summary

The proposed rule revisions will continue the implementation of the Limited Entry management program authorized by Chapter 418, Laws of 1977. The proposal will protect major fish stocks by setting annual harvest limits based on sustainable yield. Mortality of sport fish in commercial gear will be reduced. The number of commercial fishers participating in the harvest will be reduced to better balance fishing effort, thus enhancing the viability of the remaining commercial fishery. The proposal will improve enforcement of commercial harvest regulations and will also reduce conflict between sport and commercial fishers. Some harvest regulations will be relaxed to improve efficiency of commercial operations. The revisions establish rules that:

- 1 3. set a total allowable annual commercial harvest of 1,150,000 pounds for lake whitefish, 320,000 pounds for Lake Michigan perch (no change in the current 400,000 pound perch harvest limit for southern Green Bay/Zone 1), and 75,000 pounds for menominees (round whitefish) with harvest limited within zones according

to the following:

Zone\*

1 2 3

whitefish 105,000 lbs 945,000 lbs 100,000 lbs

perch 400,000 lbs 13,300 lbs 306,700 lbs

menominees 1,000 lbs 46,000 lbs 28,000 lbs

4. set a total allowable annual commercial harvest of 1,000,000 pounds for smelt caught by trawls in Green Bay. Allow harvest only with diverters and only during June 15 September 30 and limit trawler effort to water depths greater than 65 feet;

\* Zone 1 = Southern Green Bay

Zone 2 = Northern Green Bay and Lake Michigan waters north of Algoma

Zone 3 = Lake Michigan waters south of Algoma

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5. prohibit commercial harvest of northern pike;
6. prohibit commercial harvest of bullheads, burbot, catfish, gizzard shad, suckers, white perch and white bass except under rough or detrimental fish harvest permits or contracts as authorized under ss. 29.62, 29.623 and 29.625, Stats.;
7. prohibit all commercial gill netting in the area between Baileys Harbor and Kewaunee;
8. increase the size of the Mid lake Refuge to include grids 1904, 1905 and the Wisconsin portion of 1906;
9. grant the Department authority to deny, revoke or suspend restricted area permits whenever mortality of illegal fish caught in commercial gear exceeds or is likely to exceed 10% of the weight or number of the legal catch;
10. prohibit all commercial fishing within one half mile of the shoreline in Kenosha, Milwaukee, Ozaukee and Racine counties;
11. close the commercial trap net season south of Baileys Harbor from Memorial Day through Labor Day;
12. prohibit commercial harvest of Lake Michigan perch during May 1 September 30 by extending the existing closed season to include August 1 September 30;
13. beginning with the 1990 91 license year and continuing thereafter, include a relicensing requirement for a minimum total annual reported harvest of perch, lake whitefish, menominees and chubs to exceed 3,570 pounds from southern Green Bay, 13,656 pounds from northern Green Bay and Lake Michigan waters north of Algoma or 19,638 pounds from Lake Michigan waters south of Algoma;
14. require commercial fishers to land their catches at designated ports;

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15. require commercial fishers to complete harvest reports immediately after completing net lifts, and transport the report in such a way that it cannot be altered;
16. require reporting of all commercial fish retail sales;
17. require commercial fishers to submit quota permit reports, harvest reports and fish sale records biweekly on consolidated forms;
18. require commercial fishers who operate pound and trap nets to remove the entire net within 14 days after the close of the season. These nets may not be reset until the first day of the following open season;

19. require commercial fishers to cease ice fishing operations by March 15;
20. allow white perch to be commercially harvested under a permit or contract;
21. allow commercial fishing with 2 3/8 inch mesh gill nets having panels 25 60 meshes in height in the southern chub zone in waters greater than 25 fathoms deep;
22. allow commercial chub fishing in Lake Michigan waters extending approximately 6 miles north of Kewaunee in waters greater than 45 fathoms deep;
23. allow year round commercial harvest of chubs in the southern chub zone;
24. allow commercial chub fishing in northern Green Bay waters located within grids 506 and 507 during September 1 May 31 as part of the northern chub quota harvest; and
25. allow trap netting for perch in shoreline restricted areas in Door, Kewaunee, Manitowoc and Sheboygan counties.

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The Department will encourage the Lake Michigan Commercial Fishing Board to set more restrictive eligibility criteria for quota harvest permits. These criteria should work to limit permit availability to those commercial fishers who make their livelihood from the regional fishery by establishing minimum production and income requirements needed to retain harvest permits. These criteria should also work to limit access to regional fisheries to numbers capable of being sustained by the regional resource.

## INTRODUCTION

Current regulations are not fully effective in protecting the resource or in assuring a stable and viable commercial fishery. Although current rules limit numbers of licensees, new commercial fishers are replacing inactive license holders through license transfers, thus increasing harvest pressure on fish stocks. Commercial fishers are expanding fishing operations by increasing the numbers of assistants working as crew. These fishers are also moving additional gear into waters they had not previously fished, and competing for local fish stocks with fishers established in the area. Some fishers are advocating application of new gear and techniques to harvest fish stocks already heavily harvested by other fishers using more traditional practices. In some quota controlled fisheries, large numbers of fishers divide the available harvest into small individual allotments. All these actions have increased competition between individual fishers for income from the harvest, increased the risk of overharvesting fish stocks and have increased the risk of loss of future income due to collapse of the fishery.

Although many of these problems are the subject of ongoing discussions between staff and concerned commercial fishers, they are not new to the Lake Michigan commercial

fishery. In 1975, an Ad Hoc Lake Michigan Fisheries Task Force appointed by Department of Natural Resources Secretary L. P. Voigt concluded that the fishery resources of the Great Lakes, though renewable, experience dynamic changes and are limited. The Task Force recognized that free entry into the commercial fishery has resulted in over capitalization of the industry, reduction in individual profits and depletion of the resources.

The Task Force called for a Lake Michigan management policy in accordance with sound biological principles, to achieve optimum

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sustainable utilization of the fishery resource. "Optimum sustainable utilization" includes economic and social as well as biological guidance. Recommended management strategies to achieve this goal included limiting entry into the commercial fishery by limiting the number of commercial fishing licenses issued, and limiting harvest through catch quotas. This program would permit a well managed commercial fishery based on taking only the harvestable surplus.

Chapter 418, Laws of 1977, established a Limited Entry program to manage Great Lakes commercial fishing operations in Wisconsin. The intent of the Legislature was : "...to provide for multi use management of the Great Lakes fishery, including an economically viable and stable commercial fishery and an active recreational fishery...To reach this management objective, the legislature recognizes that it may be necessary to limit participation in the commercial fishery and to limit the harvest of commercially fished species through proven scientific management techniques."

Most of the current problems within the commercial fishery exist because the Limited Entry program has not been fully implemented on Lake Michigan. Too many fishers are utilizing too much gear to harvest from limited resources. Fish stocks are being subjected to increasing harvest pressure, thus jeopardizing long term stock stability. Increased competition between more and larger fishing operations has stimulated further expansion by individuals attempting to earn their livelihood from the fishery. Expanded commercial fishing operations have increased conflict between sport and commercial fishers, and jeopardize achievement of sport fishing goals. Current levels of enforcement control cannot provide sufficient surveillance of an expanding industry to assure harvest remains within safe limits.

On March 16, 1988, Department Fisheries staff delivered to Lake Michigan commercial fishers and the public a proposal to improve the management of the Lake Michigan commercial fishery. After extensive consultations with the affected parties, the proposal was modified to reduce harmful impacts on the commercial industry and strengthened where necessary to provide an effective management program (see

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attached summary of public comments, Michael J. Talbot to Douglas W. Morrisette September 6, 1988). The proposed rule revisions are a product of that effort. The following discussion identifies key problem areas and presents proposed rule revisions with an analysis of alternatives considered but not selected.

#### PROBLEM I: THE COMMERCIAL FISHERY THREATENS LONG TERM STABILITY AND COMMUNITY BALANCE AMONG FISH STOCKS.

Current regulations do not protect all major fish stocks from overharvest. Total annual harvest quotas limit the commercial harvest of yellow perch from Green Bay, and chubs and forage fish from Lake Michigan. Total participants are also limited in these fisheries. Chub and perch stocks protected by harvest quotas have recovered rapidly from record low levels suffered under an unlimited fishery, and are currently yielding stable harvest levels.

Commercial harvests of other fish in Lake Michigan and Green Bay are not restricted by harvest quotas. These fish are available to any licensed commercial fisher in unlimited quantity. Harvest from these stocks has grown in recent years, in most cases beyond sustainable levels. Management strategies to develop sustainable fish stocks as part of balanced fish communities have been jeopardized.

Progress toward the lake trout rehabilitation goals of the Lake Michigan Fisheries Management Plan has been hampered because of increasing incidental lake trout mortality in commercial gear. Gill nets set near the mid lake refuge and in the buffer zone surrounding the Clay Banks refuge near Sturgeon Bay kill lake trout. Expanding gill net effort set for whitefish in Door county waters and for perch in southern Lake Michigan waters also kills large numbers of lake trout.

Increasing harvest pressure has also resulted in increased incidental kill of other sport fish. Expanding commercial perch operations in southern Lake Michigan incidentally caught 27, 000 chinook salmon in gill nets during 1987. Expanding trap net effort and gill net effort set for whitefish also kill substantial numbers of large chinook salmon. Increasing trawl operations for smelt in Green Bay will reduce smelt stocks available for sport harvest and incidentally kill increasing numbers of nontarget sport fish.

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Shifting harvest effort of Wisconsin commercial fishers to new ports in search of more abundant fish stocks has aggravated problems associated with expanding commercial effort. Some fishers move their operations lakewide in search of harvestable fish stocks. These fishers compete with fishers established in the area to add unacceptable pressure on localized commercial stocks, increasing incidental sport fish kill and increasing conflict with local sport fishing activities.

RULE REVISION I. Set a total annual commercial harvest quota of 1,150,000 pounds for Lake Michigan and Green Bay whitefish with harvest limited to 105,000 pounds from southern Green Bay (Zone 1), 945,000 pounds from northern Green Bay and Lake Michigan waters north of Algoma (Zone 2) and 100,000 pounds from Lake Michigan waters south of Algoma (Zone 3).

Harvest will be reduced from a peak level of 1,500,000 pounds reported in 1986, to sustainable levels approaching the recent past average harvest. Fishing effort and harvest will be stabilized within zones in proportion to recent past levels. Fishing effort will be reduced and mortality of illegal fish in commercial gear will decline proportionately. Approximately 100 fishers reported recent whitefish harvest. However, the Lake Michigan Commercial Fishing Board could allot the harvest quota to fewer fishers to promote economic viability for the remaining industry.

## BACKGROUND

Whitefish are not protected by harvest quotas, thus are available in unlimited quantity to all licensed fishers. Annual harvest during the past 10 years has averaged over one million pounds with a dockside value of approximately one million dollars. Lake whitefish spawn along the eastern shore of Door County but migrate extensively and are harvested in both Wisconsin and Michigan state waters.

Harvest effort targeted on this stock is increasing. In Wisconsin waters, gill net effort has remained high at about 21 million feet fished per year during the past 5 years but trap net effort has more than doubled to more than 2500 pots lifted in 1987. Some Wisconsin fishers have shifted their operations to increase whitefish harvest in waters off Door County. New fishers have entered Wisconsin's fishery as licensed fishers or crew for other licensed fishers and are fishing for whitefish. Fishers have doubled entrapment gear effort for whitefish in the heretofore lightly fished area south of Door County. In Michigan waters, reported effort and catch of this same stock has also increased.

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Historically, lake whitefish have shown dramatic fluctuations in year class abundance. Consistently abundant and stable populations since the mid 1970's have resulted from an unusually long series of good year classes. Since 1984, three consecutive strong year classes have continued to support harvests averaging over one million pounds, with a record harvest in excess of 1.5 million pounds in 1986. Based on analysis of relative strength of prerecruit year classes, poundage of whitefish available for harvest over the next few years will decrease.

Continued intensive harvest pressure on whitefish in the face of declining abundance and recruitment could jeopardize future stock stability. Recent expansion of commercial efforts south of Baileys Harbor has increased harvest pressure on older whitefish. These fish had previously been protected because they migrated out of traditional fishing grounds. Increased southern harvest removes older fish from the stock, therefore future reproduction will be dependent on fewer numbers of mature fish. As the fish population becomes more dependent on fewer year classes in the broodstock, varying abundance among these year classes will destabilize the patterns of recruitment we have seen over the past 10 years. Stock recovery from low levels may also be delayed or jeopardized by lower numbers of broodstock.

RULE REVISION 2. Set a total annual commercial harvest quota of 320,000 pounds for perch from Lake Michigan with harvest limited to 13,300 pounds from northern Green Bay and Lake Michigan waters north of Alqoma (Zone 2) and 306,700 pounds from Lake Michigan waters south of Alqoma (Zone 3).

Harvest will be reduced from a peak level of 550,400 pounds reported in 1987, to sustainable levels near the past average harvest. Fishing effort and harvest within zones will be stabilized in proportion to most recent past levels. Fishing effort will be reduced and mortality of illegal fish in commercial gear will decline proportionately. Approximately 50 fishers reported recent perch harvest. However, the Lake Michigan Commercial Fishing Board could allot the harvest quota to fewer fishers to promote economic viability for the remaining industry.

## BACKGROUND

Yellow perch in Lake Michigan are not protected by harvest quotas and are available in unlimited quantity to all licensed fishers. Perch populations in Lake Michigan have rapidly expanded since 1981. A

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reasonably good population exists at present in waters bordering Milwaukee, Kenosha and Racine Counties. Stocks are still recovering in more northern waters. None of these perch stocks **have** grown to levels of abundance seen prior to the explosion of alewives in Lake Michigan, nor have they developed strong and stable populations based on the multiple age classes of adult fish needed to achieve stock stability.

Fishers have responded to these improvements in the yellow perch population by greatly increasing commercial perch harvests. Since 1981, commercial gill net effort has increased 5.5 times while commercial harvest of perch has increased 6.5 times. During 1987, commercial fishers used 15.1 million feet of gill net and caught 550,400 pounds of perch. Additional fishers are expected to increase their perch harvest efforts as good market values and supply are sustained.

Rehabilitation of yellow perch populations in Lake Michigan will not continue if commercial harvest continues to expand. The bulk of recent and anticipated commercial harvest of perch is built on two large year classes resulting from strong reproduction in 1980 and 1983. From 1987 through 1990, commercial fisheries will depend on the 1983 year class and a moderately strong 1985 year class. Continued intensive harvest of these stocks will deplete the brood stock and we will fail to establish a wide ranging population composed of multiple age classes of fish. Past experience shows that the potential for a stable population capable of supporting a sustainable annual harvest will be lost.

**RULE REVISION 3.** Set a total annual commercial harvest quota of 75,000 pounds for menominee with harvest limited to 1,000 Pounds from southern Green Bay (Zone 1), 46,000 pounds from northern Green Bay and Lake Michigan waters north of Alcona (Zone 2) and 28,000 pounds from Lake Michigan waters south of Alcona (Zone 3).

Menominee harvest will be limited to current reported levels to maintain sustainable stocks and to prevent increased incidental mortality of illegal fish resulting from expanding commercial operations. Fishing effort and harvest will be limited within zones in proportion to most recent past levels. Fishing effort may continue at current levels with approximately 44 fishers participating in the harvest. The Lake Michigan

Commercial Fishing Board could allot the harvest quota to fewer fishers to promote economic viability for the remaining industry.

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## BACKGROUND

Menominee are not protected by harvest quotas and are available in unlimited quantity to all licensed fishers. Menominee stocks in Lake Michigan and Green Bay appear at sustainable levels and are locally abundant in some northern waters.

Until 1987, commercial harvest of menominee had been stable with recent average harvest near 50,000 pounds annually. In 1987, harvest increased 50% to 75,000 pounds with twice as many fishers (44) reporting menominee catches.

Expanding commercial harvest operations lakewide may increase harvest pressure on menominee as competition for limited resources increases. New and expanding markets for fish products, as seen with the recent high demand for fish eggs or roe, may increase harvest pressure on unprotected menominee stocks.

Little is known concerning the vitality of these stocks. Added harvest pressure focused on menominee may jeopardize their stock stability. Additional harvest pressure will also take significant harvests of nontarget commercial fish allotted to other fishers, and cause significant mortality to sport fish populations. Increased commercial operations will aggravate these problems and interfere with achieving both sport and commercial long term management goals.

RULE REVISION 4. Set a total annual harvest quota of 1,000,000 Pounds for smelt caught by trawls in Green Bay. Allow harvest only during June 15 September 30 and limit trawler effort to water depths greater than 65 feet.

Smelt harvest will be limited to peak levels reported in 1987, to protect stocks from further increases in harvest pressure while studies needed to calculate sustainable harvest levels are being completed. Fishing effort by 6 trawler fishers may be maintained at recent levels, however depth and seasonal restrictions will reduce high incidental catch of illegal fish seen in 1988 trawl operations.

## BACKGROUND

Smelt, in addition to alewife and small chubs, are classified as forage fish, and commercial forage harvest is already limited by harvest quotas. Smelt are also listed as rough fish under s. 29.01(5), Stats., and listed as detrimental fish under s. NR 20.15(5), Wis. Adm. Code. Total annual forage harvest is currently

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limited to 18.5 million pounds of which 18 million pounds may be taken by trawls and no more than 2.5 million pounds may be harvested by trawls from Green Bay. Although these harvest limits apply to all forage fish combined, smelt harvest alone could reach these maximum allowable levels if other forage species were not harvested.

When the 2.5 million pound forage harvest quota for Green Bay was established in 1986, smelt were not expected to be a major or exclusive component of the harvest. Total smelt harvest by trawls from Green Bay averaged 287,000 pounds annually between 1983-1986. We expected these harvest trends to continue and considered them safe and sustainable.

The commercial trawl fishery in southern Green Bay is changing. For the last 20 years, the major target of the trawl industry has been alewife harvested for sale as animal food. As recently as 1978, thirteen million pounds of forage primarily alewife were caught by trawls in southern Green Bay. However, recent harvest of forage fish sold as animal food has declined to less than 0.1 million pounds while smelt harvest sold for human consumption has increased. Current smelt harvest from Green Bay is 15 times greater than levels seen in 1983, exceeding 1,000,000 pounds in 1987-88. Michigan commercial fishers harvest from the same Green Bay smelt stock and their harvest totals remain high with recent levels approaching 1.5 million pounds annually.

Changes in trawler operations have created new problems with high incidental mortality of illegal fish in their catch. Smelt trawling normally had occurred in late summer in deep waters between Marinette and Sturgeon Bay, and usually caught few illegal fish. Trawling for smelt began earlier in 1988 and operations focused in shallower Green Bay waters. These smelt trawling efforts during June in waters less than 65 feet deep produced significant catches of sublegal size whitefish and illegal perch.

Although current studies of smelt stocks are not complete, preliminary analysis suggests smelt stocks in Green Bay have declined from high levels seen in the early 1980's. Average smelt catches of Wisconsin trawlers and Michigan licensed pound netters have declined since 1983. Spring smelt spawning runs into west shore tributaries have not occurred at all in the last three years. Smelt harvest by sport dip netters has shrunk from 627,000 pounds harvested in 1976 to virtually nothing taken in the last few years.

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Smelt stocks in Green Bay are important not only as a commercial fish but also are a key component of the food base for sport fish. Growth and maximum size of Green Bay salmonids appears to have been reduced since smelt stocks have declined.

Smelt also are an important sport fish. According to our creel censuses, sport smelt dip netters have made between 9,600-14,700 trips to the Marinette area alone to harvest smelt during spring spawning runs. Sport smelt fishers have contributed substantial

recreation based revenues to all Green Bay west shore communities when smelt spawning runs were strong.

Studies to determine smelt stock size and sustainable harvest levels are underway with a final report due in September, 1989. The results from these studies are needed to assure sport and commercial harvest does not exceed stock capabilities. Smelt stocks must be protected from expanding commercial operations until safe harvest levels can be determined.

#### ALTERNATIVES TO REVISIONS 1 4 NOT SELECTED

Alternative 1. No Change. Commercial whitefish, Lake Michigan perch, Green Bay smelt and menominee harvest will not be limited. Recent improvements in the perch population will be jeopardized by expanding commercial harvest pressure. Both sport and commercial perch harvest will be erratic and will depend solely on a few large year classes. Whitefish harvest pressure will continue to increase, resulting in more conflict between sport and commercial fishers. Whitefish stocks will suffer increased mortality and decreased stock stability. Menominee stocks may be subjected to expanded harvest pressure thus, destabilizing their stocks. Lake trout mortality caused by expanding commercial harvest efforts will continue and lake trout rehabilitation goals may not be achieved. Smelt harvest will continue to increase, resulting in decreased stock stability. Expanded smelt trawling will increase mortality of illegal fish. The potential for stable populations accompanied by a sustainable annual harvest will be lost.

Alternative 2. Limit harvest only through increased gear restrictions. These restrictions could include banning some types of gear such as gill nets, or limitations placed on amount, time or areas in which commercial gear could be used. Banning gill nets to reduce whitefish or perch harvest would provide additional benefits by eliminating mortality of lake trout and salmon caught in gill netting

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operations. Where one type gear is banned or severely restricted, fishers may shift effort to harvest more fish with other allowable gear. Gear restrictions must be conservative to be effective and will limit harvest below sustainable levels, thus depriving fishers of potential income. Total harvest may be unknown because gear restrictions are difficult to enforce.

Alternative 3. Limit harvest by restricting the number of fishers allowed to harvest specific species. Do not include total harvest limits or harvest limits placed on individual fishers. Without harvest limits included, fishers may increase total harvest beyond safe levels by increasing individual harvest efforts through expanded fishing operations.

#### RULE REVISION 5. Prohibit commercial harvest of northern pike.

Harvest averaging 8,900 pounds annually will be eliminated. Northern pike populations will be allowed to recover and provide for an improved balance in Green Bay fish communities and also provide a larger and more abundant trophy fish for sport fishers. Fishing effort targeted for northern pike will be eliminated and mortality of illegal fish in commercial gear will decline proportionately. Seventeen fishers will lose approximately \$2,000 total landed value from the harvest.

#### BACKGROUND

Northern pike populations in Green Bay waters are beginning to recover from low levels seen over the last 30 years. Improvements in water quality, improved access to spawning marshes and reduced commercial harvest have all contributed to increase their survival and reproduction.

Northern pike are important components of the Green Bay fish community, serving as large predators needed to reestablish a balance with prey fish populations, and providing a trophy fish available to sport anglers. Although stocks are improving, northern pike populations must increase above current levels to achieve these long range management goals.

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Commercial harvest of northern pike has averaged 8,900 pounds annually in the past 10 years, and is usually taken incidentally to harvest efforts made for other species. In 1987, a total of 6,834 pounds of northern pike were harvested by 17 commercial fishers in southern Green Bay. Two fishers reported over 500 pounds and accounted for 50% of the harvest. These catches had a reported landed value of \$2,089. Large pike commonly are caught in large mesh gill nets set for whitefish. A few commercial fishers pursue northern pike catches in the late winter prior to spawning runs. Commercial harvest of northern pike has steadily declined over the past 20 years.

Restoring a healthy northern pike population in Green Bay cannot occur under significant commercial harvest pressure. Commercial efforts focusing on northern pike in winter staging areas may harvest large numbers of concentrated fish and deplete the brood stock. Commercial efforts that capture large northern pike with gill nets will hinder the development of more abundant trophy northern pike populations for sport anglers and may hamper reestablishment of a balanced fish community in Green Bay.

#### ALTERNATIVES NOT SELECTED

Alternative 1. No change. Northern pike will be subject to unlimited commercial harvest, resulting in delays in achieving balanced fish community rehabilitation goals and fewer large northern pike available to sport fishers. If market demand increases for northern pike, stocks may be overharvested.

RULE REVISION 6. Prohibit commercial harvest of bullheads, burbot, catfish, gizzard shad, suckers, white perch and white bass except under rough or detrimental fish harvest permits or contracts as authorized under ss. 29.62, 29.623 and 29.625, Stats.

Commercial fishers will need both a Lake Michigan commercial fishing license and a rough or detrimental fish harvest permit or contract to legally harvest these fish. Availability of permits or contracts will be limited to assure fishing effort and harvest remains within sustainable levels without increasing illegal fish mortality.

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#### BACKGROUND

Other Lake Michigan fish species that can be commercially harvested under current rules include suckers, gizzard shad, burbot, bullheads, white bass and catfish. All of these species are usually harvested incidentally to efforts made for other major commercial species. The landed value for these species has been stable in recent years at approximately \$5,500 or less than 1% of the total commercial landed value.

Little is known concerning the vitality of some of these fish stocks. Added harvest pressure focused on some of these species is likely to jeopardize their stock stability. Additional harvest pressure focused on these fish will also take significant harvests of nontarget commercial fish allotted to other fishers, and cause significant mortality to sport fish populations.

#### ALTERNATIVES NOT SELECTED

Alternative 1. No Change. Any licensed commercial fisher may harvest any fish species not under an allotted quota. Harvest pressure may increase on these stocks, potentially resulting in stock instability. Additional gear targeted at these fish may kill increased numbers of nontarget commercial and sport fish.

Alternative 2. Allow suckers, burbot, bullheads, catfish, white perch and white bass to be harvested only as incidental catch taken from fishing effort targeted at quota controlled species. Harvest of all species will cease when individual harvest quotas are

filled. If expanded markets develop for these incidental species under this alternative, new commercial operations could be developed to avoid a large quota controlled harvest while taking a larger proportion of incidental fish. This expanded fishing effort could jeopardize incidental fish stocks and kill increased numbers of sport **fish**.

RULE REVISION 7. Prohibit all commercial gill net effort in the buffer zone surrounding the Clay Banks lake trout refuge near Sturgeon BaY.

Restricted area permits allowing commercial fishing in the buffer zone will prohibit the use of gill nets in this area. During 1987, thirteen fishers harvested perch, menominee and smelt with 315,000 feet gill net effort in the buffer zone. Under the proposed rule, commercial fishers may continue to fish in the buffer zone but must shift to use of entrapping gear only.

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## BACKGROUND

The Clay Banks refuge is currently receiving high density stocking of lake trout fingerlings in accordance with goals of the Great Lakes Fisheries Commission to restore lake trout stocks on historically important trout spawning reefs. Lake trout are using the buffer zone surrounding the refuge as part of their home range and get caught in commercial gill nets in this area. This revision will aid lake trout rehabilitation by significantly reducing lake trout mortality caused by gill net fishing operations in the buffer zone.

## ALTERNATIVES NOT SELECTED

Alternative 1. No change. Ongoing commercial gill netting efforts will continue to produce significant mortality among stocked lake trout in the area. Lake trout restoration efforts may be hampered.

Alternative 2. Allow commercial gill netting only in areas or water depths of the buffer zone where lake trout mortality would be low. Management surveys would delineate specific areas within the buffer zone where lake trout abundance is low and commercial gill netting could occur. Lake trout mortality in commercial operations would be reduced, but may still exceed rehabilitation goals because lake trout are dispersed throughout the buffer zone.

RULE REVISION 8. Grant the Department authoritY to denY, revoke or suspend restricted area permits whenever mortalitY of illeqal fish killed in commercial gear exceeds or is likelY to exceed 10% of the weight or number of the legal catch.

All restricted area permits including those for the buffer zone surrounding the Clay Banks refuge and those for the 1/4 mile shoreline restricted area will be subject to this limitation. Whenever staff determine illegal fish mortality levels are exceeded or department studies confirm with statistical confidence these mortality levels are likely to be exceeded, this commercial fishing effort will be stopped.

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## BACKGROUND

Restricted area permits have been established to allow limited commercial fishing in areas where unlimited fishing may damage fish stocks or interfere with other lake users. These protected areas include fish spawning grounds, lake trout rehabilitation areas and areas with high concentrations of stocked sport fish or sport fishing activity. Commercial fishing activities are allowed in these areas under special conditions specified in the permit and only where the harvest effort will not violate criteria designed to protect sport fish and sport fishing activities. These criteria have been partially effective but lack clear definition of excessive sport fish mortality in commercial gear other than trawls, gill nets or encircling nets.

The proposed rule defines excessive sport fish mortality for all commercial gear to be more than 10% by weight or number of the legal catch. This rule recognizes some incidental kill in commercial gear is unavoidable, but the intent of the rule requires the economic benefit of the commercial harvest to exceed that lost with this potential loss of sport fish .

## ALTERNATIVES NOT SELECTED

Alternative 1. No change. Restricted areas will be controlled according to existing criteria that do not define excessive illegal fish kill except in commercial trawl gear, gill nets and encircling nets. Illegal fish kill in other commercial gear will continue and in some nets may exceed the commercial harvest. In these cases, the economic loss to the state through the waste of valuable sport fish will not be balanced by the gains from the commercial harvest.

**RULE REVISION 9. Prohibit all commercial fishing in the zone surrounding the East Reef and the Milwaukee reef south of the existing Mid lake Refuge.**

The Mid Lake Refuge will be expanded to include approximately 160 square miles along the southern border to prohibit all fishing on most portions of East and Milwaukee reefs. In 1987, three fishers harvested chubs with 241,200 feet gill net effort in this area and will be required to move operations to other fishing grounds in the vicinity.

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## BACKGROUND

These reefs are currently receiving high density stocking of lake trout fingerlings in accordance with goals of the Great Lakes Fisheries Commission to restore lake trout stocks on historically important trout spawning reefs. Management surveys suggest these stocking efforts have been successful, producing high densities of lake trout in the area nearing the age of maturity. This revision will aid lake trout rehabilitation by reducing lake trout mortality caused by commercial chub fishing operations in the area.

## ALTERNATIVES NOT SELECTED

Alternative 1. No change. Ongoing commercial chub fishing efforts on Milwaukee and East reefs will continue to produce unacceptable lake trout mortality. Lake trout stocking and restoration efforts on these reefs may be deferred.

### PROBLEM II: TOO MANY COMMERCIAL FISHERS FISHING TOO MUCH GEAR CAUSES ECONOMIC INSTABILITY WITHIN THE INDUSTRY, AGGRAVATES CONFLICT BETWEEN SPORT AND COMMERCIAL FISHERS AND THREATENS THE RESOURCE

The number of Lake Michigan commercial fishers licensed under current regulations exceeds the capacity of the fish resource to provide viable incomes for all participants. According to the 1984 report of the Ad Hoc Great Lakes Fisheries Task Force, large commercial fishers realize approximately 12% gross income from dockside landing values after business expenses are deducted. With a 1987 total landed value of \$5,053,100 for the Lake Michigan harvest, total gross income after expenses for the fishery was \$606,400. Since the resource is at or near maximum exploitation, harvest levels cannot be increased to create more potential income. If the minimum income from the harvest or pretax profit needed to support a full time fisher is defined as that needed to meet the federal poverty income guidelines for an individual (\$5,500)\*, only 110 fishers could earn their income from the current fishery. Wisconsin currently licenses 156 commercial fishers.

\* Federal poverty annual income guidelines for individuals in private business are for total income before taxes but after all business expenses are paid.

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In 1987, only 20% of all licensees or 31 fishers reported pretax profits from the harvest that would exceed federal poverty income guidelines. Nine percent of all commercial fishers reported dockside income less than the current commercial license fee of \$500. Of the current 156 licensees, 27% or 42 individuals identify themselves as part time fishers. These fishers compete with full time fishers for income from the limited resource.

To correct the problems that have evolved from over capitalization and excessive competition within the commercial fishing industry, the Lake Michigan Commercial Fishing Board has been established under s. 15.345(3), Stats., and authorized under s. 29.33(7), Stats., to assist the Department in developing criteria to identify inactive licensees. These criteria implement the intent of Limited Entry legislation to reduce competition for income from the limited resource through reduced participation. Licensees that fail to maintain an investment in the fishery or have not fished above a minimum effort are denied license renewal, leaving active fishers a larger share of the available harvest.

These relicensing criteria have been partially effective in reducing the size of the commercial industry to levels needed to achieve legislative goals. Numbers of fishers have been reduced from over 200 seen in 1978 when Limited Entry legislation was enacted, to the 156 now licensed. However, as indicated above, excessive competition from marginally active fishers still limits the potential for full time fishers to earn their livelihood from the commercial harvest. Additional modifications of rules controlling access to the fishery are needed to further reduce participation, thus working toward an economically viable commercial industry.

Reduced numbers of commercial fishers will also improve the economic viability of the industry by enhancing the stability of commercial fish stocks. In open fisheries where harvest has been available in unlimited quantities, large numbers of fishers intensifying harvest beyond sustainable levels has resulted in stock collapse and loss of income to the industry. Even under harvest ceiling controls where large numbers of fishers are allotted small shares of the harvest, fish stocks can be harmed. Individual fishers rapidly catch their small quota shares, often with excessive effort that produces more fish than legally allowed. Enforcement control has not been sufficiently effective in controlling overharvest in Green Bay under these circumstances, thus jeopardizing perch stock stability.

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Expanding commercial operations lakewide have increased conflict between sport fishers and the commercial industry. Increasing numbers of fishers concentrating large amounts of commercial gear has blocked favored sport fishing grounds. Incidental kill of sport fish has increased with increasing commercial effort and now exceeds reasonable levels accepted by sport fishers and Department staff. Where fish stocks are shared, sport fishers feel expanding commercial harvest exceeds equitable sharing of these stocks.

Reduced participation in the commercial industry will resolve many of the problems threatening the future of commercial fishing. Economic viability of commercial fishing businesses will improve as fewer compete for a limited resource. With less competition, harvest efficiency will increase and less commercial fishing effort will be needed to catch the available fish stock. With less fishing effort, sport fishers will encounter less commercial gear interfering with their activities, thus enhancing their compatibility. With less commercial gear fished, incidental sport fish kill will be reduced and lake trout rehabilitation will improve. Management control needed to sustain fish stocks and assure fair allocation among users will also be enhanced.

PROPOSED REVISION 10. Beginning with the 1990 91 license year and continuing thereafter, include a relicensing requirement for a minimum total annual reported harvest of perch, lake whitefish menominees and chubs to exceed 3,570 pounds from southern Green Bay, 13,656 pounds from northern Green Bay and Lake Michigan waters north of Algoma or 19,638 pounds from Lake Michigan waters south of Algoma.

After a grace period, commercial fishers applying for annual license renewal must satisfy the current criteria (which require possession of the previous year's license, a minimum of \$5,000 invested in commercial gear and a minimum of 30 days fishing

effort during the previous year) plus satisfy the proposed rule. All current licensees have met the existing relicensing criteria. If past levels of fishing effort are practiced in the future, approximately 50 fishers would fail to meet the proposed criterion and would not be relicensed. These fishers could adjust their harvest effort during the grace period to meet the new criterion if they receive sufficient individual quotas allotted by the Commercial Fishing Board. The Board could allocate harvest quotas to fewer fishers, thus preventing some fishers from meeting the proposed relicensing

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criterion to promote economic viability for the remaining industry. Under other proposed rules in this Order, total commercial harvest of all major fish stocks will be controlled with annual harvest ceilings and will not increase as a consequence of this proposed rule.

## BACKGROUND

Commercial fishers must meet certain criteria set with the assistance of the Lake Michigan Commercial Fishing Board for annual license renewal. These criteria require a minimum of \$5,000 investment in commercial gear and a minimum of 30 days fishing effort in the previous year but do not include any other performance standards. Commercial fishing activities vary regionally in Lake Michigan as a consequence of variations in locally available commercial fish stocks and traditional fishing practices. As a result, efforts to meet the current relicensing criteria also have varied on a regional basis.

Zone 1. Commercial fishers operating in southern Green Bay (Zone 1) concentrate harvest effort primarily on local perch stocks with some additional effort made to harvest whitefish and menominee. Commercial trawl fishers harvest alewife and smelt. Chubs are not found in harvestable abundance in this area. In 1987, eighty eight commercial fishers operated an average of 50 days and made an average annual harvest of 5,940 pounds.

Zone 2. Whitefish and chubs are more abundant in northern Green Bay and Lake Michigan waters (Zone 2) and provide the principal harvest in this area. Menominee harvest is lower and perch stocks are not abundant. A total of 61 fishers operated in this area in 1987, averaging 72 days fished and a 32,860 pound total catch.

Zone 3. Chubs and perch are more abundant in southern Lake Michigan (Zone 3) than elsewhere in the lake, thus supporting the largest regional commercial harvest. Whitefish abundance and harvest is comparable to that seen in Zone 1. Commercial trawl fishers make their largest forage fish harvests in this area. A total of 51 fishers operated in Zone 3 during 1987, averaging 96 days fished and a 63,090 pound total catch.

Many commercial fishers agree that relicensing criteria should be made more stringent to better define active participation in the industry but feel differences in regional fisheries justify unique relicensing criteria be applied for each lake Zone. For example,

fishers may operate in Zone 1 for the same number of days as fishers in other zones but will catch fewer pounds because of differences in stock abundance and gear efficiency.

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Industry representatives support the staff proposal to create an additional criterion to be met for license renewal that requires a minimum total harvest be made in the previous year if the standard reflects differences in the regional fisheries. The proposed rule acknowledges the current 30 day minimum fishing effort as one minimum measure of fishing activity, but also requires a minimum harvest characteristic of typical 30 day catches in each zone be reported as part of that fishing effort. The minimum harvest standard applicable for each zone will be the product of an average daily catch for that zone multiplied times 30 days fishing effort. The resulting set of relicensing criteria will require a fisher make a minimum investment in commercial fishing gear, make a minimum fishing effort and successfully harvest a minimum typical catch characteristic for the zone he or she fishes.

#### ALTERNATIVES NOT SELECTED

Alternative 1. No Change. Criteria for relicensing will include a requirement for a minimum investment in commercial gear, a minimum fishing effort made the previous year but no requirement to meet a minimum harvest to demonstrate active participation in the fishery. All commercial fishers currently licensed have met these criteria and will continue to do so. Many fishers who are not earning the majority of their income from the fishery will be allowed to continue commercial fishing. Excessive competition for the limited resource will continue, resulting in harvest and stock instability. Successful applicants will include some part time fishers who will compete with full time fishers for the limited resource.

Alternative 2. Set the number of licenses available at a fixed level the resource is potentially capable of supporting. This number could be derived by multiplying the average annual total landed value of fish harvested by the average return to labor after business expenses are deducted (12%), and dividing the product by a minimum standard of income earned from the fishery (current federal poverty income guideline for an individual = \$5,500). Using the 1987 reported harvest value, the calculation would have produced 110 licenses available. Many of these fishers will not be able to earn a livelihood from the fishery because other fishers hold large shares of the quota allotments, thus preempting an equal division of potential income. Under this alternative, for each licensed fisher to earn their livelihood from the fishery, individual shares of quota harvest limits must be equally allotted to each fisher.

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Alternative 3. Eliminate Great Lakes Commercial licenses and permit commercial harvest only by contract. The Department would issue only the number of contracts it could effectively administer and that could provide a livelihood to contractors without creating unreasonable incidental kill of sport fish or unacceptable controversy. If there are more applicants than available contracts, the contracts should be awarded through a sealed bid process to the highest bidders. Each contract would specify allowable fishing gear, seasons, fishing zones, harvest limits and other rules necessary to regulate the harvest. This alternative would enhance stability of the fish stocks and their harvest through limited access, but it may discourage long term investment in the fishery because of the continued high risk of losing contracts through the bidding process.

RULE REVISION 11. Prohibit all commercial fishing within one half mile of the shoreline and any harbor, pier or breakwater in Ozaukee, Milwaukee, Racine and Kenosha counties.

No commercial fishing has occurred in this area in the recent past, therefore no commercial effort will be eliminated. Potential conflicts between sport and commercial fishers operating in the same area will be prevented and high sport fish mortality in commercial gear will be avoided.

#### BACKGROUND

Under current rules, only commercial fishing with entrapping gear for rough or detrimental fish and for whitefish is allowed in this area and only under special permit. These rules were developed to prevent unacceptable incidental catches of sport fish in commercial gear and to reduce the potential for conflict with sport fishing activities.

An expanding sport fishery has developed in the area since these rules were developed, and conflict now seems unavoidable with any commercial operations. During spring, coho salmon concentrate along the shoreline with tremendous numbers of sport fishers in hot pursuit. During the rest of the summer and fall, large numbers of sport fishers also fish for other salmonids and perch in the shoreline area. Any new commercial operations in the same area would likely interfere with these established sport fishing activities and will likely have high incidental kills of sport fish.

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#### ALTERNATIVES NOT SELECTED

Alternative 1. No change. Commercial fishers may develop new operations in this area and increase conflict with sport fishers. Incidental kill of sport fish will likely be high and difficult to control due to high sport fish abundance.

RULE REVISION 12. Close the commercial entrapping net season south of Baileys Harbor from Memorial Day through Labor Day.

All commercial entrapping gear including pound nets, trap nets, drop nets and fyke nets will be prohibited in this area during the summer months. Commercial fishers may use

this gear during the remainder of the year except during the closed season for whitefish October 25 December 1 and during the closed season for perch in May. Approximately 13 fishers must shift their current summer operations to the remainder of the year. Catch records indicate past harvest levels could be caught during the shortened season with intensified effort.

## BACKGROUND

Expanding commercial trap netting operations in Lake Michigan waters south of Baileys Harbor has increased conflict between sport and commercial fishers. These commercial operations have moved into favored sport fishing grounds not previously subjected to intensive commercial netting effort. Some sport fishers not familiar with commercial net markings have lost tackle that became entangled in trap nets while attempting to troll in the vicinity of these operations. Other sport trollers have moved to less favored waters to avoid the concentrations of nets. Many of these sport fishers feel these expanding commercial operations are a threat to their use of the lake and have requested the Department limit commercial trap net effort to spring and fall as practiced in past years.

These expanding commercial operations have also increased incidental kill of sport fish. Recent studies have determined these trap nets capture large numbers of lake trout and salmon while fished for whitefish. Although most of these sport fish are released alive, delayed mortality from the net abrasion and handling stress is unknown and may kill substantially more sport fish than are observed dead in the nets. Trap net catches of whitefish decline during summer months with legal harvest sometimes less than total pounds of sport fish killed in the operation.

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The proposed rule will eliminate commercial trap netting during the summer months to reduce incidental catch of sport fish and to reduce conflict with sport fishers. Whitefish harvest will be shifted to the spring and fall when catch efficiency is greatest, thus completing the allowable harvest with less netting effort and lower incidental sport fish kill. Intensive trap netting effort will be completed and removed from the water before sport fishing activity increases during the summer.

#### ALTERNATIVES NOT SELECTED

Alternative 1. No change. Commercial trap net operations will continue during the summer months with conflict between sport and commercial fishers increasing as commercial effort increases. Incidental kill of sport fish will continue.

Alternative 2. Set commercial whitefish harvest ceilings by lake region without shortening the season. Whitefish stocks will be maintained at sustainable levels and expansion of commercial effort will be curtailed. However, commercial fishers could fish during summer months when conflict would be aggravated. Sport fish incidental kill in commercial gear will be controlled but may not decrease if commercial effort continues during less productive summer months.

RULE REVISION 13. Prohibit commercial harvest of Lake Michigan perch during May 1 September 30 by extending the existing closed season to include August 1 September 30.

The commercial harvest season for Lake Michigan perch will be October 1 April 30 with the remainder of the year closed. Approximately 53 fishers must shift their operations to cease current commercial operations during August September. Catch records indicate past sustainable harvest levels could be caught during the shortened season with intensified effort during the shortened open season.

#### BACKGROUND

Lake Michigan sport fishing for perch is extremely popular in the heavily populated southeastern Wisconsin counties. Shore fishing from piers and breakwaters is a major component of this sport fishery, with over 209,000 perch caught from piers and breakwaters. Shore fishing is most popular and productive after Lake Michigan waters warm in July, August and September. This fishing opportunity

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is available to thousands of anglers who do not need big boats or sophisticated equipment to catch fish.

Lake fishing for lake trout and salmon is also very popular with over 150,000 anglers catching 240,000 fish from the southern lake area. Sport trolling begins during spring when anglers pursue coho salmon and peaks during late summer when chinook salmon are more abundant. As the ongoing steelhead stocking program achieves its objectives, greater abundance of these popular fish will increase sport fishing activity during the late summer.

While successful sport fishing continues, commercial fishing operations have expanded in the same southern Lake Michigan waters in recent years. In 1987, commercial fishers set 15,000,000 feet of gill net to harvest over one half million pounds of perch from waters off Milwaukee, Kenosha and Racine counties. Commercial harvest effort is concentrated during late summer and early fall, and again during early spring. Under current rules, the commercial perch harvest season is closed May - July.

Perch anglers complain this expanding commercial effort is overharvesting the perch stocks, jeopardizing perch stock stability and harming perch sport fishing success. Sport trollers feel excessive commercial gill net effort set during the best sport fishing period interferes with their activities. These sport fishers have requested rule changes to reduce commercial perch harvest and eliminate gill net effort during the most popular sport fishing period.

Staff agree shortened commercial harvest seasons will help reduce conflict between sport and commercial fishers in the area and also will reduce incidental kill of sport fish in commercial gear. During August and September when commercial effort is greatest, young chinook salmon are most vulnerable to gill nets set for perch. In 1987, almost 19,000 one year old chinooks were killed in these commercial gill nets. The proposed rule will help resolve these problems by closing the commercial perch harvest season during August and September.

#### ALTERNATIVES NOT SELECTED

Alternative 1. No change. The commercial perch harvest season will remain open during the most popular sport fishing months. Conflict between commercial and sport fishers will continue to grow. High

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incidental kill of sport fish in commercial gear will continue during late summer and early fall.

Alternative 2. Set commercial harvest ceilings for perch without shortening the season. Total commercial perch harvest will be reduced to sustainable levels shared equitably with sport fishers. However, conflicts between sport and commercial activities in the same area and incidental kill of sport fish in commercial gear may not be reduced if commercial fishers concentrate their efforts during August - September.

### PROBLEM III: ILLEGAL COMMERCIAL ACTIVITIES THREATEN THE FUTURE OF THE ENTIRE INDUSTRY

Violation of commercial harvest regulations has increased beyond enforcement control as competition for a limited and valuable resource increases. With 156 commercial licensees and more than 300 licensed crew operating 72.2 million gill net feet and 6500 entrapment gear lifts annually, field wardens have difficulty monitoring sufficient numbers of commercial operations to assure compliance with harvest controls. When additional enforcement staff concentrate efforts to monitor the commercial fishery, significant noncompliance has been detected. In 1983, enforcement personnel uncovered substantial amounts of unauthorized fish being illegally harvested and sold. In 1987, ten commercial Green Bay perch fishers were convicted of violating harvest control rules. Enforcement audits of the Green Bay perch harvest made during the 1985-87 license years resulted in 40 warnings and 16 convictions issued to commercial fishers.

Enforcement control of the commercial fishery must be improved to assure sufficient protection of fish stocks without increasing management costs. Without effective enforcement, harvest ceilings or quotas become meaningless and management strategies to protect and sustain the fishery resource will become ineffectual.

#### RULE REVISION 14. Require all commercial fishers to land their catches at designated Ports.

For ice fishing operations, limit designated ports to public boat landings found along the east and west shores of Green Bay. During open water, designated ports will include any actively used existing landing sites. Each fisher will indicate on his or her annual relicensing application no more than two landing sites he or she will use as landing ports.

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#### BACKGROUND

Monitoring landed catches is especially difficult during commercial ice fishing operations where large numbers of commercial fishers can evade wardens by taking their catches off the ice almost anywhere to avoid inspection. Enforcement efforts to verify harvest totals will be enhanced by concentrating landings of the commercial harvest at fewer locations and increasing inspection capability.

#### ALTERNATIVES NOT SELECTED

Alternative 1. No Change. Commercial fishers will continue to land catches at many widely dispersed locations. Fishers may land catches at unknown locations to avoid inspection. Enforcement personnel will not be able to inspect sufficient numbers of fishers to assure compliance with reporting requirements and to verify total landed catch.

RULE REVISION 15. Require commercial fishers to complete harvest reports immediately after completing net lifts, and transport the report in such a way that it cannot be altered.

#### BACKGROUND

Harvest reports and disposition records are required from commercial fishers to verify that catches remain within limits. Falsification of these records, especially within the quota controlled fisheries, has increased concern for reporting accuracy. Increased reporting controls are necessary to assure these reports remain a valuable management tool. Accuracy of harvest reports should be improved by reducing the opportunities to omit or falsify reporting of the commercial catch. Enforcement should be enhanced by allowing inspection of harvest records wherever harvest is completed.

#### ALTERNATIVES NOT SELECTED

Alternative 1. No Change. Current regulations do not require fishers to complete harvest reports until the catch is brought to dock or shore, thus enforcement inspections on the water cannot verify report completion. In some cases where fishers have avoided inspections at dockside, reports have been falsified. Fishers have also altered harvest reports when inspection appeared imminent. Without adequate inspection powers, reporting accuracy and harvest control is lost.

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RULE REVISION 16. Require commercial fishers to report all commercial fish retail sales.

#### BACKGROUND

Current report forms allow retail sales to be lumped as one total on monthly fish disposition reports. Additional information gained by requiring itemized retail sales will allow enforcement to verify harvest and disposition report accuracy by cross reference with inventories found at identified retail fish outlets.

#### ALTERNATIVES NOT SELECTED

Alternative 1. No Change. Commercial fishers will continue to lump all retail sales as one total on monthly reports. Approximately 50% of the Green Bay perch harvest and a large portion of the whitefish harvest is reported sold in this manner. When retail sales are lumped as one reported total, buyers and the quantities of fish purchased are not identified. Enforcement efforts cannot authenticate legitimate market inventories, thus control of illegal fish harvest and illegal sales is lost. Fish stocks will be jeopardized by illegal overharvest.

RULE REVISION 17. Require commercial fishers to submit harvest reports, quota harvest reports and fish sales records biweekly on consolidated rePort forms.

#### BACKGROUND

Commercial fishers who hold quota harvest permits must currently submit a monthly harvest and fish disposition report as well as weekly quota harvest reports. Some commercial fishers may be required to submit up to 14 separate reports per month. Streamlining the reporting requirements will reduce the reporting burden required of the industry and increase the efficiency of compiling harvest records by the Department.

#### ALTERNATIVES NOT SELECTED

Alternative 1. No change. Commercial fishers must continue to comply with 3 different reporting requirements that have different

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filing deadlines and require duplication of reported information on individual forms. Both the Department and fishers will be burdened with unnecessary costs associated with compiling records.

RULE REVISION 18. Require all commercial fishers who operate entrapping nets for whitefish and perch to remove the entire net within 14 days after the close of the season.

#### BACKGROUND

Current rules allow fishers to leave pond and trap nets in the water during the closed season provided the nets are rendered inoperable. Unless each net is individually inspected, wardens cannot verify compliance with this rule. Mandatory net removal will allow more effective enforcement of the closed season. Net removal will also reduce incidental gilling of trout and salmon commonly seen with leads and wing nets left in the water after the close of the whitefish harvest season.

#### ALTERNATIVES NOT SELECTED

Alternative 1. No change. Entrapment nets will be allowed to remain in the water during the closed season, and could be rendered operable without the wardens knowledge at any time during this period to illegally harvest fish. Trout and salmon mortality caused by entrapment gear will continue.

RULE REVISION 19. Require commercial fishers to cease ice fishing operations by March 15.

Commercial fishers will be required to remove commercial gear fished through the ice by March 15. In 1987 88, a total of 13 fishers operated commercial gear through the ice after March 15, 1988 and harvested 385 pounds of perch and 3,493 pounds of whitefish. Under the proposal, these fishers would be required to shift their efforts to

open water operations after March 15 or to intensify their ice fishing efforts prior to March 15.

BACKGROUND Commercial fishers are currently allowed to fish through the ice as long as each fisher deems it practical until spring ice breakup. A common practice for commercial fishers has been to fish through the ice until spring thaws and rotting ice make attending the nets too dangerous. The nets are then left in place to be retrieved by boat

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when the ice moves out. This practice results in nets being left unattended potentially for weeks until they can be retrieved by boat. In some cases, nets have been lost when shifting ice moves the net marker buoy and the attached net. Unattended or lost nets continue to kill fish, which then are an unsaleable waste.

#### ALTERNATIVES NOT SELECTED

Alternative 1. No change. Commercial ice fishing could continue with no requirement to cease operations when dangerous ice conditions make net attendance impossible. Some commercial nets will be left unattended for long periods or lost, resulting in continuing fish mortality and waste of harvestable fish left to rot in unattended nets.

Alternative 2. Eliminate commercial ice fishing. Fish mortality in nets left unattended or lost because of shifting ice would be eliminated. Harvest from available stocks would be shifted to open water periods, however some fishers without boats would not be able to participate in the harvest. Several fishers would be deprived of a significant source of income.

#### PROBLEM IV: SOME CURRENT REGULATIONS UNNECESSARILY HAMPER COMMERCIAL INDUSTRY EFFICIENCY AND LIMIT PROFITS

Commercial fishing rules have been developed over time during which fish stocks have changed in abundance and distribution in response to dramatic environmental shifts. Some current rules are no longer necessary to protect fish stocks which have recovered from past low levels. New information suggests other rules can be modified to allow commercial harvest where previously prohibited, to offer increased profits to commercial fishers and better protection of sport fish. New rules must be developed to enhance control through commercial harvest of introduced or exotic fishes which threaten the long term health of the Lake Michigan fish communities. Commercial fishers have also requested rule changes to adjust commercial harvest to enhance industry efficiency and improve marketing opportunities.

RULE REVISION 20. Allow white perch to be commercially harvested through detrimental fish removal contracts authorized under s. 29.625, Stats.

Contracts to harvest white perch will be issued to licensed commercial fishers when fishing methods can be developed to maximize

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white perch harvest while minimizing incidental illegal fish kill.

## BACKGROUND

White perch are an estuarine fish species native to the North American east coast and now are established as an exotic invader in all the Great Lakes. White perch occupy the shallower and warmer portions of lakes and in Lake Erie, where populations have flourished, a commercial fishery now exists for them. White perch are not highly regarded as a sport fish. White perch were first discovered in Lake Michigan in 1988.

Staff feel white perch will compete for food and living space with native yellow perch stocks in Green Bay and southern Lake Michigan. This competition may disrupt native fish community balance and jeopardize sport and commercial fishing opportunities dependent on healthy yellow perch stocks. With the proposed rule revision, staff will encourage commercial harvest to control white perch stock expansion while protecting native yellow perch stocks.

## ALTERNATIVES NOT SELECTED

Alternative 1. No change. Commercial harvest of white perch will not be allowed. White perch populations will continue to grow, threatening yellow perch stocks in Green Bay and southern Lake Michigan.

RULE REVISION 21. Allow commercial fishing with 2 3/8 inch mesh gill nets having panels 25 60 meshes in height in the southern chub zone in waters greater than 25 fathoms deep.

Gear restrictions applying to gill nets used in the southern chub fishing zone will be liberalized to allow increased chub harvest with smaller gill net mesh size. Harvest ceilings will not change but total chub harvest may increase within these sustainable levels with improved harvest efficiency.

## BACKGROUND

Gill net mesh restrictions are set to protect chubs from commercial harvest until they reach adult size and can spawn at least once. During the early years of chub stock recovery, chubs grew rapidly to a large size before reaching maturity at 3 years of age. The minimum allowable mesh size was initially set at 2 1/2 inches to protect large but still immature chubs.

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In recent years as chub stocks have recovered, chub growth rates have declined to historical averages. Chubs still mature at 3 years of age, but are a smaller size at first maturity than previously seen. A minimum 2 1/2 mesh size now protects a larger portion of the adult chub stock from harvest than protected during the late 1970's.

Commercial fishers' harvest success has declined as chub growth rates slowed, and they have requested rule revisions to allow a 2 3/8 inch minimum gill net mesh size to improve their harvest of smaller mature chubs.

Staff surveys indicate a 2 3/8 minimum mesh size will protect younger chubs until they mature while making a larger portion of the adult chub stock susceptible to harvest. Staff also agree chub stocks are abundant and can sustain increased harvest that will likely occur with a change to a smaller mesh size. The proposed rule was developed with gill net panel size restrictions and water depth restrictions to improve commercial harvest efficiency for chubs while protecting perch stocks found in nearby shallower waters.

#### ALTERNATIVES NOT SELECTED

Alternative 1. No change. The 2 1/2 inch minimum allowable gill net mesh size available for commercial chub fishing will not change. Commercial fishers' operating efficiency will not improve, thus more commercial gill nets may be fished to reach harvest goals. Incidental kill of sport fish in gill nets may increase.

RULE REVISION 22. Allow commercial fishing in Lake Michigan waters extending approximately 6 miles north of Kewaunee in waters greater than 45 fathoms deep.

The southern chub fishing zone will be expanded by moving the northern boundary (currently *running* on a line running due east from Kewaunee) approximately 6 miles north in waters greater than 45 fathoms deep to allow chub fishers from Algoma to operate more efficiently.

#### BACKGROUND

When the commercial chub fishing season was reopened in 1979, all waters north of a line running due east from Kewaunee remained closed due to lower chub abundance and lake trout restoration efforts in that area. Those chub stocks have since recovered and the harvest season has been reopened in waters north of Baileys Harbor. In 1985,

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a lake trout refuge was established in waters from Sturgeon Bay to Algoma for the protection of lake trout concentrated on potential spawning grounds in the Clay Banks reef area. No commercial fishing of any kind is allowed in the refuge and lake trout sport fishing is also prohibited. The 10 mile area from Algoma to Kewaunee was

designated a restricted area with limited commercial fishing to serve as a buffer zone to protect lake trout wandering from the refuge. Commercial chub fishing is not allowed in this area.

Commercial fishers from Algoma have requested rule revisions to adjust the restricted area boundary to allow chub fishing closer to Algoma. These fishers feel local competition for chub stocks can be reduced and the efficiency of their operations improved by allowing them to fish closer to their home port.

Staff survey efforts conducted since 1986 indicate commercial chub fishing can be conducted safely in deep waters closer to Algoma. Chub stocks are locally abundant and test netting indicates lake trout mortality in gill nets set deeper than 45 fathoms (270 feet) will be very low. The proposed rule revision was developed to modify the restricted area buffer zone to protect lake trout concentrations found in shallower waters while improving commercial chub fishing opportunities.

#### ALTERNATIVES NOT SELECTED

Alternative 1. No change. Commercial chub fishing would not be allowed in the southern chub zone north of Kewaunee. Chub fishers from Algoma will continue their operations in waters just south of Kewaunee, adding to other commercial effort and competition in the area with decreased operating efficiency.

#### RULE REVISION 23. Allow year around commercial harvest of chubs in the southern chub fishing zone.

The commercial chub harvest season in the southern chub fishing zone will be extended to include the current closed period of January 15 March 1st. Total harvest will remain limited under annual harvest ceilings or quotas.

#### BACKGROUND

Commercial chub harvest was closed lakewide in 1976 following dramatic declines seen in chub abundance. The chub fishery was reopened in 1979 under quota management with gradual increases in harvest ceilings and season lengths as chub stocks have recovered.

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Since 1986, the chub harvest season has extended from March 1 January 15 with 6 weeks closed in the winter during the chub *spawning* period.

Commercial fishers from the southern chub fishing zone have requested rule revisions to allow year round chub harvest. These chub fishers feel the extended season is needed to take advantage of a lucrative market for chub roe and to supply larger, more desirable fish to the smoked fish market. Northern chub fishers are satisfied with the

current harvest season and have requested the proposed rule not apply to the northern chub fishing zone.

Recent surveys indicate chub stocks have fully recovered and are abundant throughout the lake. Chub spawning has been highly successful in large part because refuges established to rehabilitate lake trout also protect spawning concentrations of chubs from commercial harvest pressure. Staff agree chub stocks can be maintained by chub spawning success within the lake trout refuges without the need for a closed season elsewhere in the lake. Harvest ceilings will not change, thus total gill net fishing effort and incidental kill of sport fish will not increase.

#### ALTERNATIVES NOT SELECTED

Alternative 1. No change. The chub harvest season will remain closed lakewide for a 6 week period during the winter. Chub *spawning* stocks will be protected but chub fishers will be unnecessarily denied access to lucrative harvests.

RULE REVISION 24. Allow commercial chub fishing in northern Green Bay waters located within grids 506 and 507 during September 1 - May 31 as part of the northern chub quota harvest.

Commercial chub fishing opportunities will be expanded to allow chub harvest from northern Green Bay waters. Total chub harvest from the northern chub zone will not increase but commercial fishers may shift operations from Lake Michigan to portions of Green Bay, thus *gaining* more fishing grounds.

#### BACKGROUND

Commercial chub harvest was closed lakewide in 1976 following dramatic declines seen in chub abundance. The chub fishery has been

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gradually reopened under quota management as chub stocks have recovered, and since 1981, commercial harvest has been allowed in Lake Michigan but not Green Bay.

Commercial fishers feel northern Green Bay chub stocks have now recovered sufficiently and have requested permission to harvest chubs from these waters. Department studies verify the recovery of these stocks and staff feel limited commercial harvest can be sustained. Staff feel season and zone restrictions in addition to harvest ceilings are necessary to reduce incidental catch of illegal fish and to avoid potential conflict with sport fishing in the area.

#### ALTERNATIVES NOT SELECTED

Alternative I. No change. Commercial chub harvest from Green Bay waters would continue to be prohibited. Although chub stocks have recovered to harvestable levels, commercial fishers would not be allowed the potential income from a sustainable Green Bay chub harvest.

RULE REVISION 25. Allow trap netting for perch in shoreline restricted areas in Door, Kewaunee, Manitowoc and Sheboygan counties.

Commercial fishing opportunities will be expanded in these areas to allow perch harvest with entrapping gear in addition to harvest of rough and detrimental fish and whitefish. Total perch harvest will be limited as part of the Lake Michigan perch harvest quota and allowable commercial gear will be limited under special conditions of restricted area permits. Restricted area permits may be denied or suspended under authority of s. NR 25.10(4), Wis. Adm. Code, if conditions warrant.

BACKGROUND Commercial fishers have requested permission to harvest perch with entrapping gear within the 1/4 mile shoreline restricted area north of Ozaukee county. Current rules allow commercial fishing in this area only for rough or detrimental fish and whitefish with entrapping gear.

Lake Michigan perch populations have recovered from previous low levels and are now sustaining a moderate commercial harvest. Under proposed rule revisions, perch harvest, including harvest from restricted areas, will be controlled by annual harvest limits.

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Under current rules, commercial fishers operating north of Ozaukee county are now harvesting perch with gill nets outside of the 1/4 mile zone. If expanded, these gill net operations could produce unacceptable incidental sport fish mortality and conflict with sport fishing activities in the area.

Department staff and commercial fishers agree shifting perch harvest efforts to shoreline restricted areas and use of entrapping gear instead of gill nets should reduce incidental kill of sport fish and should also reduce the potential for conflict with sport fishers.

#### ALTERNATIVES NOT SELECTED

Alternative 1. No change. Commercial perch harvest with gill nets will continue in offshore waters. Gill net effort could increase as northern fishers consolidate harvest rights through quota transfers from southern fishers, or as annual harvest limits increase with perch stock recovery. Increased gill net effort will increase incidental kill of sport fish and increase the potential for conflict with sport fishers.

Alternative 2. Ban commercial gill netting for perch. Sport fishing conflicts with gill netting operations would be eliminated. Incidental kill of sport fish in perch gill nets would be eliminated, however commercial fishers would fish for perch with entrapping gear in offshore waters where the same problems would develop with this new effort.

#### SMALL BUSINESS ANALYSIS

Licensed commercial fishers operating in Lake Michigan and Green Bay are required to comply with Wisconsin Statutes and administrative rules which govern commercial fishing in state outlying waters. Commercial fishers will be required to submit biweekly reports of fish harvest and sales instead of monthly and weekly reports.

The commercial fishing industry is dominated by small businesses. Compliance and reporting requirements were developed through public involvement and were designed to minimize effects on small business while protecting the natural resource.

Licensed commercial fishers will be required to keep daily records and submit biweekly catch reports and sales records on forms provided by the Department no later than the Monday following the previous biweekly report period. Harvest information is required on a timely

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basis in order to develop harvest quotas for time periods immediately following the reporting period.

Proposed reporting requirements were developed to minimize effects on small business while providing basic information needed to maximize benefits to the public and the natural resource.

## INITIAL REGULATORY FLEXIBILITY ANALYSIS

Small businesses affected will include licensed commercial fishers operating in Lake Michigan and Green Bay. These businesses will be required to keep daily records and to submit biweekly reports of daily commercial fishing activities to the Department. These reports must include records of fish sales and harvest summaries. Professional skills needed to comply with the rule include knowledge of existing regulations, ability to identify fish species, and writing and arithmetic skills adequate to complete biweekly reports.

## ENVIRONMENTAL ASSESSMENT

An Environmental Assessment of the proposed rules revising portions of Chapters NR 25 and 26, Wis. Adm. Code, pertaining to commercial fishing on Lake Michigan and to fish refuges has been completed resulting in the following recommendation.

## EIS RECOMMENDATION

This is not a major state action which would significantly affect the quality of the human environment. An environmental impact statement is not required prior to final action by the Department to adopt this rule. This determination was made considering the attached analysis and the following factors:

1. These actions may be reversed by rule revision to avoid any short term or long term negative environmental effects. Fish populations in Lake Michigan will receive increased protection through this rule revision. Neighboring states with management authority on Lake Michigan also limit fish harvest and commercial fishing effort to protect fish stocks.
2. There are no known cumulative effects of related actions that would compound negative impacts on the environment.
3. Ongoing monitoring of the status of fish stocks through required harvest reports and Department stock assessments reduces the

TO: C. D. Besadny September 6, 1988 p.39

uncertainty in controlling potential environmental impacts.

4. This action follows existing precedent by implementing provisions predetermined by enabling legislation. The rule revisions do not foreclose future options because the rule can be amended.

5. This action was requested in part by affected parties and was modified to reduce controversy over its effects.

Michael J. Talbot Date

Douglas W. Morrissette, Director,  
Date Bureau of Fish Management

Certified to be in compliance with WEPA\*

Director, BEAR (or designee) Date

\*If you believe you have a right to challenge this decision, you should know that Wisconsin Statutes and Administrative Codes establish time periods within which requests to review Department decisions must be filed. For judicial review of a decision pursuant to ss. 227.52 and 227.53, Wis. Stats., you have 30 days after service of the decision to file your petition for review. The respondent in an action for judicial review is the Department of Natural Resources. You may wish to seek legal counsel to determine your specific legal rights to challenge a decision. This notice is provided pursuant to s. 227.48(2), Wis. Stats.

S T A T E O F W I S C O N S I N

DATE: September 6, 1988 File Ref: 3600

TO: Douglas W. Morrissette

FROM: Michael J. Talbot

SUBJECT: Summary of Public Comments on the Proposal to Improve the Management of the Lake Michigan Commercial Fishery

Department Fisheries staff delivered to Lake Michigan commercial fishers and the public on March 16, 1988, a proposal to improve the management of the Lake Michigan commercial fishery. The proposal was developed to resolve problems identified by the 1977 Lake Michigan Fisheries Task Force, by the 1986 Lake Michigan Fisheries Management Plan, and more recently by staff and by members of the commercial industry. Past commercial rule revisions developed through extensive negotiations with the industry over the last two years have not been effective in resolving these problems. Both Department staff and concerned members of the commercial industry feel additional changes are needed.

Fisheries staff presented recommended solutions as a set of ideas for discussion at public informational meetings on April 11 and 14, 1988, at Green Bay and Milwaukee, respectively. Discussions have continued since then at meetings with representatives from the commercial industry on May 16, July 6, July 25 and August 17, 1988, and with the Great Lakes Federation of Sport Fishermen on May 14 and August 18, 1988. I have also received written and oral comments on the proposal almost daily since it was introduced.

I have listed below suggested modifications to our proposal that I have received as public comment as of today. I have not listed all comments, rather, I have tried to combine ideas where possible. The source of the comment precedes the idea, with a brief rationale following.

SOURCE IDEA/rationale

Commercial Fisher DROP INCOME CRITERION / Too difficult to apply to diverse fishery.

Commercial Fisher DROP ROUND WHITEFISH QUOTA / Too small of harvest to impose quota.

Commercial Fisher DROP RETAIL HARVEST REPORT / Too many loopholes.

Commercial Fisher LIMIT ACCESS THRU HIGH VALUE SPECIES STAMP SALE / Few fishers will qualify. Will avoid need for quotas.

TO: D. W. Morrisette September 6, 1988 p.2

Commercial Fisher GRANDFATHER EXEMPTIONS TO CHANGE FOR ALL EXISTING FISHERS / Let traditional fishers finish their careers.

Commercial Fisher EXTEND CHUB SEASON YEAR AROUND / Plenty of chubs to harvest.

Commercial Fisher ALLOW 2 3/8" GILL MESH FOR CHUBS / Chubs too small to catch in 2 1/2" mesh.

Sport Fisher REDUCE INDUSTRY SIZE AND EFFORT / Too much incidental kill and too much user conflict.

Commercial Fisher OFFER BUYOUT PROGRAM FOR RETIRING FISHERS / Small fishers squeezed out should be compensated.

Commercial Fisher ALLOW CHUB HARVEST IN NORTH GREEN BAY / Studies show abundant chubs, low incidental catch.

Commercial Fisher ALLOW GREATER MESH SIZE VARIATION / Manufacturer can't supply std mesh webbing.

Commercial Fisher NO QUOTAS / Other changes will limit harvest.

Commercial Fisher USE DEPTH TO DEFINE MID LAKE REFUGE BDRY / Grids will prevent chub harvest in notch between reefs.

Sport Fisher ELIMINATE GILL NETS / Too much conflict.

Sport Fisher PERCH HARVEST SHOULD BE SPLIT 50/50 / Sport and commercial harvest should be equal.

Public at Large MOVE KEWANEE LINE / Let Algoma fishers work closer to home.

Sport Fisher NO TRAP NETTING SOUTH OF BAILEYS HARBOR / Incidental kill too high. Too much conflict.

Sport Fisher SET SMELT QUOTA FOR GREEN BAY / Trawlers harvest is excessive and may reach 2.5 M lbs.

Commercial Fisher SET RIGHT TO REACTIVATE LICENSE / If licenses are taken away when stocks are low, then they should be given back when stocks increase.

TO: D. W. Morrisette September 6, 1988 p.3

Commercial Fisher SET ZONES TO LIMIT LICENSEES BUT NOT HARVEST /  
Reducing fishers in each zone will reduce harvest and conflict.

Commercial Fisher ALLOW SMELT TRAWLING WITH DIVERTERS AND NO  
ADDITIONAL RESTRICTIONS / Diverters will solve incidental  
fish problems.

Commercial Fisher SET LARGER QUOTAS / Fish stocks can support more harvest.

Commercial Fisher SEASON CONSTRAINTS MAY HAMPER QUOTA CATCH / More  
time needed to catch all of allowed quota.

Commercial Fisher ALLOW MENOMINEE HARVEST IN NOVEMBER / Plenty of  
menominee and fishers need option to fish when whitefish  
season closed.

Commercial Fisher ALLOW LOW PROFILE GILL NETS IN CLAY BANKS BUFFER  
ZONE / Will reduce trout kill.

Commercial Fisher ALLOW ICE FISHING WITH COTTON BREAKERS TO SURFACE  
MARKERS / Shifting ice would not move nets.

Commercial Fisher APPLY 10% RULE ONLY TO CLAY BANKS BUFFER ZONE / No  
concentrations of trout elsewhere.

Commercial Fisher ALLOW TRAP NETS FOR PERCH IN RESTRICTED AREAS / Can  
harvest allowable perch without gill nets.

Commercial Fisher ALLOW ASSESSMENT FISHERY TO TAKE PERCH AND  
MENOMINEE WITHOUT QUOTAS / Gather data before quotas  
are set.

Commercial Fisher SPECIAL COMMITTEE NEEDED TO IMPROVE REPORTING /  
DNR ideas unworkable but change is needed.

**Sport Fisher STOP COMMERCIAL EXPANSION / Past commercial activities ok but  
new expansion threatens tourism.**

Citizen at Large PROVIDE FOR BOTH SPORT AND COMMERCIAL USE OF LAKE /  
**Plenty of room for both if wisely used.**

Citizen at Large PROHIBIT TRAWLERS DUMPING WASTED ALEWIFE / Trawlers  
waste other fish when sorting smelt.

TO: D. W. Morrisette September 6, 1988 p.4

Citizen at Large ALGOMA NEEDS THE COMMERCIAL FISHING INDUSTRY /  
Commercial fishing brings jobs to Algoma.

Sport Fisher BALANCE COMMERCIAL EFFORT WITH SPORT NEEDS /  
Compatibility possible with reduced commercial  
size.

Sport Fisher COMMERCIAL FISHERS TAKE TOO MANY PERCH / Commercial  
harvest reduces harvest of some anglers can not  
afford to buy fish.

Sport Fisher INCREASE FINES FOR COMMERCIAL FISHING VIOLATIONS  
Small fines no deterrent for big business.

Sport Fisher INCREASE COMMERCIAL LICENSE FEES / Reduce sport  
subsidy of commercial program and install user pays  
policy.

Sport Fisher BAN COMMERCIAL FISHING / Sport fishing related  
tourism too important to be threatened by  
commercial activities.

I have maintained a file for your reference of all written comments and my notes taken  
at informational meetings from which the above summary was taken.

cc: Lee Kernan FM/4

FISCAL ESTIMATE 198 Session  
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Lake Michigan Commercial Chub Harvest Quota Transfers  
Fiscal Effect

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**Assumpoorts Used** In Ar lving a~ Fiscal Esnmde

The basis for the fiscal estimate of no effect is as follows:

- a. There is no fiscal effect for local units of government.
- b. No one time liabilities are involved.
- c. There are no requirements for additional staff, local or otherwise.
- d. Enforcement will be by county wardens already assigned related tasks.
- e. No formal action is required by local units of government.
- f. No collection of fees is involved.
9. The rules are specific to waters of Lake Michigan.

**Long R n3e Fiscal Impiications**

**None.**

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**Natural Resources** ~ n ~ ~ a

FISCAL ESTIMATE WORKSHEET 1981 Session

Detailed Estimate of Annual Fiscal Effect  
Michigan Legislative Committee on Finance  
House of Representatives  
Lansing, Michigan  
February 18, 1981  
CORRECTED IS JPLP/F L FM 40-88

Subline  
Lake Michigan Commercial Fishing

**I. One time Costs or Revenue Fluctuations for State and/or Local Government (do not include in annualized fiscal effect):**

0

II. Annualized Costs: Note that fiscal costs like a "checkbook". increased costs reduce Annualized fiscal impact on State funds from available funds. Decrease costs increase available funds (+) **Increased Costs | Decreased Costs**

A. State Costs by Category

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TOTAL State Costs by Category S - O S f O

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B. State Costs by Source of Funds Increased COSTS Decreased COSTS

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

.....

IN THE MATTER OF repealing ss. NR 25.07(2)(a)4. and (c)5. and 25.10(2)(a)3.; renumbering and amending s. 25.10(2)(a)4. to 10.; amending ss. NR 25.02(14) and (21), 25.05(1)(d) to (gm), 25.06(2)(b)(intro.) and 1., 25.06(2)(c)1., 25.09(2)(a)3., 25.09(2)(a)4.a. and 6.b. and (b)2.d., 25.10(2)(a)2., 25.10(2)(b), 25.13(2) and 25.18 and . FM 40 88 26.23(3); and creating ss. NR 25.02(7m), 25.02(33) to (35); 25.03(2)(b)4., 25.05(1)(gn) and (4), 25.06(2)(b)2. and 3., 25.06(2)(d) and (e), 25.09(2)(a)3m.; 25.10(2)(d)1.d., 25.10(2)(d) and (e). and (4)(b)1.g. and 25.13(3) of the Wisconsin Administrative Code pertaining to commercial fishing on Lake Michigan and Green Bay and to fish refuges.

Analysis Prepared by Department of Natural Resources

Authorizing statutes: ss. 29.085, 29.174(3), 29.33(1) and 227.11(2)(a), Stats.

Statutes interpreted: ss. 29.085, 29.174(2)(a) and 29.33(1), Stats.

SECTION 1 creates a definition for "diverters" used in conjunction with trawl fishing to mean a type of commercial fishing gear used to prevent the capture of illegal fish.

SECTION 2 amends the definition of "illegal fish" to include northern pike and amends the definition of the "northern chub fishing zone" to include a portion of northern Green Bay.

SECTION 3 defines "Zone 1" to mean all waters in southern Green **Bay**; "**Zone 2**" to mean all waters in northern Green Bay and all Lake Michigan waters north of Algoma; and "Zone 3" to mean all Lake Michigan waters south of Algoma.

SECTION 4 creates a new relicensing criterion that requires a minimum commercial harvest during the previous license year from at least one zone.

**SECTION 5 allows** chub harvest from certain portions of Green Bay during September 1 to June 30; allows year round chub harvest in the southern chub fishing zone; shortens the yellow perch season on Lake Michigan by opening it 61 days later; closes the northern pike season, in Green Bay; prohibits harvest of bullheads, burbot, catfish, gizzard shad, suckers, white bass and white perch except by permit or contract to remove rough or detrimental fish;

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SECTION 6 shortens the smelt harvest season in Green Bay from open year round to open from June 15 September 30; and allows smelt harvest in Green Bay only in waters greater than 65 feet deep. SECTION 6 also prohibits commercial fishing through the ice after March 15.

SECTIONS 7 and 8 set total allowable annual **harvest limits for** yellow perch to be 400,000 pounds in zone 1, 13,300 pounds in zone 2 and 306,700 pounds in zone 3.

SECTION 9 limits the total allowable annual harvest of forage fish by trawls in Green Bay to include no more than 1,000,000 pounds of smelt.

SECTION 10 sets total allowable annual harvest limits for menominees to be 1,000 pounds in zone 1, 46,000 pounds in zone 2 and 28,000 pounds in zone 3. SECTION 10 also sets total allowable annual harvest limits for whitefish to be 105,000 pounds in zone 1, 945,000 pounds in zone 2 and 100,000 pounds in zone 3.

SECTION 11 eliminates the weekly reporting requirement for permittees harvesting chubs, yellow perch and forage fish from Green Bay and Lake Michigan.

SECTION 12 deletes a deline for compliance with a commercial gear restriction already passed.

SECTION 13 allows a smaller minimum gill net mesh size (2 3/8 inches stretch measure) with net height restrictions to be fished in the southern chub zone in waters more than 150 feet deep.

SECTION 14 requires gill net mesh size of 2 1/2 2 3/4 inch stretch measure for chubs being fished only in the northern chub zone. SECTION 14 also eliminates reference to use of **gill nets for** northern pike harvest and sets a 14 day deadline for removal of pound nets and trap nets from the water.

SECTION 15 requires the use of diverters with openings no larger than 7/8 inch when trawls are used to harvest smelt for human consumption.

SECTIONS 16 and 17 eliminate the use of restricted area permits allowing commercial gear in waters within 1/2 mile of any harbor, pier, breakwater or shoreline of Kenosha, Milwaukee, Ozaukee and Racine Counties.

SECTION 18 allows commercial trap netting for perch within 1/4 mile of the shoreline in Door, Kewaunee, Manitowoc and Sheboygan Counties under restricted area permit.

**SECTIONS 19 and 20 prohibit commercial gill net use in the area** between Baileys Harbor and Kewaunee except in waters greater than 270 feet deep south of a line running due east **approximately 6 miles** north of Kewaunee.

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SECTION 20 also eliminates all commercial fishing in the former restricted area within 1/2 mile of any harbor, pier, breakwater or the shoreline south of Sheboygan County. SECTION 20 also creates a new criterion for denial or suspension of restricted area permits to allow the department to deny or suspend commercial fishing operations when mortality of illegal fish caught in commercial gear exceeds 10% of the weight or number of the legal catch.

SECTION 21 eliminates the monthly report of all fishing activities required for Lake Michigan commercial fishers.

SECTION 22 creates a biweekly report of all fishing activities required for Lake Michigan commercial fishers. This report shall include all activities previously required on a monthly basis plus reports of all retail sales. SECTION 22 also requires the report be transported in such a way that it cannot be altered.

SECTION 23 requires commercial fishers to land their catches at one of no more than 2 ports designated by the fisher.

SECTION 24 enlarges the Mid lake Reef refuge to include approximately 160 additional square miles.

SECTION 1. NR 25.02(7m) is created to read:

NR 25.02(7m) "Diverter" means a type of commercial fishing gear used in conjunction with trawl fishing to prevent the capture of illegal fish.

SECTION 2. NR 25.02(14) and (21) are amended to read:

NR 25.02(14) "Illegal fish" means any or all fish taken at a time other than the open season or of sizes other than prescribed in s. NR 25.05 or in excess of quotas as prescribed in s. NR 25.06, or **taken by methods other than those prescribed in this chapter, or** of the following species: smallmouth bass, largemouth bass, rock bass, **crappie, muskellunge, northern pike, sturgeon, all species of salmor, and trout except as otherwise prescribed in this chapter.**

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(21) "Northern chub fishing zone" means those waters of Lake Michigan lying north of a line extending from the mid channel marker buoy of Baileys Harbor on a 135° bearing, and east of a line extending through the marker buoy on Fisherman Shoal on a 23° bearing, and those waters of Green BaY bounded bY a line beginning at the intersection of 45°20' north\_latitude with the westerlY\_shore of Washington island, Door county, Wisconsin, then Proceeding westerly along 45°20' north latitude to its

intersection with 87°10' west longitude, then proceeding northerly along 87°10' west longitude to its intersection with 45°30' north latitude, then proceeding easterly along 45°30' north latitude to its intersection with 86°50' west longitude, then proceeding southerly along 86°50' west longitude to its intersection with the north shore of Rock island, Door County, Wisconsin then Proceeding along the west shore of Rock island to the southwesternmost landpoint, then in a straight line extending to the nearest landpoint on Washington Island then south along the west shore of Washington island to the **point of beginning**.

SECTION 3. NR 25.02(33) to (35) are created to read: NR 25.02(33) "Zone 1" means all waters in southern Green Bay. (34) "Zone 2" means all waters in northern Green **Bay and all** Lake Michigan waters north of a line running due east from the

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eastern shore of Door county along 44°40' north latitude to the Wisconsin Michigan state boundary.

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

SECTION 4. NR 25.03(2)(b)4. is created to read:

NR 25.03(2)(b)4. Beginning with the 1990 1991 license year, the applicant shall have reported a minimum commercial harvest during the previous license year of yellow perch, menominees, whitefish, chubs or any combination of these species of at least 3,570 total pounds from Zone 1, 13,656 total pounds from Zone 2 or 19,638 total pounds from Zone 3.

SECTION 5. NR 25.05(1)(d) to (gm) are amended to read:

A B C

Species Green Bay Lake Michigan Lake Superior

(d) Chubs No open season March 1 to January 15 At all time except September in the northern chub 1 to June 30 in fishing zone and at that portion of all times in the Green Bay in the southern chub fishing northern chub zone, subject to ss. fishing zone NR 25.06(2)(a), 25.07(2)(a) and 25.09

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A B C

Species Green Bay Lake Michigan Lake Superior

(e) Yellow July 1 to April 9 October 1 to No open perch except: 1. Gill April 30 season nets may be used from May 20 to April 9:  
2. From January 1 to March 15 only commercial ice fishing is legal;  
3. All to be subject to ss. NR 25.06(2)(b) and 25.07(2)(b)

(f) Northern May 20 to MQreh 9 No open season No open pike No open season season

(g) Alewives, At all times At all times At all times

(round whitefish)

(gm) Carp, No open season No open season At all times bullheads, except by permit except by permit burbot, or contract issued or contract issued catfish, under s. 29.62, under s. 29.62, gizzard 29.623 or 29.625, 29.623 or 29.625, shad, suckers, Stats. Stats. white bass, white perch

SECTION 6. NR 25.05(1)(gn) and (4) are created to read:

A B C

Species Green Bay Lake Michigan Lake Superior

(gn) Smelt At all times At all times At all times

except trawls  
may be used only  
from June 15 to  
September 30 in  
waters greater  
than 65 feet in  
depth

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

SECTION 7. NR 25.06(2)(b)(intro.) and 1. are amended to read:

NR 25.06(2)(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 400,000 pounds.

SECTION 8. NR 25.06(2)(b)2. and 3. are created to read:

NR 25.06(2)(b)2. The total allowable commercial harvest in zone 2 for any license year may not exceed 13,300 pounds.

3. The total allowable commercial harvest in zone 3 for any license year may not exceed 306,700 pounds.

SECTION 9. NR 25.06(2)(c)1. is amended to read:

NR 25.06(2)(c)1. The total allowable commercial harvest of forage fish by trawls in any license year may not exceed 18,000,000 pounds in Lake Michigan and Green Bay, of which no more than 2,500,000 pounds including no more than 1,000,000 pounds of smelt may be taken from Green Bay.

SECTION 10. NR 25.06(2)(d) and (e) are created to read:

NR 25.06(2)(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.

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

2. The total allowable commercial harvest of whitefish in Lake Michigan and Green Bay may not exceed 1,150,000 pounds in any license year, with no more than

105,000 pounds to be taken from zone 1, 945,000 pounds from zone 2 and 100,000 pounds from zone 3.

SECTION 11. NR 25.07(2)(a)4., (b)4. and (c)5. are repealed.

SECTION 12. NR 25.09(2)(a)3. is amended to read:

NR 25.09(2)(a)3. With a mesh size of less than 2 1/2 inch stretch measure may not exceed 30 meshes in depth in Lake Michigan

SECTION 13. NR 25.09(2)(a)3m. is created to read:

NR 25.09(2)(a)3m. With a mesh size of not less than 2 3/8 inch and not more than 2 3/4 inch stretch measure, and not less than 25 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.

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SECTION 14. NR 25.09(2)(a)4.a. and 6.b. and (b)2.d. are amended to read:

NR 25.09(2)(a)4.a. For chubs in Lake Michigan, in the northern chub fishing zone only.

6.b. Only for taking rough fish and northern pike.

(b)2.d. Shall be removed from the water within 14 days after the close of the season for whitefish.

SECTION 15. NR 25.09(2)(d)1.d. is created to read:

NR 25.09(2)(d)1.d. When used to harvest smelt for human consumption, diverters with openings no larger than 7/8 inch wide shall be used.

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

NR 25.10(2)(a)2. All waters within one half mile of any harbor, pier or breakwater in Door, Kewaunee, Manitowoc and Sheboygan counties.

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SECTION 17. NR 25.10(2) (a)3. is repealed.

SECTION 18. NR 25.10(2)(a)4. to 10. are renumbered NR 25.10(2)(a)3. to 9, and 4. as renumbered is amended to read:

NR 25.10(2)(a)4. All waters within one fourth mile of the shoreline in Door, Kewaunee, Manitowoc and Sheboygan counties except trap nets by permit issued under sub. (4) for the taking of perch may also be used, set, placed or operated in these waters.

SECTION 19. NR 25.10(2)(b) is amended to read:

NR 25.10(2)(b) No commercial fishing gear of any kind except entrapping nets, , authorized by permit issued under sub. (4) for the taking of rough or detrimental fish, perch, whitefish or menominee may be used, set, placed or operated in the waters of Lake Michigan lying south of a line extending from the mid channel marker buoy of Baileys Harbor on a 135° bearing, or north of a line running due east from the entrance of Kewaunee harbor, except as provided under par. pars. (c) and (d).

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SECTION 20. NR 25.10(2)(d) and (e) and (4)(b)1.g. are created to **read:**

NR 25.10(2)(d) Gill nets with a mesh size of not less than 2 3/8 inch and not more than 2 3/4 inch stretch measure, and not less than 25 meshes and not more than 60 meshes in height may be used in waters of Lake Michigan lying between a line running

due east from the entrance of Kewaunee harbor and a line running due east following 44° 32' 00 latitude in waters greater than 270 feet (45 fathoms) deep to take chubs.

(e) No commercial gear of any kind may be used, set, placed or operated in all waters within one half mile of any harbor, pier, breakwater or the shoreline of Kenosha, Milwaukee, Ozaukee and Racine counties.

(4)(b)1.g. Mortality of illegal fish caught in commercial fishing gear greater than 10% of the weight or number of the legal catch.

SECTION 21. NR 25.13(2) is amended to read:

NR 25.13(2) On or before the 10th day of **each month** each person licensed pursuant to s. 29.33, Stats., to commercial fish on Lake Superior, or fishing as an eligible member of the Red Cliff or Bad River bands band of Lake Superior Chippewas, shall report for the preceding calendar month to the department in writing on forms provided for this purpose by said the department such information

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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.

SECTION 22. NR 25.13(3) is created to read:

NR 25.13(3) On or before the Monday following each biweekly calendar period each person licensed pursuant to s. 29.33, Stats., to commercial fish 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.

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

(b) The biweekly fishing reports shall be carried while fishing **by the licensee or his or her crew if the licensee is not present and the information pertaining to fishing location and depth, fishing effort, gear used and estimated pounds of each fish species caught for that day's fishing shall be recorded on the biweekly fishing reports immediately after completing all net lifts for that day and before bringing the catch to dock** or shore. After returning to dock

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or shore, the report may not be transported for the rest of the day in such a way that it can be altered. Biweekly fishing reports shall be filed by each licensee **regardless of whether the licensee fished** during the period of time covered by the report.

SECTION 23. NR 25.18 is amended to read:

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

SECTION 24. NR 26.23(3) is amended to read:

NR 26.23(3) In order to prevent substantial depletion of the fish supply, the following described area in Lake Michigan is established as a fish refuge and no person may take, catch, capture, kill or fish for fish in any manner at any time in or on the

following described water area: all waters bounded by a line beginning at the point where 43°7' north latitude and 87°40' west longitude intersect, then proceeding northerly along

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87°40' west longitude to its intersection with 43°20' north latitude, then proceeding easterly along 43°20' north latitude to its intersection with 87°20' west longitude, then proceeding northerly along 87°20' west longitude to its intersection with 43°30' north latitude, then proceeding easterly along 43°30' north latitude to its intersection with the Wisconsin Michigan state line, then proceeding southerly along the Wisconsin Michigan state line to its intersection with 43°00' north latitude, then proceeding westerly along 43°00' north latitude to its intersection with 87°30' west longitude, then proceeding northerly along 87°30' west longitude to its intersection with 43°7' north latitude, then proceeding westerly along 43°7' north latitude to its intersection with 87°40' west longitude and the point of beginning. This area can be further described as the northern third of grid 1903; all of grids 1705, 1803, 1804 and, 1805, 1904 and 1905; and the part of grids 1706, and 1806 and 1906 in Wisconsin waters, and encompasses the elevated areas of lake bed commonly known as the Sheboygan reef the Northeast reef, the Milwaukee reef and the East reef as shown on the following map.

The foregoing rules were approved and adopted by the State of Wisconsin Natural Resources Board on

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The rules 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.

Dated at Madison, Wisconsin

STATE OF WISCONSIN DEPARTMENT OF NATURAL RESOURCES

By  
Carroll D. Besadny, Secretary

(SEAL)