

**SENATE NATURAL RESOURCES COMMITTEE**  
**Senator Ed McBroom, Chairman**

**COMMERCIAL FISHING WORKGROUP REPORT**  
**HB 4567, 4568, & 4569**  
**By Senator Ed McBroom**

**November 5, 2020**

**Adopted**

November 5, 2020  
Ed McBroom - chair

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## **Preface**

When I set out to provide hearings on this legislation I understood some of the history and hard feelings I would be encountering. This is as serious a turf war as any scope of practice, licensure, or occupation bill the legislature considers. Add to it the tensions between the sportsmen-conservation communities versus those preserving a family heritage and a way of life: I was prepared for passion from both sides but committed to hearing all sides and striving for fairness.

However, the workgroup provided some of the most disturbing and disappointing examples of unwillingness to bargain in good faith or deal honestly that I have seen. The workgroup, and particularly me as the leader, faced slanderous remarks and recorded threats; vitriol on the radio, tv, and internet; frequent false rumors and calls to action; and even a planned boat parade of protest. The workgroup heard odd stories of commercial fishing's supposed role in a secret discovery of America, illegal fishing where no one had records of it, and participants that stalwartly defended bills they had not read and for which they were unwilling to provide defense beyond blind support. One group refused to meet with me but has continued to denounce the efforts of the committee to consider this legislation in depth. Groups were committed to settling old scores and venting old grievances.

Through it all, committee members and staff persevered to hear out everyone that desired to participate. My sincere thanks to all of them for taking this project so seriously, as it justly deserves. And my sincere thanks to all the stakeholders that came to the table immediately, or after a while, with sincerity and conviction. I hope we are all able to recognize moving the status quo in a direction positive with our individual ideals is something we should all strive to support, even if we are unable to attain everything we wanted or may have had, whether we had it before 1969, in 2000, or last winter.

Sincerely,

A handwritten signature in black ink, appearing to read "Ed McBroom", written in a cursive style.

Senator Ed McBroom, Chairman

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## **I. INTRODUCTION**

On February 6, 2020, the Michigan House of Representatives passed House Bills 4567, 4568, and 4569, generally referred to as the commercial fishing bills. The bills were referred to the Senate Committee on Natural Resources on February 11, 2020, with testimony beginning in the early summer months following the COVID-19 related shutdown. The committee held hearings on the bills on June 11, 17, 24, and July 22, and heard presentations and testimony from an expansive group of legislators, stakeholders, the Michigan Department of Natural Resources (DNR), and other interested parties.

During the committee hearings, it became evident that the matter was exceptionally contentious and that finding additional resolution was desirable for all. Certain stakeholders, particularly from the Native American Tribes and the commercial fishing industry itself, felt the House passed bills would make their industry and livelihoods impossible to sustain. Many other questions regarding the history of fishing, current scientific methods of management, public fund utilization, and the practices of other states and provinces were left unanswered or with conflicting answers.

A workgroup was developed, led by the committee chairman with voluntary participation of the members of the Senate Natural Resource Committee, to better understand the issues within the bills and the concerns of the stakeholders.

Respective stakeholders and the DNR were invited to participate in individual discussions with the chairman and committee members during the months of July through September. Additionally, the chairman undertook multiple efforts to obtain additional information to clarify history and relevant data through his own efforts and with the assistance of the Legislative Service Bureau (LSB). This report, though not comprehensive of all issues and concerns addressed, stands as a summary of those discussions related to the state licensed commercial fishing industry.

## II. OBJECTIVE

The objective of the workgroup was to examine HBs 4567, 4568 and 4569 in a detailed manner to better understand stakeholder concerns. This effort included understanding the history and underlying issues that have made these bills so contentious. The findings of the workgroup should serve as a foundation to obtain compromise between interested parties on issues that arose from the bill hearings held before the Senate Natural Resources Committee. The desired final outcome is finding reasonable resolutions to the most contentious portions of the bills by focusing on ensuring scientific and fair management of the state's natural resources, continuing access of citizens to a public resource for both private and commercial enjoyment, and a fair and sustainable regulatory structure that keeps the public from being unfairly burdened with the costs of private industry. The workgroup was guided by direction in Article IV Sec. 52 of the Michigan Constitution which provides:

*The conservation and development of the natural resources of the state are hereby declared to be of paramount public concern in the interest of the health, safety and general welfare of the people. The legislature shall provide for the protection of the air, water and other natural resources of the state from pollution, impairment and destruction.*

## III. BACKGROUND

The history of commercial fishing provided below is taken in part from the “History of state-licensed Great Lakes commercial fishing” by the DNR.

A state licensed commercial fishery has been a part of Great Lakes fisheries management strategy since the first non-resident licenses were issued in 1865. The first real commercial fishing law of substance in Michigan was enacted in 1929. The law required all persons commercial fishing Michigan waters of the Great Lakes to be licensed and it established minimum size limits for fish, season closures, and legal types of commercial fishing gear.

Prior to the 1960s, the lakes were managed for the highest possible commercial production of species of value. From 1960-1969, participation in the fishery dropped roughly 60% due to the collapse of traditional commercial stocks of fish. This collapse, generally assigned to a combination of commercial fishing and an exploding invasive species problem, prompted the DNR to shift their management strategy for the Great Lakes. In the late 1960s, the DNR promulgated administrative rules creating development zones for recreational fishing throughout the Great Lakes where commercial fishing would be prohibited. The number of commercial fishing licenses issued decreased from 339 in 1969 to 176 by 1970. During the 1970s, major transitions continued with developments involving significant changes in authorized commercial fishing gear.

The DNR's management approach remained generally consistent until 2000, when Michigan entered into a new 20-year consent agreement with the federal government and the Native American tribes of the 1836 treaty. Due to a number of contributing factors, the total number of state commercial fishing licenses declined to 51 by 2011. Twenty-six individuals/businesses own the 51 licenses and only sixteen commercial fisherman reported harvests in 2019. Most of the businesses are generational in nature, passing down from one generation to the next. Today's commercial fishers are heavily regulated regarding where they can fish, what they can catch, and what equipment they can use. Each license specifies the types and amount of gear to be used.

While many parts of the commercial fishing law date back nearly 100 years, the statute was last updated in 1971 and has not been legislatively amended since. This is largely due to the DNR director having been given the authority to manage the commercial fishery through the use of director's orders and promulgated administrative rules. As a result, the department has routinely bypassed the legislature for all commercial fishing regulations. Over time, this has resulted in multiple layers of regulation along with archaic laws, practices, and terms for the industry.

The department has worked with several legislative sponsors on proposed legislation over recent legislative sessions. While the bills are generally described as much-needed updates to the current law, they also contain very extensive new regulations on the commercial fishing industry.

It is also important to remember that fishing in Michigan waters of the Great Lakes is engaged in not only by state licensed commercial fishers and licensed recreational anglers, but also tribal fishers who hold treaty rights in certain, ceded waters of the state.

In 1836, in a push for statehood of Michigan territories, the United States signed a treaty with Ottawa and Chippewa Indians of northern Lower Peninsula and eastern Upper Peninsula. Under the 1836 Treaty, member tribes retained the right to fish both commercially and for subsistence in what is now known as 1836 Treaty waters of the Great Lakes. This right was upheld by the Michigan Supreme Court in 1976, in the case of *State of Michigan v. LeBlanc*, and further affirmed in U.S. District Court in *U.S. v. Michigan* by Judge Fox in 1979, in what is referred to as the "Fox Decision." The "Fox Decision" stated that the treaty tribes have a treaty right to fish in the Great Lakes, and that the State of Michigan is without authority to regulate that right.

Due to continued conflicts among tribal fishers, state licensed commercial fishers, and sport fishing groups, the tribes, the state, the U.S. Department of the Interior and various sport fishing organizations entered negotiations in 1985. The U.S. District Court ordered a 15-year agreement called the "Consent Order" into effect in 1985, which was renegotiated and extended for another 20 years in 2000. The Order, which was scheduled to expire in August 2020 was extended through 2020, and is currently being renegotiated. Its purpose is to reduce social conflict while conserving and enhancing valuable fish stocks. Of note, another Treaty, known as the Treaty of La Pointe, was signed in 1842 and covers the western Upper Peninsula and areas of northern Wisconsin. Waters of the

1842 Treaty do not fall under the consent decree and are regulated in coordinated between the member tribes and the State of Michigan. Inland land and within 1836 ceded territory are governed by the 2007 Inland Consent Decree, where no commercial fishing exists.

## **IV. ISSUES**

### **1. Increased License Fees**

Commercial fishing license fees are deposited into the Game and Fish Protection Fund, which among other things, provides revenues for law enforcement programs in the department, including enforcement of the commercial fishing industry.

House package:

- Requires fees to be paid in order for a commercial license application to be processed.
- Increases fees for commercial licenses without a listed vessel to \$200, with \$50 increases each decade until 2041 when it is set at \$350.
- Increases fees for commercial fishing licenses that include one or more listed vessels to \$1,400, with \$100 increases every ten years until it reaches \$1,700 in 2041.
- The Senate Fiscal Agency estimates that the House package will increase annual license revenue to the DNR from \$9,000 under the current fee structure to \$70,000.

It became clear throughout the workgroup that increased fees were an important issue but not contentious. The DNR seeks a greater contribution from the commercial fishing industry that they are charged to both regulate and oversee. The sportfishing organizations also sought greater revenue contribution from commercial industry and that those funds are specifically applied to the oversight of the industry. The commercial fishing industry supports the substantial increase in fishing license fees and understands the fee structure needs to be updated. All are aware that the small number of remaining commercial operations will not generate revenue equal to DNR expenses in administering the law.

### **2. Increased Fines and Penalties**

House package:

- Updates penalties for violations of the commercial fishing license, permit, administrative rule, or fisheries order. Presently up to 30 days of jail time or a \$25 to \$100 fine, or both. This increases to up to 90 days of jail time or a \$500 to \$5,000 fine, or both, plus prosecution costs. License suspension and revocation provisions are added and applied for repeated offenses. Creates restitution to the Game and Fish Protection Account for commercial resource violations of \$5 per fish for

undersized, commercially permitted fish and \$10 per fish for all, non-commercially permitted fish.

- Includes penalties for illegally possessing, taking, or selling of specific species of fish. For non-commercially permitted fish, other than lake sturgeon, of weight more than 1 pound the penalty is \$10 for each pound of fish illegally taken or possessed; less than 1 pound is \$10 per fish; for lake sturgeon, \$1,500 penalty for each fish illegally taken or possessed.
- Provides that a person may not obstruct or interfere in the lawful taking of any aquatic species knowingly or intentionally. If a person obstructs the lawful taking of aquatic species knowingly or intentionally they are subject to a misdemeanor punishable by imprisonment of not more than 93 days, a fine of not less than \$500 or more than \$5,000, or both. A second offense is a misdemeanor punishable by imprisonment of not more than 1 year or a fine of no less than \$1,000 and no more than \$10,000, or both. In addition, if the person in violation holds a license or permit to take aquatic species held while violating this law, it will be revoked for 1 year

Comments during the workgroup centered on offenses such as abandoning nets, failing to mark nets, taking undersized fish, going over quota, and failing to report required information. Some parties believe these offenses are frequent. In reviewing requested information from the department to determine the occurrence of such issues, it is apparent very few offenses have been committed in the last ten years. The stories and examples provided during discussions related to commercial fishing were often unsubstantiated, were beyond 10 years old, or were often not committed by state licensed fisherman.

The commercial fishing industry expressed it is their intent to follow the law and are amenable to many of the proposed penalty and fine increases and remunerations. However, the industry believes that the license suspension and revocation provisions, on top of stringent penalties, should apply to only the most serious designated offenses such as taking fish during the closed season, taking non-permitted fish, or falsifying records.

### **3. Net Tending/Lift Requirements**

House package:

- Requires commercial fisherman to lift or tend nets within ten days or it is considered unattended.
- Provides that gear is not considered unattended if within that ten-day period it was either properly reported as lost or vandalized or, rendered unfishable as prescribed by the DNR.

Currently, there is no required time-period for a commercial fisher to tend their nets.

During the workgroup, commercial fisherman expressed concern with the proposed 10-day requirement due to a lack of exemption for high winds and unpredictable weather on the Great Lakes which can cause commercial fishers to lack the ability to travel from port to tend nets for lengthy stretches of time. Sportfishing groups generally support suggested



limits and argue that lengthier periods without lifting nets lead to greater non-targeted species take and mortality.

The commercial industry, which almost exclusively uses trap nets in this state, contends that the fish remain alive, healthy, and fresh while contained in the trap nets. The fish are free to move about the trap net and continue to feed, as the net is placed in open water. Commercial fisherman maintain they may be able to settle on a reasonable timeframe with exemptions for weather, etc., but the 10-day period is essentially impossible to achieve from on-the-water experience and that the structure sets them up for noncompliance.

The DNR offered no specific reasoning as to why a ten-day period was chosen over any other length of time.

The chairman initiated a discussion with commercial fishers on whether nets closer to port, and where more recreational fishing occurs, could be placed on a more frequent schedule while those further from port could have a longer time frame for lifting. The nets further from port are more difficult to tend with such frequency due to weather related difficulties further out from the shore, especially later in the year.

#### **4. Daily Electronic Reporting**

House package:

- Require to daily electronic reporting of harvest totals and other data including area fished, type and amount of fishing gear employed, length of time between net lifts, buyer of the fish, and estimated price received for the fish.

Currently, there is no requirement for electronic filing and commercial fishers must report their harvest data every 30 days. The DNR contends that it is currently difficult to track fish on the market one month after they have been caught. According to the department, Wisconsin and Ohio require estimated catch each day, and that this has become the industry standard. Support of this provision among the sportfishing community was premised on how reporting more often would provide more real time data about the fishery. The theory provides that receiving more data, more often, could lead to better management of the resource.

The commercial fishing industry is willing to support a more rigorous reporting requirement but opposes the proposed daily format. It is their position that daily reporting places added stress to the processing portion of the business for which time would be consumed submitting reports rather than operational functions. The industry supports electronic reporting requirements in general.

Additionally, there was considerable discussion as to whether harvest totals reported in a shorter period should be measured in actual weight or estimated weight. Estimated weight is an option if those reports are to be updated with actual weight at less frequent intervals than the initial reporting.

Considerable study of neighboring states' practices was made by the chair. Information provided by LSB revealed that the Great Lakes states, Canada and Tribes have at least monthly reporting with some requiring biweekly or daily reporting as follows for the more active commercial fishing entities:

- Minnesota requires monthly reporting regardless of whether fish are taken or if fishing operations have taken place.
- Wisconsin requires biweekly fishing reports that must include pounds of fish harvested, harvest effort, and other information called for on the report.
- Ontario requires a completely daily catch report which is turned into a dock-side monitor or lock-box though this is not actually required in statute or code.
- Under the Chippewa Ottawa Resource Authority (CORA), tribal fishers file a report each calendar month on gear used, location of fishing, and total pounds of each species landed.
- In Ohio, all licensed commercial anglers, except those using trap nets, must report daily catch totals on a monthly basis.

## **5. GPS Reporting of Net Locations**

House package:

- Requires commercial fisherman to report GPS (global positioning system) coordinates for the location of any deployed nets in the waters of the Great Lakes.
- Instructs that GPS information be updated every time the gear is lifted or moved.
- Requires that net locations be reported to the DNR, who will regularly make the information available to the public.

Of great concern to the DNR is net entanglements that sometimes occur between boaters and commercial fishing net placements. The department contends that roughly eight to ten net entanglements occur in Michigan waters of the Great Lakes over a period of roughly ten years, though the department admitted it does not have record to evidence the reports and often incidents go unrecorded. One such incident resulted in a death in Lake Erie in 2019, though this was not a trap net. Sportfishing groups also support GPS reporting that is publically available in the interest of safety to boaters and other vessels. Wisconsin and Ohio both require GPS coordinates to be reported to their respective state agencies. Currently, commercial fishers in Michigan operate in designated zones where nets may be placed with proper markings and identification. The markings currently required under statute consist of orange buoys at points of surface contact.

With some reservations, the commercial fishing industry supports requiring GPS reporting of net locations in the waters of the Great Lakes. The reservations expressed include concerns over vandalism of nets and property, and the requirement to report the net location every time the net is lifted or tended, rather than only when it is moved from its currently reported location. Commercial fishermen also seek to have large trolling weights known as cannonballs, display owner identification imprinted on them should GPS coordinates be required and made public. These cannonballs are frequently the most damaging impact on commercial fishing nets from those fishing too close to the nets, and GPS reporting should eliminate accidental entanglements from recreational trolling.

If GPS reporting is required and made available to the public, commercial fishers seek increased harassment, vandalism, and destruction of property penalties for those engaging in any negligent or criminal activity that damages their nets. All sportfishing groups agreed with strict penalties for net tampering and vandalism, and a few felt they could be comfortable with greater penalties for such activity.

## **6. Department Enforcement Actions**

Throughout the workgroup process, the enforcement actions of the DNR and the funding for such activities was consistently addressed by stakeholders. All parties understand the need for legitimate, continued, and well-supported enforcement of the laws of this state to protect the resources. However, questions arose related to current enforcement practices, difficulties in enforcement, and funding for enforcement actions both current and pending.

The DNR summary provided to the committee details how the enforcement of commercial fishing regulations lies with a special unit acting under the authority of the department. “The Great Lakes Enforcement Unit (GLEU) was originally established as a result of the 2000 Consent Decree governing 1836 treaty fishing.” This unit’s primary responsibility at the time was to enforce state and tribal regulations that governed both state licensed commercial fisherman and 1836 Treaty fishing that occurred on the Great Lakes. Since its establishment, the unit’s responsibilities have expanded to other areas, including invasive species, general marine enforcement, and search and rescue, among others.

According to the department, in the late 2000s, staffing of the GLEU diminished to only a few officers after vacancies were created from retirements. The department contends that the lack of officers led to a decrease in specific enforcement efforts, such as on-the-water inspections. In 2008, the unit was comprised of four specialists, one investigator, and one field supervisor. The unit was increased in 2018 to contain nine specialists, two investigators, and two supervisors. However, no data showing a decrease in staffing that would lead to the decrease in enforcement activities was shown in the documentation from the department to support of its claims of low enforcement due to low staffing.

The Great Lakes Enforcement Unit is funded through the Game and Fish Protection Fund. The fund, which receives revenue from commercial fishing license fees, is predominantly funded through the revenue collected from the sale of hunting and fishing licenses within the state. According to Lt. Terry Short with the DNR Law Enforcement Division, the state spends about \$500,000 specifically on enforcing regulations related to the state licensed commercial fishing industry. At the same time, the state currently spends roughly \$600,000 in Tribal Consent Decree enforcement, for which the GLEU has authority under the Consent Decree.

In a list provided by the department, the state alleges there have been fourteen convictions entered upon state licensed commercial fisher and wholesale dealers since 2008. Of those fourteen incidents listed, four were violations committed by wholesalers, and one was a violation for a lack of personal floatation devices. In the twelve-year period comprised in

the department's list, nine actual violations by state licensed fisherman are alleged to have occurred. In fact, the most referenced incident, a two-count violation of going over quota on whitefish, was voluntarily self-reported by the commercial fisher who lost the overage in his following year's quota. (His case was often repeatedly misrepresented in committee and the work group to have been 80,000 pounds over but was only 41,000 over quota). No case numbers or court records were provided by the department for further evidence of continuous violations within the industry.

## **7. Fish Species Allowances and Water Access**

The issue of which fish are available for commercial catch is, at the same time, both the most contentious and the most critical issue between the commercial fishers and the recreational fishers and the tribes. Above all, these issues find the parties furthest apart and are the most demanding of an equitable compromise. All other issues seem to be negotiable for the parties to maintain their preferred positions on this issue.

Commercial fishing in Michigan waters is, currently, strictly controlled and limited in which fish may be caught, where, when, how many, what size, and with what methods. Under current Michigan regulations, commercial fishers are allowed to harvest only certain species of fish. These species of fish, defined in statute and through fishery orders, consists of those that are not traditionally targeted by recreational anglers except for a small, limited access to yellow perch. Of the species currently harvested by state licensed commercial fishers, whitefish are the primary target, with a small number of fishers harvesting perch in very limited locations. Whitefish make up roughly 85% of the commercial harvest by volume, and more than 90% by value.

Where commercial fishers may operate is directed through a structure of zones or units that separate portions of the Michigan waters of the Great Lakes (see Appendix A – MAP OF FISHING ZONES). Whitefish management units are set up in a grid format and which units an individual commercial fisher may fish are dictated by their license. A commercial fisher has a set area in which to harvest whitefish, perch, or other species they are allowed to take under DNR prescription. Tribal fishers operate in 1836 Treaty Waters and are subject to provisions of the current Consent Decree.

### Recreational fishers' perspective (including charter fishing)

Work group discussions with sportsmen showed a very unified front regarding any discussions of allowing fish they see as belonging to them to be shared with the commercial fishing industry. The primary arguments are:

- Taxes and fees on their gear and licenses have been used to restore and sustain the fishery.
- Economic value of recreational fishing is of greater value than what would come from the fish being caught for commercial sale.
- Fish populations of a species or multiple species cannot yet sustain commercial fishing pressures.
- Commercial fisher access would provide an avenue for the tribes to also target those species.

- Commercial fishing of more valuable fish would incentivize illicit and destructive behavior of the commercial fishing industry or cause it to grow too impactful. This point included the fear of presently unused licenses being rehabilitated.

#### Commercial fishers' perspective

Discussions with some of the commercial fishers proved difficult as the few remaining feel long chafed and maligned. All were unified in believing their industry is at a critical juncture after 50 years of the current fisheries management strategy and feel their livelihoods and way of life are at stake. The primary arguments are:

- Their industry relinquished a long history of fishing most species of fish in 1969 in order to see the fishery restored.
- They provide access to the resource/food belonging to the citizens who may not be able to access it themselves.
- Recovery of various species is negatively impacting the limited fish they are presently allowed to harvest.
- Restricted species are sometimes caught but cannot be kept even though those fish may perish.
- Strong competition from Wisconsin, Minnesota, and Canadian fish industries who have access to more species.
- Commercial fishing industry provides substantial benefits to their local communities and citizens around the state.
- They provide valuable research and scientific management opportunities to the state.
- Acquiring some new fish species access is critical to balance their ability to absorb and accept the significant increase of fees and regulations in the rest of the law update.
- Granting a limited catch/quota for trout to the few remaining commercial fishermen would not exceed the total allowable catch (TAC) remaining for trout after the annual catch of the recreational fishermen, particularly when keeping fish that are otherwise perishing in the catch process.

#### Tribal perspective

Tribal participation in the workgroup communicated a strong willingness to work with the department and other stakeholders for a vibrant fishery. Their general points were:

- Separate and unequal access to fish commercially creates community friction and mistrust that is not good for either Native or non-native communities.
- Current management strategies of the Michigan DNR are static in data and ought to incorporate and recognize more of the adaptive biology and research conducted by the tribes. The tribes utilize a holistic management strategy.
- The increase in trout is significantly impacting whitefish recruitment.
- The tribal fishermen and the state licensed fishermen are linked economically in a critical way. The tribes depend significantly on the non-native fishermen for market access and desire to see them remain viable by having additional species access.

#### DNR's perspective

The department comments on this were not extensive; however, relevant points are as follows:

- Commercial fishing could be utilized in a comprehensive strategy for scientific management and is done so in other states.
- The fishery has been managed specifically to promote recreational fishing since 1969.
- The department is not sure that trout or walleye are adversely impacting whitefish recruitment.
- The department does believe trout and walleye numbers have significantly improved.
- The department does believe whitefish recruitment is significantly down in many of the commercial fishing zones.
- The department does believe walleye numbers in Saginaw Bay are impacting perch recruitment.
- The department was noncommittal in whether any portion of the fishery would be able to sustain even limited commercial fishing of trout or walleye.

### **Fisheries management**

How Michigan currently models, allocates, and manages the fishery based on interstate, international, and tribal agreements is extremely complicated. Under the current structure, often directed by agreements between numerous governments and sovereign nations, Michigan is allocated a certain percentage of specific species in Michigan waters. This allocation, especially for lake trout, is then split between the state of Michigan and the 1836 Treaty tribes.

This harvest number, referred to as total allowable catch (TAC), is based upon population estimates in coordination with tribal nations, as directed under the Consent Decree. Michigan reserves its allocation entirely for recreational harvest although that is a choice made by the department. Recreational anglers often fall short of meeting the harvest limits in certain management zones.

Both commercial and recreational fishermen are concerned with the large numbers of incidentally caught lake trout in nets set for whitefish or for walleye caught in perch nets. Under current Michigan law, these fish must be immediately returned to the water. In certain summer months when water temperature is elevated, these fish suffer extremely high mortality rates yet the dead fish do not count against the TAC. Lake trout, especially captured in commercial trap nets at increased depths during warm summer months, are highly susceptible to barotrauma, which is a condition experienced by some deep-water fish that are brought to the surface of the water too quickly. Fish experiencing barotrauma often sustain serious injuries, and upon release are unable to dive back to depth, resulting in those high mortality rates.

### **Lake Trout**

All of the stakeholders shared perspectives on trout, some of which were incorrect or misunderstood. The research of the chair was able to verify the following points:

- Trout re-stocking and restoration efforts are, and have been, paid for almost entirely by federal funds not specifically derived from sportsmen but from all tax payers in general. These efforts began in the late 1970s. According to the DNR, the federal government pays for, produces, and stocks the trout. The state of Michigan is responsible for deciding where to stock the fish and evaluating their development. According to the department, the exception is that until roughly two years ago, the state was responsible for stocking some lake trout in northern Lake Huron due to agreements in the Consent Decree. Over the years, almost exclusively through federal funds and plantings, Lake Michigan has been stocked with more than 60,000,000 lake trout, and Lake Huron has been stocked with more than 53,500,000 lake trout.
- Currently, no state licensed commercial fisher is permitted to harvest lake trout (*Salvelinus namaycush*) in Michigan waters while tribal commercial fishers retain lake trout under the total allowable catch and quota/bycatch system. There is also occasional tribal subsistence harvest of lake trout.
- Wisconsin, Minnesota, and Canadian provinces connected to the Great Lakes have liberalized trout for commercial harvest. The Minnesota Department of Natural Resources discontinued the stocking program and expanded the assessment fishery to allow limited commercial harvest from June through September. Wisconsin has ten fisheries currently licensed to fish in Lake Superior where each commercial license holder is given a specific number of lake trout they can harvest annually. Canadian harvest of this Michigan prohibited species also occurs. Information provided by the Ontario Commercial Fishers Association shows lake trout are harvested in the waters of Lake Superior and Lake Huron. In 2018 alone, in Canadian waters of Lake Huron, commercial operations harvested more than 375,000 pounds of lake trout.
- Various stakeholders dispute the impact of the trout population on whitefish and other fish in the Great Lakes. Experts and experienced individuals informed the workgroup that there is much evidence of trout consuming whitefish and that their presence is clearly a part of the situation leading to whitefish recruitment issues. This is distinctively the position of the tribes and the commercial fishermen but the DNR was non-committal on the relationship.
- The House package would place lake trout as a non-commercially harvestable species in statute. Currently, such distinction is made through department actions. The sportfishing community supports this distinction, and presses that fish the recreational anglers target should not be available for commercial take, primarily due to the belief that they alone have funded its restoration or, from some groups, because they believe there is an insufficient number of lake trout to sustain additional pressure.
- The stocking of lake trout in Lake Michigan in 2018 was more than 1.8 million fish, and in Lake Huron, lake trout was stocked at more than 540,000 fish in 2018. Additional information provided by the department shows that where a total allowable catch is set on lake trout, the recreational fishers have not taken all of the allowable lake trout.

## Walleye

Walleye have made a remarkable recovery in the Great Lakes. Their recovery has primarily been funded through the use of excise taxes on licenses and equipment. This fish has promoted significant recreational activities, festivals, and competitions around the state and is prized by sport fishermen and diners alike. Currently, no state licensed commercial fisher is permitted to harvest walleye (*Sander vitreus*) in Michigan waters.

Walleye, while doing well in several key areas around the Great Lakes, have most significantly recovered in Saginaw Bay. Here the DNR has overseen the planting of 26,406,092 walleye. Both the department and other stakeholders agree that the walleye population is impacting the perch population in a significant way. Research has clearly shown perch are prime prey for the walleye. Studies are showing that walleye in the Bay are now showing cannibalistic tendencies due to the lack of other prey. The DNR and sportfishing groups have offered solutions to the evident problem, as the overpopulation of walleye in the area has had a detrimental impact on both commercial operations targeting perch, and the fishery as a whole.

The department has reduced the bag limit on yellow perch to 25, increased the bag limit on walleye to 8 as opposed to the previous limit of 5, and reduced the minimum size limit to 13 inches from 15 as required elsewhere in the state. Sportfishing groups have stated that an increase in bag limits on walleye would increase harvest and bring the population under control. However, the rate of reproduction and population numbers are so great, the sportfishing community seems so far unlikely to harvest enough fish to have any sort of impact. Another issue, as noted in department data, is that recreational effort in Saginaw Bay has decreased in angler hours to nearly one-third of what it was as recently as 1986. The numbers of recreational fishermen in the area have proven less than necessary to maintain the effort the department and other experts say is necessary to keep the population in a good, ecological balance.

Commercial fishermen in the bay, with perch licenses, have expressed interest in catching walleye in place of perch, essentially keeping some of the walleye they are already catching but must now throw-back dead or alive.

## Perch

No funds or restoration work of significance has been done for the perch fishery. There are five commercial fishermen licensed to catch perch, all in Saginaw Bay. As mentioned under the walleye heading, an ecological imbalance regarding perch and walleye seems to be widely agreed-upon in the bay.

## Other currently disallowed fish species



While there are other fish species, such as salmon and bass, that commercial fishermen are not licensed to catch, no ask was made by any stakeholder to alter current law or rule regarding them. However, the bills as passed by the house would create a statutory ban for these species as well.

## **8. Miscellaneous**

There were several other points and issues brought forward and discussed during the work groups.

- The Commercial Fishing Advisory Committee makeup was discussed. It was suggested that the committee play a role in the rule making process.
- Language in the House package for a bycatch study was discussed and was generally panned by participants who had an opinion on the matter.
- Reinstating automatic license renewal, as in current statute, was not opposed if there were not changes to the license or the status of the license holder.
- All supported the commercial fishing industry contributing to the Game and Fish Fund through a royalty payment on fish taken; however, with the stipulation from those opposing any expansion of species that their support does not constitute support for the expansion and a stipulation from the commercial fishers they are not interested unless they are permitted some expansion of available species.

## **V. CHAIRMAN'S PERSPECTIVE**

The chair feels there is significant room for compromise on these issues that allow all parties to attain their goals of a healthy and vibrant fishery that provides their interests a sustainable future. Key points include:

- The belief that more, non-targeted species are caught if nets are not lifted regularly seems to be an illogical conclusion. After lifting and emptying, the net is re-set to be able to continue to catch fish, thereby catching a fish regardless on the day it swims by, unrelated to whether it was lifted the day before or not.
- Only the department seems unsure of the impact of trout on whitefish recruitment. Significant anecdotes and photo evidence were presented showing that trout prey significantly on whitefish as should be expected of an apex predator.
- With Wisconsin, Minnesota, and Canada allowing fishing of trout and walleye it hardly seems reasonable that Michigan would not consider some limited access where science supports it. Particularly when Canada is catching the fish planted by Michigan and maintains a robust recreational fishing industry alongside its commercial fishing.
- A reasonable allowance should be made for keeping of fish (trout) that would otherwise expire due to the stress of pulling in the nets that occurs during the summer months.
- Serious consideration should be given to allow a temporary exchange of perch licenses for walleye licenses to help mitigate the ecological management needs of the Saginaw Bay fishery.
- As trout recovery and restocking efforts have been funded by tax payers in general and not through specific excise taxes paid by sportsmen, arguing they are off limits to others should cease.
- Partnership with the tribes is beneficial to the stakeholders on several fronts including scientific management, community relations, elimination of fraud and criminal activities, safety on the lakes, and research.
- Statutorily designating certain species exempt from commercial fishing should be avoided and instead the current management practice based on decisions between stakeholders, the department, and the legislature should be continued.
- The legislature should not sit out of this issue for another fifty years but, by legislative mandate return and revisit this issue in the near future to keep the industry and state from becoming bogged down in archaic rules and processes.

## VI. RECOMMENDATIONS

The workgroup process confirmed that while much of HBs 4567-4569 can be categorized as updating an outdated statute, much of what is included is new regulation on the commercial fishing industry. Increased reasonable regulation may prove beneficial in the department's oversight of both commercial and sport fishing and general management of the fishery in the Great Lakes. Given the improvement of the Michigan fishery over the years and the department's ability to manage the resource with sound science, it is apparent that the different types of fishing interests can coexist and operate to the benefit of all Michigan residents and outdoor enthusiasts. Certain improvements to the law as further described could facilitate that coexistence.

Below is a list of recommendations that Chair intends to propose to help reach a reasonable compromise on stated points of concern based on work group discussions and research:

- Increase the license fees above what was included in the House passed bills to provide more resources for oversight and management of the commercial fishing industry.
- Provide for a percentage of market-value-based payment that commercial fishers would pay on species to be placed in the Game and Fish Fund.
- Include a tier-based penalty and fine approach for violations of Part 473 with license suspension and revocation applying to significant designated offenses.
- Maintain the added requirement for regularly lifting nets with a two-tiered approach for distance from ports but add allowances for weather or other concerns if communicated to the department.
- Modify the daily electronic reporting requirements to apply in certain circumstances but allow an estimated pounds to be reported with actual pounds submitted at a later date, sooner than one month. Fish returned/thrown back should only be an estimate of weight or numbers unless the count is a negligible number.
- Maintain the GPS reporting requirement and public sharing of this information with a requirement for the location to be updated with the department when nets are moved.
- Add provisions that require significant sized sport fishing gear known as "cannonballs" to be identified with the owner's name in case such gear is found in commercial fishing nets and penalties could apply in those cases.
- Allow the opportunity for licensed commercial fishers to take fish species under specific parameters included in the law, based on sound scientific management and with data collection and analysis.

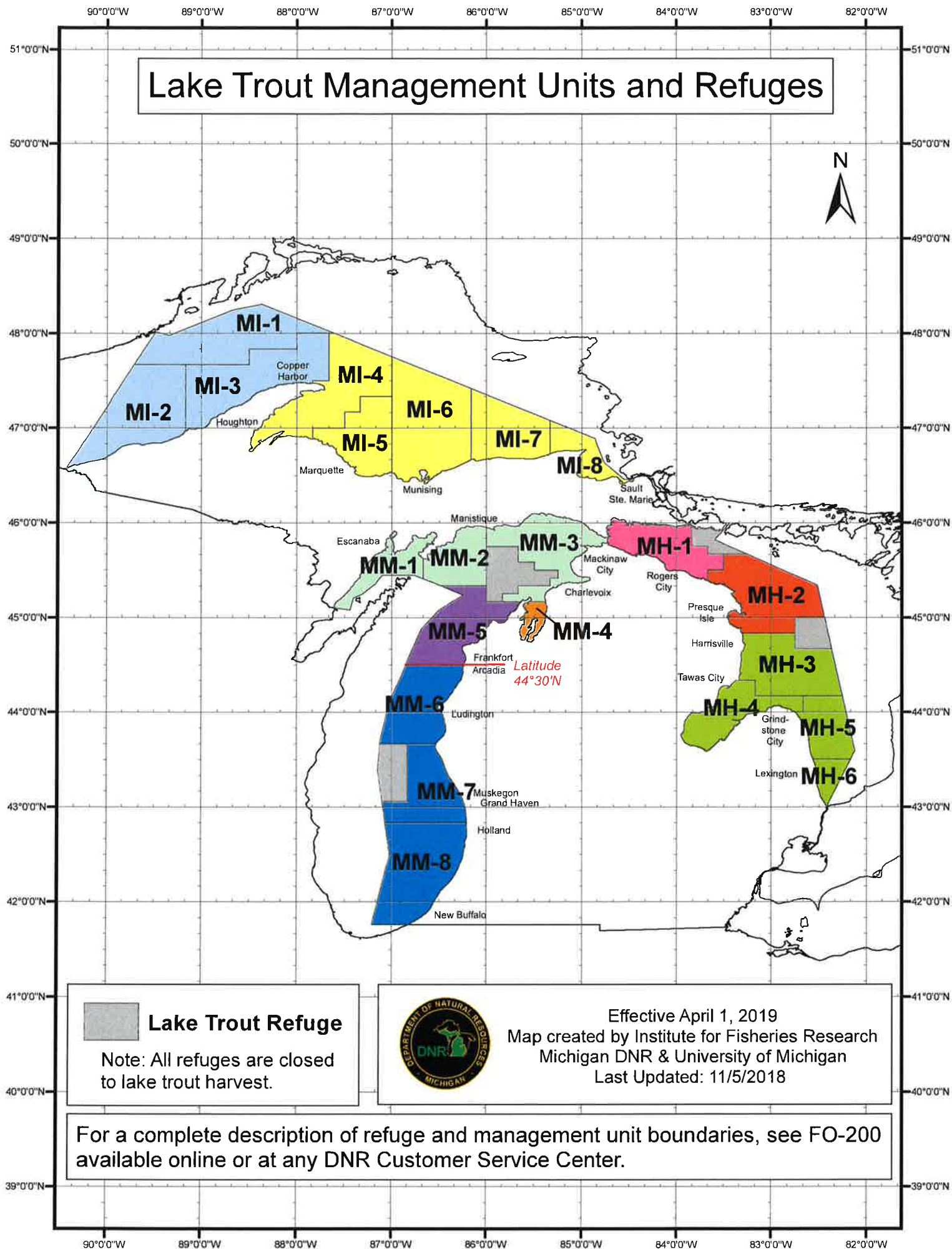
- Ensure legislative involvement is part of future changes to the commercial fishing laws through sunsets and add review of proposed rules by the Commercial Fishing Advisory Committee created in HB 4569.
- Allow the department limited ability through research permits to manage other fish species when necessary utilizing commercial fishers when appropriate.

## **VII. ACKNOWLEDGEMENTS**

Senate Natural Resources Committee Chair Senator McBroom would like to thank all those who participated in the work groups to better understand the issues within these bills and to attempt to find some compromise among interested stakeholders. Specifically, Senators Bumstead, McCann, Outman, and Schmidt and their respective staffs; Senator McBroom's staff and Emily Carney; and the Michigan Department of Natural Resources for providing requested information and clarifications. A special thanks to Representative Lilly and House Natural Resources Chairman Howell for their long patience in this process. Additionally, thank you to LSB for responding to many research requests and drafters for working on detailed amendatory language.

## **VIII. APPENDIX**

# Lake Trout Management Units and Refuges





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## MEMORANDUM

**Date:** June 30, 2020  
**To:** The Honorable Edward McBroom, State Senator  
**From:** Loanna Ammerman, Research Analyst  
**Re:** Great Lakes Commercial Fisheries (Request #20-02906)

Recently, you requested information on the types of fish and catch limits for commercial fishing harvest on the Great Lakes. You also asked if commercial anglers contribute to the cost of restocking on the Great Lakes. Information on allocations and catch limits comes from materials gathered by our office last September and is for the 2019 fishing season. Information on restocking comes from recent conversations with staff of state fisheries divisions or review of information available on state fisheries division websites. I am not an attorney, and nothing in this memo should be construed as legal advice, opinion, or interpretation.

Briefly, the Great Lakes Fishery Commission, a collaboration of Great Lakes states and Ontario sets the catch limits for the Great Lakes. Individual states allocate that limit between commercial and recreational anglers. Commercial fishing license fees may be used for restocking purposes in at least two states and Ontario, Canada.

### *Allocations*

Catch allocations for Great Lakes states and provinces are established through treaties with Native American tribes and by lake committees formed by the Great Lakes Fishery Commission under the 1954 Convention on Great Lakes Fisheries. No matter how the total allowable catch is determined, the amount allocated to each state must then be further allocated to commercial fishing and sports or recreational fishing.

### *Lake Erie*

The Great Lakes Fishery Commission facilitates collaboration among the Great Lakes states and Ontario, Canada, to benefit the Great Lakes and Great Lakes fisheries. Lake committees established under the commission develop fishery management goals for each lake. However, only the Lake Erie Committee sets catch allocations that are divided between the states and Ontario because Ontario has a very active commercial fishery on Lake Erie, but New York, Pennsylvania, Ohio, and Michigan do not.

The Lake Erie Committee of the Great Lakes Fishery Commission determines the population of walleye and yellow perch in Lake Erie annually. Based on the population data, the total allowable catch is set for each management unit. Each state is assigned a percentage of the total allowable catch and the states then

allocate a portion to their commercial anglers and recreational anglers. According to staff in the Ohio Fisheries Division, there is no commercial walleye or lake trout fishing in the U.S. waters of Lake Erie.

*Lake Michigan, Lake Huron, and Lake Superior*

Total allowable catch on Lake Michigan, Lake Huron, and Lake Superior are divided between the states and Native American tribes per the 1836 Treaty of Washington and the 2007 Inland Consent Decree. In addition, lake committees set harvest objectives but not specific allocations between states.

***Total Allowable Catch***

The following chart provides information on which states allow commercial fishing of yellow perch, walleye, and lake trout and the total allowable catch. Again, this information is specific to 2019. Please note that there is currently no commercial fishing in Illinois or Indiana.

State/Province	Allowed?			Harvest or Limits
	Yellow Perch	Walleye	Lake Trout	
Michigan	Yes	No	No	<b>Lake Michigan, Lake Huron, and Lake Superior:</b> Commercial yellow perch fishing is limited to Saginaw Bay only. Catch is limited by size restriction (fish must be 8 ½ inches or longer) and gear limits.
Minnesota	No	No	Yes	<b>Lake Superior:</b> Referred to as a commercial assessment, licenses are issued annually and anglers report data back to the state to determine health of fishery. Three management zones for lake trout have been established. Total annual quotas are 500 fish for zone 1, 2,000 fish for zone 2, and 3,000 fish in zone 3.
New York	Yes	No	No	<b>Lake Erie:</b> Yellow perch limit (sports and commercial fishing) is 140,740 pounds for 2019.
Ohio	Yes	No	No	<b>Lake Erie:</b> Yellow perch limit for commercial fishing only is approximately 1,200,000 pounds for 2019.
Ontario	Yes	Yes	Yes	<b>Lake Erie:</b> Yellow perch limit (sports and commercial fishing) is 3,606,381 pounds for 2019. There is more commercial fishing in Ontario than sport fishing. Walleye limit for commercial fishing was 3,061,000 million fish in 2018.  <b>Lake Huron:</b> Yellow perch limit is 4.8 million pounds, lake trout limit is 684,727 pounds, and walleye limit is 405,985 for 2019. The Lake Huron and Lake Superior limits are only for commercial



				fishing which includes First Nation held licenses.  <b>Lake Superior:</b> Yellow perch limit is 13,236 pounds, lake trout limit is 284,477 pounds, and walleye limit is 3,975 pounds for 2019.
Pennsylvania	Yes	No	No	<b>Lake Erie:</b> Yellow perch limit (sports and commercial fishing) is 627,668 pounds for 2019.
Wisconsin	Yes	No	Yes	<b>Lake Michigan:</b> Yellow perch take is limited to Green Bay only. The catch limit for yellow perch is 100,000 pounds.  <b>Lake Superior:</b> Lake trout is limited to Lake Superior. The catch limit for lake trout is 12,500 fish.

### *Use of License Fees*

As noted, we contacted staff and reviewed statute for information on the use of commercial fishing license fees for management of fishing programs including restocking. We did not contact Illinois, Indiana, or New York due to the low number or lack of commercial anglers in those states.

Ontario, Canada – According to staff, license fees are deposited to the Ministry's Special Purpose Account, which is used to fund all fish and wildlife program areas, so some commercial fishing fees may be used for restocking (Stephen James, Fisheries Resources Coordinator, Ontario Ministry of Natural Resources and Forestry, personal communication, June 29, 2020).

Wisconsin – According to staff, the annual fee paid by commercial anglers is not used to fund restocking (Allen Blizel, Administrator - Commercial & Charter Fishing, Wisconsin, personal communication, June 29, 2020).

Minnesota – According to staff, fees paid by commercial anglers go to general fisheries management that in the past did include stocking. However, Minnesota no longer stocks the Minnesota waters of Lake Superior as all sport fish populations are self-sustaining (Cory Goldsworthy, Minnesota Fisheries Division, personal communication, June 30, 2020).

Ohio – Under statute, all funds derived from fishing licenses are to be spent for fishing purposes defined in statute including stocking of fish (ORC §1533.33 and 1533.35).

Pennsylvania – It appears that all fees, including commercial fishing fees, collected under Title 30 (Fish) are deposited to the Fish Fund and used for administration and management purposes including restocking [30 Pa C.S.A. § 521(a)].

\* \* \* \* \*

If you have any further questions regarding this issue or another issue, please contact the Research Services Division at 3-5200.

### **Selected References**

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Report of the Lake Erie Yellow Perch Task Group, March 29<sup>th</sup>, 2019.

[http://glfc.org/pubs/lake\\_committees/erie/YPTG\\_docs/annual\\_reports/YPTG\\_report\\_2019.pdf](http://glfc.org/pubs/lake_committees/erie/YPTG_docs/annual_reports/YPTG_report_2019.pdf) (accessed August 28, 2019).

Lake Erie Walleye Task Group Report for 2018. Issued March 2019.

[http://glfc.org/pubs/lake\\_committees/erie/WTG\\_docs/annual\\_reports/WTG\\_report\\_2019.pdf](http://glfc.org/pubs/lake_committees/erie/WTG_docs/annual_reports/WTG_report_2019.pdf) (accessed August 28, 2019).

## MEMORANDUM

**Date:** September 2, 2020  
**To:** The Honorable Edward McBroom, State Senator  
**From:** Loanna Ammerman, Research Analyst  
**Re:** **Commercial Fishing Regulations – Other States Updated with Canada and Tribal Regulations (Request #20-03064)**

Recently, you requested information on selected aspects of commercial fishing statute and regulations for Minnesota, New York, Ohio, Ontario, Pennsylvania, tribal fisheries, and Wisconsin. We have reviewed the fishing statutes and regulations for these entities. Information on incidental catches and checking of nets was gathered in April 2019. Due to lack of commercial fishing activity in Illinois and Indiana, we have not included those states in our research. Only two commercial anglers reported activity in New York in 2017. I am not an attorney, and nothing in this memo should be construed as legal advice, opinion, or interpretation.

Briefly, the commercial fishing regulations vary for each entity with different regulations depending on the fish species, types of nets used, and locations where the anglers operate on the Great Lakes. In general Minnesota, New York, Ohio, Pennsylvania, and Wisconsin all require that incidental fish catches be returned to the water, although Minnesota does provide a system where commercial anglers can keep some dead lake trout if properly tagged. Tribal fishers are allowed to keep some incidentally caught species and required to return others. Time periods for checking fishing gear also vary from at least once every 24 hours to seven days depending on the type of net and its location. All entities require at least monthly reporting with some biweekly or daily reporting also required. It does not appear that any entity requires net location to be made public. Finally, penalties found in statute or code appear to mostly reference violations of reporting requirements, although Tribal Code does mention other violations.

### Ontario

Very little information is available in Ontario's statute and code. According to Stephen James, Ontario Ministry of Natural Resources and Forestry, specifics on commercial fishing could not be provided due to confidentiality of license conditions. General information is provided when available.

### Tribal Fisheries

The commercial fishing activities of the members of the Bay Mills Indian Community, the Grand Traverse Band of Ottawa and Chippewa Indians, the Little River Band of Ottawa Indians, the Little Traverse Bay Bands of Odawa Indians, and the Sault Ste. Marie Tribe of Chippewa Indians are regulated under the *Chippewa Ottawa Resource Authority (CORA) Commercial, Subsistence, and Recreational Fishing Regulations for the 1836 Treaty Ceded Waters of Lakes Superior, Huron, and Michigan* ("Tribal

Code"). Tribes may promulgate additional and different regulations that are more restrictive than the Tribal Code with some exceptions. Information for tribal regulations provided below is from the Tribal Code applicable to all tribes listed above. We did identify some individual tribal regulations that are different than the Tribal Code and note those where applicable.

### Incidental Catches

In general Minnesota, New York, Ohio, Pennsylvania, and Wisconsin all require that incidental fish catches be returned to the water, although Minnesota does provide a system where commercial anglers can keep some dead lake trout if properly tagged. Tribal fishers are allowed to keep some incidentally caught species and required to return others.

Minnesota	Incidental catches of lake trout and siscowet must be returned to the water immediately. However, incidental catches of lake trout and siscowet that are dead when removed from the water may be possessed if sealed with a tag provided by the commissioner (Minnesota Administrative Rules §6260.1800).
New York	Rule requires that commercial anglers return immediately to the water species listed in rule and that no commercial angler shall "sell, offer for sale or expose for sale the listed species of fish or parts thereof..." (6 CRR-NY 37.1). Species listed include types of salmon, trout, and pike.
Ohio	Ohio law requires, "All undersized fish and species that cannot be taken commercially must be released immediately with as little injury as possible while the fishing device is lifted, pulled, or hauled" (ORC §1533.63).
Ontario	Although incidental catch is supposed to be released if alive, sometimes it is landed and sometimes discarded (Stephen James. Fisheries Resources Coordinator, Ontario Ministry of Natural Resources and Forestry. Personal Communication, August 31, 2020). Mr. James further notes that fish that is suitable for human consumption shall not be abandoned if it will become unsuitable for human consumption [Ontario Fish and Wildlife Conservation Act 36(5)].
Pennsylvania	Commercial anglers are prohibited from attempting to catch certain species. Fish that are accidentally caught are to be returned to the waters immediately regardless of its condition and reported to the commission (Pa Code Title 58, §69.37).
Tribal Fisheries	Under CORA, listed species cannot be targeted for harvest or sale when taken as bycatch during commercial fishing activities. Retention of more than 25 pounds round weight per vessel per day of bycatch is prohibited. Prohibited species must be returned to the water if alive or, if dead, turned into the CORA biological staff, tribal biological staff, or the Michigan DNR.  Bay Mills Indian Community fishing regulations require that all live lake trout in the Hammond Bay Small Boat Gill Net Zone be released. All fish species, except lake whitefish caught in the Southern Lake Huron Trap Net Zone are to be returned to the water dead or alive.  The Little River Band of Ottawa Indians requires that undersized whitefish be returned to the water immediately if alive. Possession of more than 50 pounds round weight of undersized whitefish is prohibited.
Wisconsin	Under Wisconsin Statute section 29.516, "No fish of any kind shall be taken or retained in any net, when drawn or lifted, other than the kind or kinds expressly authorized to be taken or retained in the net, as provided in this chapter; and except as provided by department order, any other kind or kinds of fish coming into or taken in the nets shall be immediately returned, carefully and with as little injury as possible, to the waters from which they were taken."

### Checking Nets

Time periods for checking fishing gear vary from at least once every 24 hours to seven days depending on the type of net and its location.

Minnesota	Commercial operators must notify the Lake Superior Fisheries Office within 48 hours if they are unable to lift and empty pound or trap nets at least once every 48 hours (Minnesota Administrative Rules Section 6260.1800, Subp 3).
New York	Rules note that nets set in the Chaumont Bay area shall "be visited and all fish removed at least once in each 48 hours." (6 CRR-NY 36.2 (j)(2)). I was unable to identify a requirement to check nets set in other areas of Lake Ontario in statute or rule.
Ohio	Set fishing gear may not be left unattended for more than five days.
Ontario	Nets cannot be set longer than 10 days and are generally checked every day or two, except in colder weather when cold water preserves catch quality (Stephen James, Ontario Ministry of Natural Resources and Forestry. Personal Communication, August 31, 2020).
Pennsylvania	Under Pennsylvania Code, the director of the department is required to establish a schedule for lifting and clearing of catch in nets. Frequency does not appear to be set in rule or statute (Pa. Code Title 58, §69.38).
Tribal Fisheries	No tribal fisher shall have unattended nets in 1836 Treaty waters. Unattended nets are those that have been tagged by a law enforcement officer for at least four days and the angler refuses to tend to or that have decayed fish [Tribal Code, Part I, Section 3 (ee)].  Bay Mills Indian Community fishing regulations require those holding a fishing permit for the Southern Lake Huron Trap Net Zone to check trap nets at least one time per week with some exceptions. Unattended nets shall be considered for revocation of the fishing permit.  Bay Mills Indian Community fishing regulations require those with a fishing permit for the Hammond Bay Small Boat Gill Net Zone to attempt to lift, tend, or pull gill nets at least two times per week with some exception.
Wisconsin	Several requirements are listed in rule for checking nets depending on the type of net used. For example, gill nets must be lifted once every 72 hours if the net is in open water less than 96 feet deep, once every 120 hours if the net is in open water from 96 to 210 feet deep, and once every 240 hours for nets deeper than 210 feet in open water. Entrapping nets are to be lifted at least once every 7 days. Encircling nets and trawls are to be lifted a minimum of once every 24 hours to once every 120 hours depending on the depth and the location of the nets (NR §25.09).

## Reporting Requirements

All entities require at least monthly reporting with some biweekly or daily reporting also required.

Minnesota	Reporting is required monthly regardless of whether fish are taken or if fishing operations have taken place. Separate records are required for each pound or trap net used in Lake Superior. Information required includes number of game fish kept and released. Special permits are required for lake trout, siscowet, cisco, and lake and round whitefish. Reporting requirements for special permit holders include monthly records for harvest of lake trout, weekly records for harvest for cisco, and reporting on other fish as specified in the permit (Minnesota Administrative Rules Section 6260.1800, Subp. 7 & 8).
New York	Every licensee is required to provide a report to the department concerning catch at the expiration of his or her license or when determined by the department [6 CRR-NY36.1(a)]
Ohio	All licensed commercial anglers except trap netters must report the daily catch totals on a monthly basis. Information recorded includes date, latitude and longitude, gear, mesh size, depth fished, and pounds landed.

Ontario	All captains complete a daily-catch-report (DCR) which is either turned into a dock-side monitor or a lock-box at the dock. However, I was unable to find this requirement in statute or code. Mr. James notes that other reporting is not required.
Pennsylvania	Monthly reports must be filed describing the daily catch for each grid fished during the period. Reports are filed separately for different licensed gear used. Weekly or daily reports may be required. Reports are also required for periods in which no fishing takes place. (Pa. Code Title 58, §69.26)
Tribal Fisheries	Under CORA, commercial fishers file a report each calendar month that includes information on gear used, location of fishing, and total pounds of each species landed (Section XXII). Reports are due on the 10 <sup>th</sup> day of the following month of reported activity. A "no fishing report" is filed if no activity takes place. Catch reports are confidential.  Bay Mills Indian Community fishing regulations require that licensed commercial captains permitted to fish in the Southern Lake Huron Trap Net Zone and the Hammond Bay Small Boat Gill Net Zone submit monthly commercial catch reports to fishery biologists within 5 days following the end of the month harvest.
Wisconsin	Requires biweekly fishing reports to the department to include pounds of fish harvested, harvest effort, and any other information called for on the report form. Reports are required even if the licensee did not fish. Reports are to accompany the fish caught to dock or shore and must be transported in such a manner to not be altered. Daily reports are required for those licensed to harvest cisco. Electronic reporting is provided. An annual inventory is also required. Commercial fishers are required to file a float plan the day prior to fishing for high value species. (NR 25.13).

### GPS Location Requirements

It does not appear that any entity requires net location to be made public.

Minnesota	Do not require commercial operators to make public their net setting locations. Nets are adequately marked on the water for safety (Cory Goldsworthy, Minnesota DNR, Personal Communication, August 24, 2020).
New York	GPS location of nets or location of nets in general is not referenced.
Ohio	GPS location of nets or location of nets in general is not referenced.
Ontario	Ontario does not require commercial operations to make public their net setting locations. (Stephen James, Ontario Ministry of Natural Resources and Forestry. Personal Communication, August 31, 2020).
Pennsylvania	GPS location of nets or location of nets in general is not referenced.
Tribal Fisheries	GPS location of nets or location of nets in general is not referenced in CORA. However, the Bay Mills Indian Community fishing regulations note that latitude and longitude or LORAN coordinates for each trap net set by captains holding a Southern Lake Huron Trap Net Zone Fishing permit shall be provided to the Bay Mills fishery biologist each month (Rule 14).
Wisconsin	GPS location of nets or location of nets in general is not referenced.

### Penalties

Penalties found in statute or code appear to mostly reference violations of reporting requirements, although Tribal Code does mention other violations.

Minnesota	Noncompliance with reporting may result in revocation or denial of permits (Minnesota Administrative Rules Section 6260.1800, Subp. 8).
New York	Penalties for violations were not identified in code or statute.
Ohio	Fishing gear and equipment used in commercial fishing is subject to forfeiture if a violation occurs.
Ontario	Generally, violations of the Fish and Wildlife Conservation Act may incur penalties including a fine of not more than \$25,000 and/or imprisonment of not more than one year. Licenses may also be cancelled or suspended for violations of conditions imposed on the license holder.
Pennsylvania	Failure to submit timely and accurate reports may result in suspension, denial, or revocation of license (Pa. Code Title 58, §69.26).
Tribal Fisheries	Under CORA, violations of the fishing regulations may be punished by suspension or revocation of a fishing license or permit, fines, and forfeitures. Some violations are considered major with specific revocation periods and fines of not less than \$250.00 (Section XXVI). A citation is issued to those who fail to file a report. Failure to file a report is a civil violation with a \$100 fine. Generally, unattended and abandoned nets may be seized by an enforcement officer and forfeited.  Unattended nets in the Bay Mills Indian Community's Southern Lake Huron Trap Net Zone and the Hammond Bay Small Boat Gill Net Zone shall be considered reason for revocation of the fishing permit.
Wisconsin	In addition to court ordered penalties, additional reporting is required for licensees who have been convicted of 2 or more violations of commercial fishing in outlying waters, wholesale fish dealer regulations, or the commercial fishing regulations [NR 25.13 (11)].

\* \* \* \* \*

If you have further questions regarding this issue or another issue, please contact the Research Services Division at 3-5200.

### **Selected References**

Bay Mills Indian Community. "Fishing Regulations." Accessed August 31, 2020.

[http://www.baymills.org/resources/bmic\\_fishing\\_regulations.pdf](http://www.baymills.org/resources/bmic_fishing_regulations.pdf)

Chippewa Ottawa Resource Authority. "Commercial, Subsistence, and Recreational Fishing Regulations for the 1836 Treaty Ceded Waters of Lakes Superior, Huron, and Michigan." Adopted August 31, 2000. Revised March 4, 2019. <file:///C:/Users/LAmmerman/Downloads/CORA%20Code%20-%20Great%20Lakes.pdf>

Ohio Department of Natural Resources. "Division of Wildlife Commercial Fishing Law Digest." Accessed August 24, 2020. [https://ohiodnr.gov/wps/wcm/connect/gov/13b6769a-3478-4667-bbec-ffb9b5a2ac00/Aquaculture\\_Commercial+Fishing+Law+Digest+pub002.pdf?MOD=AJPERES&CONVERT\\_TO=url&CACHEID=ROOTWORKSPACE.Z18\\_M1HGGIK0N0JO00QO9DDDDM3000-13b6769a-3478-4667-bbec-ffb9b5a2ac00-na0uf7](https://ohiodnr.gov/wps/wcm/connect/gov/13b6769a-3478-4667-bbec-ffb9b5a2ac00/Aquaculture_Commercial+Fishing+Law+Digest+pub002.pdf?MOD=AJPERES&CONVERT_TO=url&CACHEID=ROOTWORKSPACE.Z18_M1HGGIK0N0JO00QO9DDDDM3000-13b6769a-3478-4667-bbec-ffb9b5a2ac00-na0uf7).



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## Research Services Division

### MEMORANDUM

**Date:** October 15, 2020  
**To:** The Honorable Edward McBroom, State Senator  
**Attn:** Kendra Everett  
**From:** Loanna Ammerman, Research Analyst  
**Re:** **Fees Charged for Commercial Fishing in Great Lakes States, Ontario, and by Indian Tribes (Request #20-03155)**

In response to your request, we are providing information on commercial fishing license fees levied by Great Lakes states, Ontario, and Indian tribes. Due to lack of activity, Illinois and Indiana are not included. I have reviewed materials available on relevant websites and in state statute and contacted appropriate officials for this information. I am not an attorney, and nothing in this memo should be construed as legal advice, opinion, or interpretation.

Briefly, fees may be levied in the form of a license fee, device fee and/or royalty fee. License fees are variable, ranging from \$20 to \$900 for residents. I have sent a request for information on fees to the Minnesota Department of Natural Resources but have not received response.

<i>State</i>	<i>Fees</i>
Minnesota	Unable to find information on any fees.
New York	<b>Device Fee</b> \$125 per year per 2,500 feet of gil net \$20 per year per trap net <b>Boat License</b> \$20 to \$60 per boat depending on length for those holding licenses for Lake Ontario (Personal Communication. Steve LaPan, New York Department of Environmental Conservation, Great Lakes Fisheries. October 15, 2020).
Ohio	<b>Device fee</b> \$800 - trap and fyke nets, first twenty nets \$400 - for each additional group of ten such nets \$400 – for each seine of one hundred fifty rods or less in length other than an inland fishing district seine \$600 - for each seine over one hundred fifty rods in length other than an inland fishing district seine \$100 – for each inland fishing district seine \$100 – for each carp apron \$20 – for one trotline with seventy hooks or less attached



Ohio (cont.)	<p>\$100 – for each trotline or trotlines with a total of more than seventy hooks attached. (Ohio Revised Code §1533.35)</p> <p><b>Royalty Fee</b></p> <p>5 cents per pound on species with allowable catch or quota established 2 cents per pound on species with no established allowable catch or quota</p>
Pennsylvania	<p><b>License Fee</b></p> <p>\$80 resident; \$160 nonresident using trap nets \$50 residents; \$100 nonresidents using seines (nonresidents must live in a state that offers reciprocal licenses) (Title 30 Pa.C.S.A. Fish §2903).</p>
Wisconsin	<p><b>License Fee</b></p> <p>\$899.25 for each boat in outlying water, resident \$6,499.25 for each boat, nonresident \$50 license transfers [Wisconsin Statutes Subchapter VII, §29.563(7)].</p>
Little Traverse Bay Band of Odawa Indians <sup>1</sup>	<p><b>License Fee</b></p> <p>\$20 for commercial captain's license \$10 for a commercial helper's license</p>
Sault Ste. Marie Tribe of Chippewa Indians	<p><b>License Fee</b></p> <p>\$25.00 for helper on a boat owned by a licensed commercial fisherman \$50.00 for a fisherman fishing without a boat or with a boat not exceeding 25 feet in length \$75.00 for a fisherman fishing with a boat 25 to 45 feet in length \$100.00 for a fisherman with a boat in excess of 45 feet in length [Tribal Code, Chapter 20. §20.102 (4)].</p>
Ontario	<p><b>Royalty Fee</b></p> <p>Statute includes a formula to determine the royalty fee (O Reg 664/98, Part III, §34). According to Jane Graham, Ontario Commercial Fishing Association, the royalty fee is \$216.73 for more than 15,000 pounds of quota and \$54.20 for less than 15,000 pounds of quota (Personal Communication, Jane Graham, Ontario Commercial Fishing Association, October 13, 2020).</p>

\* \* \* \* \*

I hope this information is useful. If I obtain additional information from the outstanding request, I will forward that to you. Please contact the Research Services Division at 3-5200 if you have additional questions.

### **Selected References**

Little Traverse Bay Bands of Odawa Indians. "Annual Harvest Report." 2016/2017. Odawa Natural Resources Department. <https://www.ltbbodawa-nsn.gov/NRD/Harvest%20Report%202016-2017.pdf>

<sup>1</sup> Unable to find fee information for Bay Mills Indian Community, the Grand Traverse Band of Ottawa and Chippewa Indians, and the Little River Band of Ottawa Indians.

