

## **NATURAL RESOURCE COMMISSION REGULATIONS**

### **CHAPTER 1. FISHING REGULATIONS FOR THE 1836 TREATY CEDED GREAT LAKES**

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**NATURAL RESOURCE COMMISSION REGULATIONS****CHAPTER 1. FISHING REGULATIONS FOR THE 1836 TREATY CEDED GREAT LAKES****Section 1: General Regulatory Matters****1-1-1 Authority; Purpose.**

- a. *Authority.* In accordance with Sections 4.01, 6.01, and 6.02a of the Natural Resource Commission Ordinance, #03-500-01, the Natural Resource Commission promulgates these regulations for fishing in the Great Lakes waters reserved to the Little River Band of Ottawa Indians.
- b. *Purpose.* These Regulations are adopted to govern the commercial, subsistence, and recreational fishing activities of members of the Little River Band of Ottawa Indians in exercising the Great Lakes fishing rights reserved by the CORA Tribes in the March 28, 1836 Treaty with the United States. These Regulations are intended to ensure conservation of the Great Lakes fishery resources for future generations of the Little River Band Tribal membership and to ensure safe fishing practices.

**1-1-2 Scope and Application.** These Regulations apply to the commercial, subsistence, and recreational fishing activities of all persons fishing in the 1836 Treaty waters under the authority of the Little River Band. These regulations are in compliance with the U.S. v. Michigan Consent Decree and the Chippewa-Ottawa Resource Authority Management Plan.

**1-1-3 Definitions.** The following terms shall have the meanings set forth below:

- a. "*Shall*" is always mandatory and not discretionary or directive.
- b. "*1836 Treaty waters*" means all waters of Lake Michigan and connecting waters, which are within the area ceded in Article First of the Treaty with the United States, of March 28, 1836, 7 Stat. 491.
- c. "*Break wall*" means a human-made barrier that breaks the force of waves, as before a harbor.
- d. "*BSD*" means Biological Services Division, the biological staff of CORA.
- e. "*Commission*" or "*Natural Resource Commission*" means the Natural Resource Commission of the Little River Band of Ottawa Indians.
- f. "*Commercial fishing*" means a fishing activity engaged in for the purpose of sale of fish or parts of fish.
- g. "*Consent Decree*" means the Consent Decree entered in United States v. Michigan, W.D. Mich. Case No. 2:73 CV 26 on August 8, 2000, including any future modifications made by the Court.
- h. "*CORA*" means the Chippewa Ottawa Resource Authority, an organization formed by the Tribes, and that has been delegated certain management and regulatory authority.
- i. "*Director*" means the Director of the CORA BSD.
- j. "*Enforcement Officer*" means:
  1. any conservation officer or game warden of a Tribe; or

2. any enforcement agent of the Bureau of Indian Affairs or the United States Fish and Wildlife Service authorized to enforce the provisions of Title 25, Code of Federal Regulations, Part 249; or
  3. any person authorized by a Tribe's ordinance to enforce these Regulations; or
  4. any Conservation Officer of the Michigan Department of Natural Resources.
- k. "*Fishing*" or "*fishing activity*" means fishing for, catching, or taking any species of fish, or attempting to fish for, catch, or take any species of fish from 1836 Treaty waters, including all related activities which occur in or on the water or ice, until such time as the vessel or vehicle is moored, tied up, or grounded.
- l. "*Gill net*" means a wall of webbing held vertically in the water by weights and floats, and designed to capture fish by means of entanglement.
- m. "*GLRC*" means the Great Lakes Resources Committee, the committee of CORA charged with promulgating these Regulations and making other management decisions concerning Tribal fishing in the 1836 Treaty waters.
- n. "*Grid*" means a geographical unit based on 10 minutes of latitude by 10 minutes of longitude and commonly used by Tribal, State, provincial, and federal governments for reporting fishery statistics. For the purpose of these Regulations, the area of a grid shall include only those portions of a grid that are within the boundaries of the State of Michigan and the 1836 Treaty waters.
- o. "*Impoundment net*" means a net designed to capture fish by deflection and to retain them in a live condition until removed (e.g., trap, pound, fyke, or hoop nets, etc.).
- p. "*Large mesh gill net*" means a gill net having a diagonal stretch mesh measurement of 4.5 inches or greater.
- q. "*LMSDZ*" means the Lake Michigan Southern Development Zone.
- r. "*LRZ*" means the Little River Zone.
- s. "*Management Plan*" means the Management Plan for the 1836 Treaty Great Lakes Waters adopted by the Tribes and attached to the Consent Decree as Appendix B, including any future changes adopted in accordance with the Management Plan and the Consent Decree.
- t. "*Mile*" means statute mile.
- u. "*Natural Resource Commission*" or "*Commission*" means the Natural Resource Commission of the Little River Band of Ottawa Indians.
- v. "*Pier*" means a permanent man-made structure built for use by the public extending from land out over the water.
- w. "*Recreational fishing*" means fishing activity conducted in accordance with these Regulations.
- x. "*Regulations*" or "*these Regulations*" means the provisions of these regulations.
- y. "*Round weight*" means the total weight in pounds of fish prior to any form of processing, dressing, or eviscerating, and includes the weight of the head, entrails, and skin.

- z. "*Seine*" means a net used to enclose fish when its ends are pulled together and are drawn to shore or to a vessel.
- aa. "*Small mesh gill net*" means a gill net having a diagonal stretch mesh measurement of 2½ through 3 inches.
- bb. "*Subsistence fishing*" means a Treaty fishing activity solely to provide fish for personal or family consumption and not for sale or exchange, but does not include recreational fishing.
- cc. "*Treaty*" means the Treaty with the United States, of March 28, 1836, 7 Stat. 491.
- dd. "*Tribe*" or "*LRB*" means the Little River Band of Ottawa Indians.
- ee. "*Tribes*" means the 5 Tribes who are members of CORA: the Bay Mills Indian Community, Grand Traverse Band of Ottawa and Chippewa Indians, Little River Band of Ottawa Indians, Little Traverse Bay Bands of Odawa Indians, and Sault Ste. Marie Tribe of Chippewa Indians.
- ff. "*Unattended nets*" means nets that have been tagged by an enforcement officer as such for at least 4 days, except when fishing through the ice, which the fisher refuses to tend upon reasonable notice from an enforcement officer, or nets that contain no live fish in the net.
- gg. "*Wanton Waste*" means intentionally allowing, through neglect the deliberate waste of the edible portion of a wounded or killed fish.

## **Section 2. Licensing and Registration.**

**1-2-1 Commercial Fishing Captain License.** A commercial fishing captain license entitles the holder to operate a properly registered commercial fishing vessel and to participate fully in all commercial fishing activities, including the capture and sale of all species pursuant to these Regulations.

- c. A commercial fishing captain license entitles the holder to employ helpers in commercial fishing activities.
- b. A commercial fishing captain license shall be valid during the calendar year for which it is issued.

**1-2-2 Commercial Fishing Helper License.** A commercial fishing helper license entitles the holder to assist the holder of a commercial fishing captain license in commercial fishing activities, and shall be valid during the calendar year for which it is issued.

**1-2-3 Subsistence Fishing License.** A subsistence fishing license entitles the holder to engage in fishing activities for subsistence purposes, and shall be valid during the calendar year for which it is issued.

**1-2-4 Commercial Fishing Vessel Registration.** A commercial fishing vessel registration is necessary in order for any vessel to be utilized for commercial fishing. Violation of this provision shall be a Class A infraction.

**1-2-5 Recreational Fishing.** A member of a Tribe who engages in recreational fishing shall not be required to have in their possession a fishing license, but must have a Tribal Identification Card in their possession at all times. Violation of this provision shall be a Class B infraction and the violator may be required to pay restitution to the Tribal community.

### **1-2-6 Licensing Restrictions.**

- a. No holder of a commercial fishing captain license, commercial fishing helper license, or commercial fishing vessel registration shall fish as an employee of, or for

shares with, a person not licensed to exercise 1836 Treaty fishing rights. Violation of this provision shall be a Class B infraction.

1. This prohibition shall be liberally interpreted to prohibit a licensee from exercising 1836 Treaty fishing rights for the benefit of non-Indians.
- b. The Little River Band shall not issue a commercial fishing captain license to a person who holds a commercial fishing license or permit of any kind issued by the State of Michigan.
- c. No member of a the Tribe 16 years of age or older shall engage in fishing activity within 1836 Treaty waters without having in their possession at all times a commercial fishing captain license, countersigned under 25 C.F.R. Part 249; a commercial fishing helper license, countersigned under 25 C.F.R. Part 249; or a subsistence license issued in accordance with these regulations; or, if engaged in recreational fishing, a Tribal identification card. Violation of this provision shall be a Class B infraction.
- d. Any license, permit, or identification required by these Regulations shall be shown to any Enforcement Officer upon request. Violation of this provision shall be a Class B infraction.
- e. Each boat that is used by a member of the Tribes for fishing activity shall have affixed to it in a clearly visible manner the number of the commercial fishing vessel registration issued by the CORA. Violation of this provision shall be a Class A infraction.
- f. Each snowmobile or off road vehicle that is used by a member of a Tribe for fishing activity shall have affixed to it in a clearly visible manner a valid Tribal or State of Michigan license. Violation of this provision shall be a Class A infraction.
- g. Each boat that is used by a member of a Tribe for commercial fishing activity shall have on board at all times at least one person with a valid commercial fishing captain license. Violation of this provision shall be a Class B infraction.
- h. No Tribal member shall allow any person who does not possess a valid fishing license issued by the Tribe, to be on board a commercial fishing vessel while it is operating on 1836 Treaty waters. Violation of this provision shall be a Class A infraction.
  1. *Provided, however,* that a validly licensed Tribal member may employ the consulting technical expertise of a non-member by obtaining a permit therefore from the GLRC, which permit may not extend for more than 1 calendar year, and may not be renewed for more than 1 additional year.
    - A. Such permit shall list the name and address of the consultant, the type of fishing operation to which consultation will be provided, and the name and size of the vessel on which consultation will be provided.
    - B. No permit for consultation services shall be issued under any of the following circumstances:
      - (1) The consultant has an ownership interest in the vessel or in the gear that the member seeks to utilize; or
      - (2) The consultant's payment for services from the member is based on a percentage of the member's proceeds from

fishing activity.

2. *Provided, also*, that the Tribe through the issuance of a written permit may authorize such person's presence on board a commercial fishing vessel.
  - A. Issuance of such authorization shall not be considered a permit to engage or assist in fishing activity. Violation of this provision shall be a Class B infraction.
  - B. Such permit shall identify by name and address the authorized individual, specify the commercial fishing vessel upon which the individual may be a passenger, the purpose for their presence, and identify the dates for which such authorization is valid.

### **Section 3. Commercial Fishing.**

**1-3-1 Commercial Permit Required.** No person shall engage in commercial fishing in the Little River Zone or Lake Michigan Southern Development Zone without a permit issued for that activity by the Little River Band. Violation of this provision shall be a Class B infraction.

- a. *Permit Term.* A permit shall be issued for a term of 5 years, subject to annual review by the Commission.
  1. Any fisher intending to maintain a permit for the following year within the 5-year term of the permit shall file a Letter of Intent to Continue Fishing with the Commission annually no later than 30 days before the anniversary issuance date of the Permit.
  2. No more than 60 days before the permit anniversary date, the LRB Conservation Department shall notify the permittee, in writing, of the requirement to file a Notice of Intent with the Commission.
    - A. A copy of the Department's written notice shall be forwarded to the Commission and shall be maintained as part of the record.
  3. Failure to file a timely Notice of Intent to Continue Fishing shall result in a Commission determination that the permit has lapsed as of the anniversary date of the Permit.
  4. Upon a determination by the Commission, at the annual review of the permit, that a permit should be modified, the Commission may modify the provisions of the permit.
  5. If during the term of an issued permit to a non-Tribal member, a Tribal member applies for a permit, and there are no additional permits available for that zone or type of fishing activity, the Commission may recall the non-member permit for issue to the qualified Tribal member applicant.
    - A. A Commission recall of a permit shall be done only within 60-days of the anniversary date of the issued permit.
- b. *Permit Criteria.* A person who seeks a trap net or small mesh gill net permit shall:
  1. Have access to all the equipment necessary to set, lift, and pull the types of nets for the commercial fishing activity that the permittee seeks.
  2. Own or operate a fishing vessel that meets all vessel safety equipment requirements prescribed by the current U.S. Coast Guard regulations for fishing vessels registered with CORA-member Tribes. Violation of this provision shall be a Class B infraction.

3. Not engage in commercial trap net fishing in any other Whitefish Management Unit during the term of the permit without the permission of the Commission. Violation of this provision shall be a Class B infraction.

c. *Permit Application Procedure.*

1. Any person seeking a commercial permit shall submit a completed application, on a form approved by the Commission, certifying and acknowledging the conditions set out on the permit application. Falsification of the certification required on the Permit Application shall be a Class C infraction.
2. If a permit application properly is completed and filed, and a requested permit is available for the zone of type of commercial fishing requested, the Little River Band shall issue a permit within 48 hours.
3. Failure to issue a timely permit shall be deemed a denial of the permit and shall be appealable to the Commission.

d. *Permit Selection Process.* The Little River Band shall award available commercial permits in accordance with the following selection criteria.

1. If more qualified persons apply for a permit than there are available permits for that zone or type of fishing, the Little River Band shall give priority to applicants in the following order of preference:
  - A. Enrolled Tribal members of the Little River Band;
  - B. Persons employing, or offering employment to, Little River Band members as crew;
  - C. Any other person.
2. If more than 2 persons falling with the same preference level apply for available permits, the Little River Band shall give preference to any person possessing a U.S. Coast Guard 100-Ton Masters License.
3. In all other cases, if more than 2 persons falling within the same preference level have applied for available permits, the Little River Band shall select the permittees by random drawing.

e. *Permit Conditions.* Holders of a permit for LRZ and LMSDZ shall comply with the following conditions.

1. Fish in the permitted zone at least 6 months of each year during the term of the permit.
2. Be present on the vessel during any fishing activity conducted under the permit.
3. Assist LRB and CORA biological services staff with any biological sampling and assessment activities conducted during the term of the permit

f. *Permit Termination.* The Commission shall have the power to suspend or revoke any license or permit covered by these Regulations, as brought before the Commission by either the Conservation Department through an official representative, or conservation Enforcement Officer;

1. The Commission shall suspend or revoke the Captains license or fishing



permit:

- A. Of a person convicted of any criminal offense included in the CORA Regulations;
- B. Of any captain or vessel operator issued a citation for being under the influence of any controlled substance. A field alcohol blood level of .06%, as determined by a PBT, or failure of a field sobriety test for other substances, shall be prima facie evidence of intoxication. Violation of this provision shall be a Class D Infraction, the violator's boat shall be seized, and the offender may be required to provide restitution to the Tribe or the Tribal community.

**1-3-2 Commercial Fishing Zones.** Subject to the provisions of these Regulations, including its closures and restrictions, the following waters are open to Tribal commercial fishing by members of the Little River Band:

a. *Little River Zone (LRZ).*

1. The LRZ is established as Lake Michigan grids 1107 through 1111, 1207 through 1211, 1306 t 1310, and 1406 through 1410.
2. Except as may otherwise be provided in the Consent Decree or the CORA Management Plan, and subject to these Regulations, the Little River Band, within all or any portion of the LRZ, may prohibit commercial fishing or subsistence fishing by fishers from other Tribes, or allow commercial or subsistence fishing by members of other Tribes by issuance of permits to such fishers.
  - A. Permits may impose restrictions on commercial fishing in the LRZ by fishers from other Tribes that are in addition to or more restrictive than those contained in these Regulations.
  - B. The following fishing activities are prohibited in the LRZ:
    - (1) Fishing when the LRB has prohibited such activity. Violation of this provision shall be a Class C infraction.
    - (2) Fishing without a permit from the LRB when such permit is required. Violation of this provision shall be a Class B infraction.
    - (3) Fishing in violation of any permit condition or regulation imposed by the LRB. Violation of this provision shall be a Class B infraction.
3. Subject to the other provisions of these Regulations, the following regulations shall apply in the LRZ:
  - A. Trap Net Operations. The LRZ, and that portion of the LMSDZ that is within whitefish management unit WFM-07, shall be open to up to 4 Tribal trap net operations, not exceeding 12 nets each.
  - B. Small Mesh Gill Net Operations. The LRZ, and that portion of the LMSDZ that is within whitefish management unit WFM-07, shall be open to fishing up to 4 Tribal small mesh gill net operations, not exceeding 24,000 feet of net each.

b. *Lake Michigan Southern Development Zone (LMSDZ).*

1. The LMSDZ is established as all 1836 Treaty Lake Michigan waters south of the northern boundary of the 1500 tier of grids.
2. Subject to the other provisions of these Regulations, the following regulations apply in the LMSDZ:
  - A. *Trap Net Operations.* The portion of the LMSDZ that is within whitefish management unit WFM-08 shall be open to 1 Tribal trap net operation, not to exceed 12 nets.
  - B. *Small Mesh Gill Net Operations.* The portion of the LMSDZ that is within whitefish management unit WFM-08 shall be open to 1 Tribal operation not exceeding 24,000 feet of net.
  - C. Trap net fishing or small mesh gill net fishing not authorized by the Little River Band in the LMSDZ is prohibited. Violation of this provision shall be a Class B infraction.
  - D. Commercial fishing with large mesh gill nets is prohibited in the LMSDZ. Violation of this provision shall be a Class B infraction.
  - E. The Little River Band shall regulate and manage the LMSDZ in the same manner as the LRZ.

c. *Closed or Limited Fishing Zones.* The following zones are closed or limited to commercial fishers.

1. Any area within 100 yards of any break wall or pier. Violation of this provision shall be a Class B infraction.
2. Any area within 0.3-mile radius of the mouth of the following Lake Michigan streams. Violation of this provision shall be a Class B infraction.
  - A. Manistee County: Arcadia Lake Outlet, Portage Lake Outlet, and Manistee River;
  - B. Mason County: Pere Marquette River;
  - C. Oceana County: Pentwater Lake Outlet, Silver Creek, and Stoney Creek;
  - D. Muskegon County: White River and Muskegon River; and
  - E. Ottawa County: Grand River.

### **1-3-3 Commercial Gear.**

a. *Gear Permitted.* The following are the only types of gear that shall be permitted for commercial fishing activity:

1. Small mesh gill nets;
2. Impoundment nets;
3. Seines; and
4. Hooks.
5. The use of any gear or method of capturing fish for commercial purposes not authorized by these regulations, is prohibited. Violation of this provision shall be a Class B infraction.

- b. *Trap Net Size.* Trap nets shall have a 4.5-inch (stretch) minimum pot mesh size. Violation of this provision shall be a Class B infraction.
- c. *Small Mesh Gill Net Size.* Small mesh trap nets having a 2.5 to 3.0 inch (stretch) pot mesh size may be used for fishing for yellow perch, chubs, or other appropriate species, as authorized by GLRC. Violation of this provision shall be a Class B infraction.
- d. *Net Marking.* All nets shall be marked as follows:
  1. *Gill nets.* At each end with a buoy on the surface, showing the license number of the fisher. Violation of this provision shall be a Class B infraction.
    - A. Ice poles, painted red or orange on the top, and bearing the license number of the fisher, may be used between November 1 and April 30 in the LRZ and LMSDZ. Violation of this provision shall be a Class B infraction.
  2. *Trap nets.* With a staff buoy on the pot, with at least 4 feet exposed above the surface of the water, and a red or orange flag no less than 12 inches by 12 inches bearing the license number of the fisher affixed to the top of the staff. Violation of this provision shall be a Class B infraction.
    - A. Ice poles, painted red or orange on the top, and bearing the license number of the fisher, may be used between November 1 and April 30 in the LRZ and LMSDZ. Violation of this provision shall be a Class B infraction.
    - B. From May 1 to November 7, the king anchor shall be marked with a staff buoy, with at least 2 feet exposed above the surface of the water bearing a single black flag no less than 12 inches by 12 inches and the inside end of the lead shall also be marked with a staff, with at least 4 feet exposed above the surface of the water with a red or orange flag over a black flag no less than 12 inches by 12 inches for both flags. Also, the ends of the wings shall be marked with a red or orange float not less than 1 gallon in size. Violation of this provision shall be a Class B infraction.
- e. *Abandoned Nets.* No nets shall be abandoned. Violation of this provision shall be a Class B infraction. If the Little River Band of Ottawa Indian must pay to retrieve an abandoned net, the commercial fisherman who abandoned the net shall be liable to reimburse the Little River Band of Ottawa Indians for the cost of such retrieval.

#### **1-3-4 Commercial Harvest Restrictions.**

- a. Tribal commercial fishing gear shall not be set in a manner that completely blocks or entirely prevents the free passage of fish into and out of streams that flow into 1836 Treaty waters. Violation of this provision shall be a Class C infraction.
- b. To protect spawning lake trout and whitefish, all commercial fishing with impoundment nets shall be prohibited during the period from 12:00 noon, November 6, through 12:00 noon, November 29. Violation of this provision shall be a Class C infraction and the violator may be required to pay restitution to the

Tribal community.

1. Trap nets may remain in the water during this time period, but trap net tunnels shall be tied closed. Violation of this provision shall be a Class C infraction and the violator may be required to pay restitution to the Tribal community.
  2. During this period, fishing for or retention of whitefish or lake trout caught in any gear is prohibited. Violation of this provision shall be a Class C infraction and the violator may be required to pay restitution to the Tribal community.
- c. Commercial fishing with small mesh gill nets in 6 fathoms of water or less shall be prohibited from 12:00 noon, October 15, through 12:00 noon, November 15. Violation of this provision shall be a Class B infraction.
- d. The use of small mesh gill nets in Lake Michigan in waters between 15 fathoms and 40 fathoms is prohibited at all times. Violation of this provision shall be a Class B infraction.

### **1-3-5 Commercial Fish Species.**

- a. The commercial harvest of whitefish, bloater chubs, and menominee is authorized unless expressly prohibited by subsequent directive or order from the Commission.
- b. Whitefish less than 17 inches long shall be returned to the water immediately alive. Violation of this provision shall be a Class B infraction for each violation.
  1. Possession of more than 50 pounds round weight of undersized whitefish is prohibited. Violation of this provision shall be a Class B infraction for each violation.
  2. No undersized whitefish shall be offered for sale. Violation of this provision shall be a Class B infraction.
- c. *Prohibited Species.* The following fish species shall not be targeted for harvest or offered for sale or exchange when taken as bycatch during commercial fishing activities: lake herring, splake, brown trout, brook trout, rainbow (steelhead) trout, Atlantic salmon, largemouth and smallmouth bass, and northern pike. Violation of this provision shall be a Class C infraction and the violator may be required to pay restitution to the Tribal community.
  1. Retention of such species when taken as bycatch during commercial trap net fishing is prohibited. Violation of this provision shall be a Class C infraction.
  2. Retention of more than 25 pounds round weight per vessel per day of such species as bycatch during commercial small mesh gill net fishing is prohibited. Violation of this provision shall be a Class B infraction.

## **SECTION 4. SUBSISTENCE FISHING.**

- 1-4-1 Subsistence Permit Required.** Tribal fishers who engage in subsistence fishing shall file with the Little River Band a completed application for the permit on a form approved by the Natural Resource Commission; and shall abide by all provisions of these Regulations and applicable Tribal regulations governing subsistence fishing.

- a. No Tribal member shall engage in subsistence fishing with gill nets or impoundment nets without a Tribal permit that shall be limited both in duration and in the area where the fishing may occur. Violation of this provision shall be a Class A infraction.
- b. The Tribal member shall abide by the limitations contained in the permit. Violation of this provision shall be a Class A infraction.
- c. A Subsistence Fishing Permit Application shall be available from the Tribal Conservation Department.

**1-4-2 Subsistence Fishing Zones.** Subsistence fishing is authorized in all 1836 Treaty waters, except:

- a. Subsistence fishing with gill nets is prohibited in all lake trout refuges; and retention of lake trout taken with any gear in lake trout refuges is prohibited. Violation of this provision shall be a Class A infraction.
- b. Subsistence fishing gear shall not be set in a manner that completely blocks or entirely prevents the free passage of fish into and out of streams that flow into 1836 Treaty waters. Violation of this provision shall be a Class A infraction.
- c. There shall be no subsistence fishing with nets:
  1. Within 100 yards of any break wall or pier. Violation of this provision shall be a Class B infraction.
  2. Within a 0.3 mile radius of the mouth of the streams listed in subsec. 1-3-4c. of these Regulations. Violation of this provision shall be a Class B infraction.
  3. In any Tribal zone where fishing with all types of nets has been closed. Violation of this provision shall be a Class A infraction.

**1-4-3 Subsistence Gear.**

- a. The following are permitted gear for tribal subsistence fishing activity:
  1. impoundment gear
  2. hooks
  3. spears
  4. bow and arrow
  5. artificial lights
  6. seines
  7. dip nets
  8. single large mesh gill net
  9. single small mesh gill net.
- b. Each gill net or impoundment net used in subsistence fishing activity shall be marked at each end with a staff that:
  1. extends a minimum of 5 feet above the surface;
  2. shall be at least 50 percent reflective orange or red in color;
  3. shall have affixed to the top, a orange or red flag that is 12" x 12" in size;
  4. shall be marked clearly at each end with a buoy on the surface, showing the license number of the fisher.

5. Violation of any of the above net marking provision shall be a Class A infraction.
  - c. Subsistence gill netting is limited to 1 net of 300 feet or less per vessel per day. Violation of this provision shall be a Class A infraction.
  - d. Tying together of single gill nets to form a gang of nets is prohibited. Violation of this provision shall be a Class A infraction.
  - e. No gill net shall be set within 50 feet of another gill net. Violation of this provision shall be a Class A infraction.
  - f. Subsistence fishing with large mesh gill nets and impoundment nets is prohibited during the period from 12:00 noon, November 6, through 12:00 noon, November 29. Violation of this provision shall be a Class A infraction.

#### **1-4-4 Subsistence Catch Restrictions.**

- a. Subsistence fishers shall be limited to 100 pounds round weight aggregate catch of all species in possession. Violation of this provision shall be a Class A infraction.
- b. Subsistence fishers shall not sell or otherwise exchange for value any of the catch. Violation of this provision shall be a Class A infraction.
- c. Lake sturgeon, muskellunge, and any species of fish listed as threatened or endangered under the Federal Endangered Species Act, shall not be targeted for harvest.
- d. Any catch of such fish shall be returned to the water alive or, if not alive, shall be turned into the Little River Band Tribal biological staff, Tribal Enforcement Officer, and shall not be retained in possession. Violation of this provision shall be a Class A infraction.

#### **Section 5. Assessment Fishing.**

- a. Notwithstanding any other provision of these Regulations, a Tribal commercial fisher may conduct assessment fishing under permit from CORA or the State of Michigan.
- b. Such assessment fishing by commercial fishers, except that conducted by the United States, shall be limited by the following, except as may be otherwise approved by the Little River Band, the federal government, or the State of Michigan:
  1. Tribal commercial fishers shall not be permitted to conduct assessment fishing in areas otherwise closed to Tribal commercial fishing.
  2. If an assessment conducted by commercial fishers will harvest a species in an area where commercial fishing for that species is prohibited by these Regulations, or will use gill nets in an area where the commercial use of such gear is otherwise prohibited by these Regulations, the assessment shall be limited to a single operation using no more than 6,000 feet of large mesh gill net, small mesh gill net, or graded mesh gill net, as appropriate.

#### **Section 6. Recreational Fishing.**

**1-6-1 Tribal Fishers.** Tribal members may engage in recreational fishing in the 1836 Treaty waters subject to the bag limits, seasons, size limits, closed areas, and gear and method restrictions applicable to recreational fishers licensed by the State of Michigan. Violation of this provision shall be a Class A infraction.

## **1-6-2 Tribal Charter Boat Operation.**

- a. Before the Little River Band authorizes or conducts a charter boat operation, the Tribe shall adopt safety inspection standards for its charter operations substantially similar to those that exist under current State law for vessels carrying passengers for hire.
- b. Customers of Tribal charter operations who are not members of one of the CORA Tribes shall be subject to applicable State law including, but not limited to, licensing requirements, rod limits, size and bag limits, daily possession limits, and seasons.
- c. Any Tribal charter boat operation shall report its charter boat harvest, including the number and weight of species caught by recreational fishers, and the areas fished, to the State in accordance with provisions applicable to State-licensed charter boat operations.

## **Section 7. Harvest Reporting and Sampling.**

**1-7-1 Catch Reporting.** Each person to whom a commercial fishing captain license, or to whom a subsistence fishing license, has been issued shall file with the Little River Band an accurate report of their harvest for each calendar month, not later than the 10th day of the following month. Violation of this provision shall be a Class A infraction and the violator may be required to pay restitution to the Tribal community.

- a. The licensee who is in charge of the fishing vessel may file a single report listing the names and license numbers of all licensed fishers who worked on the vessel at any time during the previous month, as well as the information required in subsec. 1-7-1d. below.
- b. Harvest reports shall be filed with the Little River Band Conservation Department.
- c. The Tribal Conservation Department shall transmit monthly fisher catch reports to the appropriate CORA entity.
- d. A catch report shall be submitted on forms developed for that purpose by the CORA BSD, and each report shall include, for each day of fishing activity:
  1. the kind of gear used, including mesh size and total length of net lifted or number of impoundment nets lifted;
  2. the depth and location of fishing activity by grid number;
  3. the total pounds of each species landed;
  4. whether the fish were sold round or dressed;
  5. the license number of the fisher;
  6. the date of the fishing activity; and
  7. any other information required by the Natural Resource Commission.
- e. Failure to enter any information required to be entered on a catch report, and that is not so reported, shall be a Class A infraction.
- f. The holder of a commercial fishing captain license, or the holder of a subsistence fishing license, who does not fish during a month shall file a report of “no fishing.” Violation of this provision shall be a Class A infraction.
- g. Catch reports filed by individual Tribal fishers are confidential and protected from disclosure.

1. The CORA shall not divulge the name of any reporting fisher or release a catch report except as required by an order from the Tribal Natural Resource Commission.
2. The Commission shall have the authority to order release of catch reports of any fisher in the LRZ or LMSDZ to the Commission, or other appropriate authority or entity, from the Tribal Conservation Department.

**1-7-2 Fish Sales.** Each Tribally licensed commercial fisher shall issue a bill of sale to any retail outlet purchasing fish from such fisher. Violation of this provision shall be a Class B infraction.

- a. The bill of sale shall be on a form developed by the CORA BSD that shall contain the name of the Tribal fisher; the number and pounds, by species, of fish sold; the date of sale; and the signature of the fisher.
- b. Failure to enter any information required to be entered on a fish bill of sale, and that is not so reported, shall be a Class A infraction.
- c. Tribally licensed commercial fishers selling fish to any State- or Tribally-licensed fish wholesaler shall furnish the wholesaler with the name of the seller, the seller's address and license number, the date of the sale, and the signature of the fisher on the State or Tribal wholesale fish record of purchase. Any violation of this provision shall be a Class A infraction.
- d. Any Tribally-licensed fish wholesaler shall furnish written reports of all purchases of fish on a form developed by the BSD for that purpose, indicating the name of the seller, the date, the seller's license number, the number and pounds of each species sold, and the price paid for each species. Violation of this provision shall be a Class B infraction.
  1. Tribally-licensed wholesale fish dealers shall require identification from each seller of fish. Violation of this provision shall be a Class B infraction.
  2. A Tribally-licensed wholesale fish dealer shall purchase fish only from a State or Tribally-licensed commercial fisher, or other legal source of fish. Violation of this provision shall be a Class B infraction.
  3. A Tribally-licensed fish wholesaler shall mail a copy of the report to CORA by the 10th day of the month following the month in which the transaction occurred. Violation of this provision shall be a Class B infraction.

**1-7-3 Biological Sampling.** Any catch shall be subject to reasonable biological sampling by Tribal biologists or the CORA BSD to obtain information required for conservation and management purposes.

- a. If such sampling impairs or destroys the market value of the sampled fish, the Commission, upon proper written application and hearing, shall fix a reasonable value for the loss and order the amount to be paid to the fisher.

## **Section 8. Enforcement.**

### **1-8-1 Orders of the CORA BSD Director.**

- a. The Director shall issue emergency orders closing, curtailing, or otherwise restricting fishing activity by Tribal fishers when substantial harm to the resource is imminent and the need for immediate action is evident.
- b. Any emergency order, unless rescinded by the Director, shall remain in effect until



45 days from the date of issuance or until the GLRC has acted upon the matter, whichever shall occur first.

- c. The Director shall have the authority to close fishing by Tribal members, or to implement other regulations authorized by or consistent with the Consent Decree, Management Plan, and these Regulations, necessary to prevent the Tribe or its fishers from violating the provisions of the Consent Decree, Management Plan, these Regulations, or decisions of the GLRC or the Director made in accordance with the Management Plan.
- d. The violation of any order of the Director issued in accordance with this section is prohibited. Violation of this provision shall be a Class A infraction.

**1-8-2 Civil Infractions.**

- a. Except for the express criminal provisions enumerated elsewhere in these Regulations, these Regulations are civil in nature and violations thereof shall be civil infractions.
- b. The following fines shall apply to the civil infractions in these Regulations:

<b>CLASS OF INFRACTION</b>	<b>FINE</b>
Class A	\$50
Class B	\$100
Class C	\$250
Class D	\$500
Class E	\$1000

- c. Jurisdiction to hear civil infractions of these Regulations shall vest with the Natural Resource Commission, as defined in the LRB Natural Resource Commission Ordinance, #03-500-01, and, upon a finding that an infraction occurred, shall be punished as set forth in these regulations.
- d. The commission of the following infractions shall be class C infractions and shall be punished by license or permit suspension for not less than 30 days, forfeiture of the catch, and such additional penalties as the Commission may order:
  - 1. Commercial fishing for species listed as prohibited species in these Regulations.
  - 2. Commercial fishing for a fish species during the closed season for that species in the area of the fishing activity;
  - 3. Commercial fishing in an area closed to that activity.
  - 4. Fishing with gear prohibited in lake trout refuges, or with gear prohibited during closed seasons, or with gear that is prohibited by subsequent amendment of these Regulations, or by an emergency order of the CORA BSD Director;
  - 5. Engaging in commercial fishing activity without first having obtained a valid commercial fishing captain license or commercial fishing helper license, as required by these Regulations.
- e. All fish, eggs, or parts of fish taken, possessed, sold, purchased, offered for sale or purchase, or transported, delivered, received, carried, shipped, exported, or imported contrary to these Regulations shall be subject to seizure and shall be

secured to the appropriate Tribal body established by the Commission by Regulation.

- f. All traps, nets and other equipment, vessels, snowmobiles, vehicles, and other means of transportation used to aid in the taking, possessing, selling, purchasing, offering for sale or purchase, transporting, delivery, receiving, carrying, shipping, exporting, or importing any fish, eggs, or parts of fish in violation of these Regulations shall be subject to seizure and may be forfeited upon a proper forfeiture hearing by the Commission.

### **1-8-3 Criminal Provisions.**

- a. It shall be a criminal offense for any person to commit any of the following acts:
  1. Assault, resist, oppose, impede, intimidate, bribe, attempt to bribe, or interfere with an enforcement officer engaged in enforcing these Regulations.
  2. Violate any license or permit suspension or revocation ordered by the Commission or the Tribal Court.
  3. Damage or steal nets or equipment belonging to another fisher, or steal from another fisher's nets.
  4. Possess a firearm while engaging in any fishing activity under these Regulations.
  5. Engaging in activities determined to be wanton waste.
- b. Criminal offenses shall be punishable by a fine not to exceed \$5,000.00 or imprisonment not to exceed one year, or both, and/or suspension or revocation of fishing rights, licenses and/or permits of the violator, assessment of community service hours, and/or restitution.
- c. The forfeiture provisions of these Regulations shall apply to those found liable of a civil infraction or convicted of a criminal offense.
- d. Any enforcement officer may:
  1. Detain for inspection, upon reasonable suspicion, and inspect any package, crate, box, or other container, including its contents and all accompanying documents or tags, at reasonable times.
  2. Search any place reasonably related to fishing activity, with or without a warrant, as authorized by state law.
  3. Arrest without warrant any person committing in the Officer's presence or view a criminal offense of this Section.
  4. Execute any process for enforcement of the provisions of these Regulations.
  5. Seize, with or without warrant, any article that may be subject to forfeiture, or that may be required as evidence of a violation of these Regulations, if the violation occurs in the Officer's presence; provided, however, that any such articles seized shall be delivered within 48 hours of the time of seizure into the custody of the appropriate enforcement authority of the Tribe.

### **Section 9. Miscellaneous Provisions.**

**1-9-1 Access Sites.** All fishers issued licenses or permits by the LRB for Great Lakes commercial or subsistence fishing shall be subject to the following Regulations when putting boats into, or pulling boats out of the water, for docking facilities, parking of vehicles, and on-loading and off-loading of catch or gear at any access site, harbor, or marina.

- a. The following regulations apply to the use of public access sites, harbors, or marinas.
  1. All vehicles shall be parked in the designated parking areas only, when such designated areas are available. Violation of this provision shall be a Class A infraction.
  2. Sites shall be maintained in a neat and orderly fashion with all garbage and refuse properly disposed. Violation of this provision shall be a Class A infraction.
  3. Littering is prohibited. Violation of this provision shall be a Class A infraction.
- b. The following activities are prohibited at any private access site, harbor, or marina, unless a written waiver is obtained from the owner or operator of the facility:
  1. Equipment, with the exception of boat trailers, shall not be left on site overnight. Violation of this provision shall be a Class A infraction.
  2. Cleaning of fish or fish disposal unless a specific facility is provided for these purposes at the access site, harbor, marina, or dock facilities. Violation of this provision shall be a Class A infraction.
  3. Conducting maintenance of boats, nets, or other equipment on site. Violation of this provision shall be a Class A infraction.
  4. Damage to trees, signs, and improvements is prohibited. Violation of this provision shall be a Class A infraction.
  5. Overnight camping and overnight housing are prohibited. Violation of this provision shall be a Class A infraction.
- c. Violations of this section shall be subject to the jurisdiction and enforcement provisions of these regulations, and in addition to the civil infractions established for each violation, the Commission may order restitution and may prohibit or suspend a fisher's access to the sites.