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GRAND TRAVERSE BAND (GTB) GREAT LAKES FISHING REGULATIONS

Section 1: Introduction

Section 1.01 Authority

The following regulations are promulgated by the Tribal Council of the Grand Traverse Band of Ottawa and Chippewa Indians (the "Tribe" or "GTB") pursuant to the Treaty of Washington executed March 28, 1836 (7 Stat. 491) and the provisions contained in the Preamble, Article IV, Section 1, and Article X, Section 2 of the Tribal Constitution approved by the U.S. Department of Interior effective March 29, 1988.

Section 1.02 Scope and Relation to Other Laws

These regulations govern fishing activity by members of the Tribe in 1836 Treaty waters licensed to fish commercially. They supplement the regulations contained in the Chippewa Ottawa Resource Authority Commercial, Subsistence and Recreational Fishing Regulations for the 1836 Treaty Ceded Waters of Lake Superior, Huron and Michigan (the "CORA Regulations") and the Grand Traverse Band Hunting, Fishing, Trapping, Gathering Regulations.

Section 1.03 Definitions

Unless otherwise indicated, the terms used in these regulations shall have the same meaning as the terms and definitions in the CORA Regulations.

Section 1.04 Effective Date and Duration

These regulations take effect immediately upon their adoption by the Tribal Council. They shall remain in effect until amended, replaced and/or repealed by the Tribal Council upon the recommendation of the Natural Resources and Environmental Committee.

Section 1.05 Enforcement

Unless otherwise indicated, any infraction of these regulations should be considered a civil violation and enforceable pursuant to Sections XXIV(c) and XXVI of the CORA Regulations.

Section 2: Boat Safety Regulations

Section 2.01 Commercial Fishing Vessel Safety Regulations

(A) Tribal fishing vessels less than 26 feet in length and operating within 5 miles from shore must have the following equipment on board:

- (1) FCC registered VHF radio.
- (2) Navigation lights.
- (3) Means of making a sound signal (i.e., canned air horn).
- (4) United States Coast Guard (USCG) approved Type I or Type II PFD for each person on board (minimum):
 - (a) equipped with light;
 - (b) at least 31 square inches of USCG approved retroreflective material attached to the front and back.
- (5) 1 buoyant cushion, ring life buoy, or other Type IV PFD.
- (6) 1 B-I fire extinguisher(s) (UL certified for marine use) (NOTE: Not required on boats of open construction less than 26 feet and propelled by outboard motors).
- (7) For vessels operating within 3 miles of shore, 3 USCG approved day-and-night flares. For vessels operating outside 3 miles from shore, 3 USCG approved parachute flares, 6 USCG approved hand flares, and 3 USCG approved smoke signals.
- (8) For vessels which use fuel having a flashpoint of 110 F or less (gasoline), ventilator ducts and cowls fitted for machinery spaces (exhaust duct to extend to lower bilge and intake duct to extend below level of carburetor air intake) and for fuel tank compartments.

(B) Tribal fishing vessels less than 26 feet, operating outside 3 miles from shore during the months between October and June must be equipped with an immersion suit/exposure suit for every person on board. Tribal fishing vessels less than 26 feet, operating within 3 miles from shore during the months between October through June may operate without immersion suits/exposure suits if the vessel:

- (1) Operates from the time period between 2 hours before sunrise and no later than sunset;
- (2) Wears a USCG approved Type I PFD or USCG approved inflatable PFD;

- (3) Operates in close proximity to other fishing vessels;
- (4) Passes a dockside exam and has on board all other required equipment; and
- (5) Possesses on board a copy of the USCG memorandum dated June 17, 2003, entitled "CLASS EXEMPTION FOR CERTAIN COMMERCIAL FISHING VESSELS."

(C) Tribal fishing vessels 26 feet or more and operating within 12 miles from shore must have the following equipment on board:

- (1) FCC registered VHF radio.
- (2) Navigation lights.
- (3) "DISCHARGE OF OIL PROHIBITED" placard posted.
- (4) "DISCHARGE OF PLASTICS/GARBAGE PROHIBITED" placard posted.
- (5) Means of making a sound signal (i.e. canned air horn).
- (6) If operating in July, August, and September, USCG approved Type I, Type II PFD for each person on board (minimum). If operating between October and June of the year, an immersion Suit or exposure suit for each person on board. The PFDs or immersion suit/exposure suits must be:
 - (a) equipped with light;
 - (b) at least 31 square inches of USCG approved retroreflective material attached to the front and back.
- (7) 1 24-inch ring life buoy (with 60-foot line attached).
- (8) 1 B-II or 2 B-I fire extinguisher(s) (UL certified for marine use) (NOTE: For vessels 40 feet and over, 3 B-I or 1 B-1 and 1 B-II fire extinguisher(s) (minimum) are required).
- (9) For vessels operating within 3 miles from shore, 3 USCG approved day-and-night flares. For vessels operating outside 3 miles from shore, 3 USCG approved parachute flares, 6 USCG approved hand flares, and 3 USCG approved smoke signals.
- (10) For vessels which use fuel having a flashpoint of 110 F or less (gasoline), ventilator ducts and cowls fitted for machinery spaces (exhaust duct to extend to lower bilge and intake duct to extend below level of carburetor air intake) and for fuel tank compartments.
- (11) Buoyant apparatus or auxiliary craft with the capacity of supporting/holding the entire crew, unless the vessel is 36 feet or less in length and 3 or fewer crew on board.

(D) Tribal fishing vessels 26 feet or more operating outside 12 miles from shore must have the equipment listed in subsection C. above and the following equipment on board:

- (1) Immersion Suit or Exposure Suit for each person on board with:
 - (a) attached USCG approved light;

(b) at least 31 square inches of USCG approved retroreflective material attached to the front and back.

(2) If the vessel is greater than 36 feet, a Category I EPIRB.

Section 2.02 Charter Fishing Vessel Safety Regulations

(A) These regulations apply to any Grand Traverse Band member licensed by the Tribe to operate a charter fishing vessel on the Great Lakes less than 100 gross tons that will have a total of no more than 6 passengers on board. Vessels operating on the Great Lakes more than 100 gross tons that will have a total of more than 6 passengers must comply with the applicable USCG regulations.

(Note also that USCG regulations may require GTB-licensed charter fishing vessels less than 100 gross tons with no more than 6 passengers operating on the Great Lakes to be equipped with an EPIRB.)

(B) The Captain of GTB Conservation Officers shall designate a marine inspector. Tribal charter fishing vessels shall pass an initial drydock inspection to determine whether the vessel is in good, serviceable and seaworthy condition. In order to maintain a charter fishing license, the owner of the vessel shall complete a dockside inspection every two years and a drydock inspection every five years.

(C) A GTB member may obtain a GTB Charter Fishing Vessel Captain's license for operation on the Great Lakes upon documentation of completion of the USCG requirements for "Operator of Uninspected Passenger Vessels" pursuant to 46 CFR 10.467 and successful inspection of the charter fishing vessel.

(D) Tribal charter fishing vessels must have on board the safety equipment required for the size vessel and fishing location as set out for commercial fishing vessels in Section 2.01 except equipment not required as determined by the tribally designated marine inspector.

(E) Tribal charter fishing vessels operating on the Great Lakes shall meet the following requirements:

(1) The engines shall be of appropriate type and design for the propulsion requirements of the hull in which they are installed, and shall be capable of operating a constant marine load without exceeding their design limitations. If the engine is inboard or inboard/outboard, it shall be properly cooled and ventilated, and the vessel shall have gauges indicating the engine cooling water temperature and the engine lubrication oil pressure. All engine systems shall be in good and serviceable condition.

(2) Fuel tanks shall be ventilated. Any fixed fuel tanks shall be installed so as to prevent movement, and they shall be grounded. Any portable fuel system shall be suitably secured to prevent shifting while underway. The vessel operator shall maintain the fuel tanks and fuel supply lines in good and serviceable condition.

(3) The electrical system on the vessel shall be safe and fit for the service intended, shall be in proper operating condition, and shall have a suitable electrical grounding system. Any electrical appliances or equipment used where flammable vapors may be present shall be protected to prevent ignition of vapors.

(4) Vessels constructed with enclosed spaces below deck shall be fitted with bilge pumps to ensure that all bilge areas can be pumped, and the pumps shall be in good and serviceable condition. Vessels must also be equipped with a manual bailing device.

(5) The owner of the vessel shall keep records of physical damage to the vessel and resulting repairs and/or alterations. The repairs and/or alterations shall be inspected and approved by the tribally designated marine inspector.

(6) The vessel shall be equipped with the proper safety, firefighting, and first aid equipment as determined by the tribally designated marine inspector. The vessel shall be equipped with an anchor of a suitable size and type for the vessel and waters of operation as approved by the tribally designated marine inspector.

(7) The vessel shall have deck rails or equivalent protection at the periphery of all weather decks approved by the tribally designated marine inspector. For vessels where suitable privacy enclosures are practicable, the vessel shall be equipped with a suitable toilet, kept in serviceable and sanitary condition.

Section 3: Commercial Net Management Regulations

Section 3.01 Unattended and Abandoned Nets in GTB Tribal Zone

(A) This section of regulations applies to all nets of tribal fishers in the GTB Tribal Zone waters.

(B) Once nets found in the GTB Tribal Zone can be identified as belonging to a specific tribal fisher, the GTB Natural Resources Department and/or Conservation Officers must notify the fisher as soon as practicable that his/her nets have been tagged, where they are, and that they could be deemed "unattended nets" or "abandoned nets" as defined in the CORA regulations. If a GTB

fisher or permittee retrieves tagged nets, he/she must notify immediately the GTB Natural Resources Department and/or Conservation Officers and return the tag.

(C) If a GTB fisher or permittee plans to leave trap nets in the waters of the GTB Tribal Zone for a period of 6 months or more without fishing the nets, the tunnel must be sown shut and the GTB Natural Resources Department and/or Conservation Officers must be notified of the location of the nets.

(D) If a GTB fisher does not remove tagged nets or take the steps set out in section E for trap nets, the nets will be considered “unattended nets” or “abandoned nets” as defined in the CORA regulations, and will be subject to removal by the GTB Conservation Officers. The GTB Conservation Officers may contract to have the nets removed or, in the case of trap nets, have the tunnels sown shut. Unless otherwise authorized by GTB, only the GTB Conservation Officers have authority to remove unattended nets of GTB fishers from the GTB Tribal Zone. Costs of removal will be assessed to the fisher as restitution related to the civil infraction. If the costs are not paid within 30 days of the court order, the judgment shall be satisfied by attachment of the fisher’s per capita payment. Upon notification from the court of the assessed costs, the GTB Natural Resources Department shall suspend a fisher’s license until such time as the costs are paid or other arrangement is approved by the GTB Natural Resources and Environmental Committee.

(E) If the owner of tagged nets cannot be determined within 14 days, the GTB Conservation Officers have authority to remove any tagged nets or sew the tunnel shut of any tagged trap nets. If the owner of the nets can be identified at a later date, a civil infraction can be pursued against the fisher for a period of up to one (1) year after the date on which the gill nets were removed from the water or the tunnel on the trap net was sown shut.

(F) Unattended and/or abandoned nets can be distinguished from lost or vandalized nets by notification of the GTB Natural Resources Department and/or Conservation Officers as soon as the fisher becomes aware of the circumstance. Notification may occur verbally or in writing, but must occur no later than the due date for the catch report for the month in which the nets were lost or vandalized. The fisher must identify why the nets should be considered lost or vandalized, such as buoys have been removed so as to make locating and removing the nets more difficult. Once nets are tagged, it is presumed that the nets were not lost or vandalized.

(G) It shall be mandatory for all GTB fishers and permittees within the GTB Tribal Zone to remove all their nets from the waters of the Great Lakes at least once a year unless the fisher has been otherwise authorized by the GTB Natural Resources and Environmental Committee.

Section 3.02 Netmarking

Within the waters of the GTB Tribal Zone as set out in Section IV.A.1.e. of the Consent Decree entered by the Court on August 8, 2000, the following gill net marking provisions shall apply in the grids open to large mesh and small mesh gill net fishing:

(A) All gill nets set in depths greater than fifteen (15) feet shall have a staff buoy at each end with at least four (4) feet exposed above the surface of the water with a red or orange flag no less than twelve (12) inches by twelve (12) inches bearing the license number of the fisher and affixed to the top of the staff. 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.

(B) Any gill net or portion of a gill net set in water less than fifteen (15) feet deep shall have: a red or orange float not less than one (1) gallon in size, or a red or orange PVC float that is at least six (6) inches by fourteen (14) inches in size, on each end that is in water less than fifteen (15) feet deep. The floats at the ends of the net shall bear the license number of the fisher. In addition, each such net shall also have either:

(1) An additional float of the size described above spaced every three hundred (300) feet or less along the length of the net that is in water less than fifteen (15) feet; or

(2) Standard commercially available fluorescent orange floats at least one and one-half (1.5) inches by four (4) inches in size along the corkline not less than every twelve (12) feet in the water less than fifteen (15) feet.

Section 4: Trap Net Conversion Regulations

Section 4.01 Resumption of Use of Gill Nets

Pursuant to Section X.C. of the Consent Decree and Section X.(c) of the CORA regulations, a trap net conversion fisher shall not thereafter resume the use of large mesh gill nets except as follows:

(A) Upon recommendation of the GTB Natural Resources and Environmental Committee and approval by the GTB Tribal Council, after two (2) years of use of the trap net operation, the fisher may exchange the trap net conversion license and gear with another Tribal licensee who represents at least sixty percent (60%) of the average large mesh gill net effort of the converted fisher for the years 1997 to 1999.

(B) Upon recommendation of the GTB Natural Resources and Environmental Committee and approval by the GTB Tribal Council, a converted fisher may acquire a large mesh gill net operation and license if the fisher has sold the trap net operation and retired from the fishery for two (2) years.

(C) In the event that a converted fisher has made a bona fide effort to sell the trap net operation after retiring from the fishery for at least two years but has been unable to obtain a fair offer, the fisher may apply to the GTB Natural Resources and Environmental Committee for permission to utilize the vessel acquired in the conversion program for fishing large mesh gill nets in compliance with all CORA and GTB regulations. If such application is made, the GTB Natural Resources and Environmental Committee shall conduct a hearing to determine whether bona fide efforts were made to sell the trap net operation and whether permission should be granted to fish large mesh gill nets from the acquired vessel. Notice of the hearing shall be provided to all parties to the Consent Decree signed August 7, 2000 in the *United States, et al. v. Michigan, et al.* litigation as specified in Section XIV.C at the addresses for such parties as kept by CORA. The notice shall be mailed at least twenty-one (21) days prior to the hearing date via first-class mail. Any party to the Consent Decree may request to make a presentation at the hearing. Subsequent to any such hearing, the GTB Natural Resources and Environmental Committee shall issue written findings and conclusions

in a form suitable for use in the dispute resolution process described in Section XIX of the Consent Decree.

Section 4.02 Trap Net Conversion License

Each GTB Tribal fisher who converts to a trap net operation under Section X.C. of the Consent Decree shall have his or her previous captain's license extinguished and shall receive in its place a trap net conversion captain's license. The license shall have denoted on its face as "TC." The trap net conversion captain's license shall:

- (A) Authorize fishing with trap nets and small mesh gill nets from the trap net conversion vessel subject to the restrictions set forth in Section X of the CORA regulations.
- (B) Authorize trap net fishing in all open waters subject to the restrictions contained in the CORA regulations.
- (C) Restrict the sale of the operation and transfer of the license as provided in the CORA regulations and Section 4.01 above.
- (D) Authorize fishing with small mesh gill nets from a gill net tug or a small boat subject to the restrictions contained in the CORA regulation.
- (E) Prohibit the possession and/or sale of lake trout as provided in Part IV, Section XI(b)(2) of the CORA regulations.
- (F) Prohibit the possession and/or use of large mesh gill nets as provided in Part III, Section X(a) of the CORA regulations.
- (G) Prohibit the fisher from acting as a captain on a gill net vessel when large mesh is present on the vessel and/or lake trout is being retained on board.
- (H) Authorize the fisher to act as a captain on a gill net vessel when only small mesh is present and/or in use on the vessel and where no lake trout is retained.

Section 5: General Commercial Fishing Regulations

Section 5.01 Operations With GTB and Little Traverse Bay Bands of Odawa Indians (LTBB) Licensed Fishers On Board

(A) In the LTBB Tribal Zone, the holder of a valid LTBB captain license may employ the holder of a valid GTB captain or helpers license. While working under an LTBB captain, a GTB captain or helper may act only as a helper and must abide by all commercial fishing statutes, rules and regulations of LTBB and its Natural Resources Commission. All catch reports must be submitted to the LTBB Natural Resources Department.

(B) In the GTB Tribal Zone, the holder of a valid GTB captain license may employ the holder of a valid LTBB captain or helper license. While working under a GTB captain, an LTBB captain or helper may act only as a helper and must abide by all commercial fishing statutes, rules and regulations of GTB and its Natural Resources and Environmental Committee. All catch reports must be submitted to the GTB Natural Resources Department.

(C) An LTBB captain, even with a GTB helper on board, is permitted to fish in an exclusive LTBB zone established under the 2000 Consent Decree. An LTBB captain, even with a GTB helper on board, is not permitted to fish in a GTB exclusive zone established under the 2000 Consent Decree unless otherwise allowed under the Decree.

(D) A GTB captain, even with an LTBB helper on board, is permitted to fish in an exclusive GTB zone established under the 2000 Consent Decree. A GTB captain, even with an LTBB helper on board, is not permitted to fish in an LTBB exclusive zone established under the 2000 Consent Decree unless otherwise allowed under the Decree.

(E) As provided for in the Tribal Management Plan for the 1836 Treaty Great Lakes Waters, adopted by the CORA Tribes in July 2000, fishers from tribes other than GTB must obtain a permit from GTB to fish in the GTB Tribal Zone.

Section 5.02 Operations with GTB and Other CORA Tribe Licensed Fishers On Board

In the GTB Tribal Zone, the holder of a valid GTB captain license may employ a licensed tribal

fisher from another CORA tribe as a helper. The GTB captain shall notify the GTB Natural Resources Department and/or Conservation Officers of any such arrangement and the GTB Natural Resources and Environmental Committee may recommend that a non-GTB tribal fisher not be allowed to fish within the GTB Tribal Zone. The non-GTB tribal fisher must abide by all commercial fishing regulations of GTB and its Natural Resources and Environmental Committee. All catch reports must be submitted to the GTB Natural Resources Department.

Section 5.03 Lease of GTB Fishing Equipment

It is a civil infraction for a fisher to obtain or attempt to obtain proceeds through the lease or sale of tribally-owned fishing gear and equipment without the approval of the GTB Natural Resources and Environmental Committee and the GTB Natural Resources Department. If a fisher obtains proceeds through the lease or sale of such tribal property, the Tribe may seek relief in a Tribal Court civil action including writ of attachment against such proceeds, and any judgment may be satisfied by attachment of the fisher's per capita payment. Upon notification from the Tribal Court of any judgment against a fisher, the GTB Natural Resources Department shall suspend a fisher's license until such time as the judgment is satisfied.

Section 5.04 Use of Public, CORA and Tribal Access Sites

(A) All GTB fishers utilizing any marina/docking site leased by the Tribe, public marinas and launching ramps, and other CORA access sites must adhere to the CORA Regulations, Part Eight, Section XXVIII. GTB fishers utilizing public marinas/harbors of refuge also must adhere to the following regulations:

(1) Only tribal members with valid GTB commercial or subsistence fishing licenses may use public marinas and launching ramps and/or other access sites pursuant to these GTB regulations; any other persons must adhere to the local government's rules and regulations for these public marinas and launching ramps and/or other access sites. An identification card may be requested by the enforcement officers or Harbor Masters. (Commercial fishing cards may be used for this purpose.)

(2) Vessels must be launched, nets loaded/unloaded and fish unloaded in a timely manner, in order not to inconvenience other launching ramp users.

(3) No sale of fish may occur on the premises except for transactions with wholesale fish buyers and occasional retail dockside sale upon request of the customer.

(4) Public intoxication is prohibited on the premises. Tribal law prohibiting persons from operating motor vehicles while under the influence of intoxicating liquor or other drugs is applicable to fishing vessels.

(5) No swimming or diving is allowed if prohibited by the local government's rules and regulations except as necessary to make repairs of an emergency nature.

(6) Conduct that constitutes a nuisance as defined by GTB and Michigan law is prohibited.

(7) Children under the age of eighteen (18) years must be accompanied by an adult.

(8) All fishing vessels must be kept clean to minimize offensive odor.

(9) At the discretion of the Captain of GTB's Conservation Officers and/or direction of the Natural Resources Department, any fishing vessel not actively utilized in fishing activities may be ordered removed from any marina/docking site at the owner's expense. It is presumed that any vessel not utilized in fishing activities for 30 days shall be considered unused and should be removed from public marinas or other docking sites leased by the Tribe absent specific authorization by the municipal or private owner. In the event that the owner of the fishing vessel does not promptly remove a vessel after being ordered to do so, the Tribe may make other arrangements to do so and charge the expenses to the owner; and any such expense may be enforced in a civil action with the judgment and related costs recoverable from the owner's per capita distributions and/or other assets.

(10) Public marinas/harbors of refuge may be utilized as harbors of refuge in situations involving weather-related or mechanical emergencies notwithstanding use restrictions otherwise imposed by these supplemental regulations.

(11) Launching ramps at public marinas/harbors of refuge may be utilized throughout the

year notwithstanding use restrictions otherwise imposed by these supplemental regulations.

(12) Docking at slips within any public marina/harbor of refuge is limited to no more than three (3) fishing vessels operated by GTB-licensed fishers on any date during any period of peak capacity between the Fourth of July and Labor Day.

(13) Fishing vessels operated by GTB-licensed fishers may be segregated within public marinas at the Harbor Master's discretion (subject to approval of GTB Conservation Department) as long as the vessels are not denied use of the facility.

(14) During any period of peak capacity between the Fourth of July and Labor Day when slips are fully occupied, use of slips within public marinas for docking by fishing vessels operated by GTB-licensed fishers may be limited by the Harbor Master (subject to approval of the GTB Natural Resources Department) as long as the vessels remain within the breakwall and effective use of the facility is not impeded.

(B) The following provisions apply only to the Grand Traverse Band properties and waters at the Arthur Duhamel Marina in Peshawbestown and Beaver's Landing on Beaver Island. They supplement the CORA Regulations, Part Eight, Section XXVIII and the GTB regulations in Section A above. To the extent there is any conflict with the GTB regulations in Section A, these provisions below shall control.

(1) The marinas will be open and available to the commercial fishers 24 hours/day throughout the entire year. Keys to the buildings and ice bins will be issued to Boat Captains, Law Enforcement, Conservation Officers, GTB Natural Resources Department staff and Maintenance Supervisors.

(2) The marinas are for licensed GTB commercial fishers only and commercial fishing vessel owners will have first priority in being assigned a slip. GTB Natural Resources Department and Conservation Officers' boats are allowed if space is available. The launch areas are available for use to all GTB tribal members and their families.

(3) The last slip at each marina must be left empty for transient vessels. Transient or

recreational vessels may use the marinas overnight for one night only. This vessel must use the outer end slip and not interfere with commercial vessels. Donations for dockage will be accepted.

(4) Only 1 slip per captain will be assigned, based on boat ownership. If a slip is available, a fisher can obtain a 2nd slip on a month to month basis until another fisher has applied for one. Application for slips will be available when applying for a fishing license.

(5) The operation of boats of any type (including rowboats, dinghies, and small outboards) shall be exclusively for ingress and egress from the harbors. No boats shall be moored on riprap. No wake within the harbors, except during the winter months of November through March.

(6) Slips #1, 2 and 3 at the Arthur Duhamel Marina are designated as loading docks. Fishers will use these slips for loading and unloading fishing equipment and gear only, with the exception of boat repair as provided in paragraph 7 below.

(7) Any repair that cannot be accomplished at the slip assigned to the captain and requires the use of one of the loading docks for more than 8 hours must be cleared through a Conservation Officer or Law Enforcement, who shall then notify the Natural Resources Department manager. The captain must inform the officer the nature of the repair and the amount of time the repair will take.

(8) As provided in the CORA regulations, discarding of fish entrails is not permitted in the marina area. Discarding of fish entrails directly into the harbor/marina area is strictly prohibited.

(9) All garbage must be placed in the bins provided. No fish entrails are allowed in the garbage bins. Disposing of or abandoning containers of oil, gasoline, diesel, or any other petroleum products at the marinas is prohibited.

(9) Ice is available for commercial fishing activity only and available on a first come, first serve basis. No fish or other items are allowed to be stored inside the ice bins at any time.

(10) Any gear related to commercial fishing that is left on the marina property or in the waters of the marina for more than a 24-hour period will be considered abandoned gear. All such gear, including unattended boats, sunken vessels, abandoned cars and trailers, will be removed at the owner's expense. Any gear that has been left in the way of other fisher's access or hinders the department's ability to perform its duties is subject to removal at the owner's expense.

(11) Anyone under the age of 18 must be accompanied by an adult within the marina area. There are NO exceptions to this rule.

(12) All charcoal burners or open flame devices and ground fires are prohibited within the marina area. Cook stoves and heaters are allowed on the boats.

(13) Swimming is prohibited within the marina harbor and off the piers, with the exception of diving for boat repairs.

(14) As provided in the CORA regulations, overnight camping in the marina area is prohibited. Overnight housing on board a vessel with the captain's permission is permitted.

(15) Oil and gas spills are the responsibility of the owner of the boat that caused the spill and must be cleaned up immediately. Anyone who has knowledge of a spill (current or otherwise) must report that spill. In an emergency call 911, and/or report it to the Natural Resources Department at (231) 534-7500.

(16) Consumption of alcoholic beverages is prohibited within the marinas as well as the adjacent lands and buildings that comprise the marina property; possession of open containers of alcoholic beverages likewise is prohibited.

(C) GTB Conservation and Law Enforcement Officers are empowered to enforce the rules and regulations stated above.

(D) Violation of these regulations is subject to proceedings in the Grand Traverse Band Tribal Court. Specifically, the jurisdiction and enforcement provisions of Section XXVI of the CORA

Regulations are applicable. In addition to prescribed penalties, the Tribal Court may impose restrictions upon the use of tribal marinas, leased marinas, and public marinas/access sites by a person found guilty of a violation of these regulations.

Section 5.05: Requirements for Processing and Sale of Fish on Tribal Property

(A) HACCP Plan

(1.) Anyone processing and/or selling fish or fishery products on tribal property must have participated in HACCP (Hazard Analysis Critical Control Point) training or otherwise be familiar with HACCP requirements stated in the U.S. Food and Drug Administration regulations at 21 CFR Part 123.

(2.) Anyone processing and/or selling fish or fishery products on tribal property must have a written HACCP plan for the processing facility complying with the requirements of 21 CFR Section 123.6.

(B) Food Processor License

(1.) Anyone possessing a valid GTB commercial fishing license is eligible to obtain a license from the Grand Traverse Band as a food processor.

(2.) Prerequisites for obtaining a food processor license include:

(a.) The fisher-applicant must process fish in a processing facility located upon GTB lands inspected by GTB staff or GTB's designee (including Inter-Tribal Council of Michigan pursuant to contractual services agreement) qualified to conduct such inspection and certified as being in compliance with applicable provisions of the federal Good Manufacturing Practice Regulations for foods.

(b.) The fisher-applicant must have a written HACCP plan for the processing facility complying with the requirements of 21 CFR Section 123.6.

(c.) The fisher-applicant must be in good standing to utilize a specified portion of the Tribe's certified processing facility.

(d.) The fisher-applicant must comply with any other application requirements of GTB and/or GTB Natural Resources Department.

(C) Certificate of Free Sale

(1.) Anyone possessing a valid GTB commercial fishing license and food processor license

is eligible to obtain a Certificate of Free Sale from the Grand Traverse Band.

(2.) Prerequisites for obtaining a Certificate of Free Sale include:

(a.) The fisher-applicant must possess current GTB commercial fishing license and food processor license.

(b.) Requests must be made in writing to GTB Natural Resources Department.

(c.) Requests must include name of company and/or individual, location of food processing facility, fisher-applicant's contact information, as well as other information that may be required by the GTB and/or GTB Natural Resources Department.

(D) Smoked Fish

GTB members possessing a valid GTB commercial fishing license and food processor license may process and/or sell smoked and smoke-flavored fishery products on tribal property so long as they are in compliance with the requirements of 21 CFR Section 123.6 as well as the provisions protecting public health contained in the Michigan Department of Agriculture's Smoke Fish Regulation No. 569 (as may be amended or supplemented), which are herein incorporated by reference.

(E) Sales Upon Tribal Lands

Sales of fish or fishery products on tribal property must be authorized in writing by governmental or GTB Economic Development Corporation (EDC) staff for sales at a designated location controlled by the tribal government or EDC.

Section 5.06 Use of Buildings at GTB Marinas and other Tribal Lands

(A) All GTB-licensed fishers or other authorized persons utilizing any buildings located upon the Arthur Duhamel marina in Peshawbestown and Beaver's Landing marina on Beaver Island or other tribal lands must adhere to the following regulations:

- (1) Only tribal members with valid GTB commercial fishing licenses and/or subsistence fishing licenses (GTB "fisher") may use buildings designated for Treaty-fishing related activities located upon GTB's marina properties or other tribal lands. If subsequently approved by the Natural Resources & Environmental Committee and Tribal Council, any separate written use requirements for each of the buildings located upon GTB's

marina properties (Arthur Duhamel marina in Peshawbestown and Beaver's Landing marina on Beaver Island) or other tribal lands shall be enforced as part of these regulations.

- (2) Entry and/or use of the buildings is prohibited unless the fisher first has been authorized to use specified building(s) by person(s) within the Natural Resources Department ("NRD") delegated to grant such authority. Such authority may not be delegated to a licensed commercial fisher.
- (3) As a condition of being granted authorization to use specified building(s), the fisher must sign an authorization agreement acknowledging that GTB Conservation Officers and Law Enforcement Officers have unilateral authority to suspend a fisher's authorization to use specified building(s). [Suspension of authorization shall include mandatory relinquishment/return of key(s) to building(s) and/or deletion of electronic code access.]
- (4) A fisher must be served with notice of suspension of authorization to use specified building(s). Such notice shall inform the fisher that authorization to use specified building(s) has been suspended and shall be accompanied by a written statement explaining the reasons why such authorization was suspended. Such notice and corresponding suspension shall automatically apply to any other person(s) assisting in the fisher's business who may have been authorized to assist the fisher.
- (5) A fisher's authorization to use specified building(s) may include other person(s) assisting in the fisher's business, if such other person(s) also have been identified to the NRD and granted authorization to use specified building(s). Any such tribal member(s) assisting in the fisher's business also must sign an authorization agreement acknowledging that GTB Conservation Officers and Law Enforcement Officers have unilateral authority to suspend authorization to use specified building(s).
- (6) In the event that a fisher's authorization to use specified building(s) is suspended, the fisher is entitled to prompt administrative and legal review pursuant to the procedures set forth in section C of these regulations.

(B) A fisher's authorization to use specified building(s) located upon the Arthur Duhamel marina in Peshawbestown and Beaver's Landing marina on Beaver Island or other tribal lands is subject to the following use restrictions:

- (1) Use of the buildings designated for Treaty-fishing related activities is limited to processing fish caught and reported to the NRD by the GTB commercial and/or subsistence fisher authorized to use specified building(s) and/or to other fishing-related activity approved by the NRD.
- (2) Because the buildings designated for Treaty-fishing related activities are utilized for fish processing and are subject to inspection and licensing for protection of public health, it is imperative that fishers maintain the premises consistent with any written requirements for each building approved by Tribal Council pursuant to section A(1) of these regulations. These regulations and any separate written use requirements for each building will be provided to fishers prior to being granted authorization, and violation of such requirements shall justify unilateral suspension of the fisher's authorization to use specified building(s), which may be appealed according to the administrative and legal review procedures set forth in section C of these regulations.

(C) The following process is available to any fisher whose authorization to use specified building(s) has been suspended:

- (1) An administrative review is a prerequisite to judicial review. Within ten (10) calendar days from the date of suspension, the fisher may submit an appeal in writing to the Division Manager's office, together with any evidence in support of the fisher's appeal; copies of any such appeal and evidence must be provided to the NRD; within five (5) business days after an appeal is submitted, the NRD may submit rebuttal statement/evidence to the Division Manager's office; copies of any such rebuttal/evidence must be provided to the fisher. Within ten (10) business days after submission of the fisher's appeal, the Division Manager shall issue a ruling in writing. The Division Manager shall have the discretion to overturn or uphold the suspension, and/or to impose conditions upon continued probationary

use of the fisher's authorization to use specified building(s).

(2) Judicial review in the Tribal Court is available for an appeal of the Division Manager's determination. Any such review is limited to the administrative record that shall be provided to the Tribal Court by the Division Manager's office within thirty (30) calendar days from the date that the Division Manager's office is served with notice of the Tribal Court proceeding. An abuse of discretion standard shall be applied by the Tribal Court similar to the application of that standard by federal courts in federal Administrative Procedure Act cases.

(3) If the then existing administrative structure of the NRD does not include a Division Manager, then the Tribal Manager shall conduct the administrative review.

(D) Fishers including those authorized to use buildings shall not make any alterations to the buildings or undertake any construction activities to the buildings or on the marina properties without prior written permission of the NRD.

(E) A fisher is responsible for any damages resulting from use of buildings designated for Treaty-fishing related activities by the fisher and/or other person(s) assisting in the fisher's business, or resulting from unauthorized alterations or construction activities; and failure of the fisher to reimburse the Tribe promptly for any damages shall justify unilateral suspension of the fisher's commercial and/or helper's fishing license(s) by the NRD.

(F) Violations of these regulations and of any separate written use requirements for each of the buildings located upon GTB's marina properties (Arthur Duhamel marina in Peshawbestown and Beaver's Landing marina on Beaver Island) or other tribal lands shall justify unilateral suspension of the fisher's authorization to use specified building(s), subject to the appeal process specified in section C.

Section 5.07 Reaffirmation of Policy that Conservation Positions are Treaty-fishing Related

The Tribe reaffirms its position and policy that the positions of Conservation Officer, Conservation Court Judge, Conservation Court Clerk, Conservation Court Administrator, staff of the Natural

Resources Department, Tribal Chair and Tribal Councilors serving on the Natural Resources and Environmental Committee are engaged at least partially in treaty-fishing related activities, both inherently under the Treaty of Washington executed March 28, 1836 (7 Stat. 491) and as that term is defined in 26 U.S.C. Section 7873, and are entitled to claim an exemption from federal income taxation pursuant to the provisions of Title 8, GTB Code, Chapter 4.

Section 5.08 Management Plan Regulations for GTB Tribal Zone

[management plan enacted by motion of the Tribal Council on July 21, 2010 is incorporated by reference.]

Section 5.09 Citations of Alleged Violations of CORA Regulations

Citations issued to GTB members by non-GTB enforcement officers of alleged violations of CORA regulations shall be transmitted to GTB's Chief Warden for review and/or determination of enforcement.

[Note: this language is consistent with section 17.02 of the "inland" hunting regulations and section 11.02 of the "inland" fishing regulations.]