



CR 90-90

State of Wisconsin

DEPARTMENT OF NATURAL RESOURCES

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STATE OF WISCONSIN)
)
DEPARTMENT OF NATURAL RESOURCES) SS

TO ALL TO WHOM THESE PRESENTS SHALL COME, GREETINGS:

I, Bruce B. Braun, Deputy Secretary of the Department of Natural Resources and custodian of the official records of said Department, do hereby certify that the annexed copy of Natural Resources Board Order No. TR-19-90 was duly approved and adopted by this Department on November 15, 1990. I further certify that said copy has been compared by me with the original on file in this Department and that the same is a true copy thereof, and of the whole of such original.

IN TESTIMONY WHEREOF, I have here-
unto set my hand and affixed the
official seal of the Department at
the Natural Resources Building in
the City of Madison, this 8th
day of March, 1991.

Bruce B. Braun
Bruce B. Braun, Deputy Secretary

(SEAL)

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ORDER OF THE STATE OF WISCONSIN NATURAL RESOURCES BOARD
CREATING RULES

.....
IN THE MATTER of creating ch. NR 13, .
subch. II of the Wisconsin . TR-19-90
Administrative Code pertaining to Chippewa .
Indian treaty fishing rights .
.....

Analysis Prepared by Department of Natural Resources

Authorizing statutes: ss. 23.09(2), 23.11, 27.01(2)(j), 29.085, 29.174 and 227.11(2)(a), Stats.

Statutes interpreted: Chs. 23 and 29, Stats.

The creation of ch. NR 13, Subchapter II will result in a set of rules regulating Chippewa Indian off-reservation fishing, based on the treaty rights recognized by Lac Courte Oreilles Band v. Voigt, 700 F. 2d 341 (7th Cir. 1983), Lac Courte Oreilles Chippewa Ind. v. State of Wis., 653 F. Supp. 1420 (W. D. Wis. 1987) and Lac Courte Oreilles Chippewa Ind. v. State of Wis., 707 F. Supp. 1034 (W. D. Wis. 1989).

SECTION 1. NR 13 subch. II is created to read:

Chapter NR 13
Regulation of Chippewa Treaty Rights Participants (Fishing)

Subchapter II - Fishing

- NR 13.10 Restrictions
- NR 13.12 Modifications and exceptions
- NR 13.13 Total allowable catch, tribal quota and permits
- NR 13.14 Seasons, bag limits, total tribal quota, size limits and methods of taking
- NR 13.15 Use of set or bank poles and setlines
- NR 13.16 Use of traps, seines, dip nets and fyke nets
- NR 13.17 Use of spears
- NR 13.18 Gill nets
- NR 13.19 Reporting and monitoring
- NR 13.195 Ice fishing with unattended lines
- NR 13.196 Spearing and netting in streams

NR 13.10 RESTRICTIONS. Subject to the modifications and exceptions of this subchapter, the following provisions are applicable to treaty rights participants:

(1) STATUTORY PROVISIONS.

(a) Section 29.137(5m) pertaining to recordkeeping (modified by s. NR 13.12(12)).

(b) Section 29.148(4) pertaining to sturgeon tagging.

(c) Section 29.283(3) pertaining to ice fishing shanties.

(d) Section 29.29(1) & (2) Explosives; stupefactive and poison bait.

(e) Section 29.30(2)(e) pertaining to restrictions on the use of nets and setlines (modified by s. NR 13.12(1)).

(f) Section 29.36 Set or bank poles licenses (modified by s. NR 13.15).

(g) Section 29.37(3) and (4) pertaining to setlines (modified by s. NR 13.15).

(h) Section 29.38 Clams, clamming and commercial clamming (modified by s. NR 13.12(10)).

(i) Section 29.47(6) pertaining to transportation of injurious fish.

(j) Section 29.51(4) Removal of spawn or fish from state.

(2) ADMINISTRATIVE CODE PROVISIONS.

(a) Section NR 19.06(1) pertaining to taking fish from or interfering with any fish net or trap placed or authorized by the department.

(am) Section NR 19.06(2) pertaining to taking fish within 500 feet above or below any net, dam or weir when posted.

(b) Section NR 19.27(1) pertaining to crayfish regulations (modified by s. NR 13.12(2)).

(bm) Section NR 19.27(2)(b) pertaining to frog regulations.

(c) Section NR 19.27(3) pertaining to turtle regulations (modified by s. NR 13.12(3)).

(cm) Section NR 19.27(4) pertaining to additional restrictions on crayfish

(d) Section NR 20.01 pertaining to closed seasons, bag and possession limits (modified by s. NR 13.12(1)).

(dm) Section NR 20.03(1)(intro) (last 2 sentences) pertaining to possession limits, measurements (modified by s. NR 13.12(4)).

(e) Section NR 20.03(2) pertaining to sturgeon tagging and registration.

(em) Section NR 20.04(4) Experimental waters; permits; reports.

(f) Section NR 20.06(1)(a) pertaining to no fishing during closed season in trout streams.

(fm) Section NR 20.06(1)(c) pertaining to no fishing near dams.

(g) Section NR 20.07(1)(b) pertaining to unattended lines, snagging, firearms and pellet guns, implanted telemetry devices (modified by ss. NR 13.12(5) and 13.15)).

(gm) Section NR 20.07(1)(c) pertaining to use of bait on treated trout waters.

(h) Section NR 20.07(1)(d) pertaining to minnow traps on treated trout waters.

(hm) Section NR 20.07(1)(f) pertaining to determination of bag limit.

(i) Section NR 20.07(2)(a) pertaining to illegal possession of guns, nets, spears or bow and arrows.

(im) Section NR 20.07(2)(b) pertaining to tampering with commercial gear.

(j) Section NR 20.07(4)(a) pertaining to exception for bow and arrow use.

(jm) Section NR 20.07(5)(a) pertaining to use of gun, bow and arrow or spear on a trout stream.

- (k) Section NR 20.07(7) pertaining to use of goldfish and alewife.
- (km) Section NR 20.07(8) pertaining to snagging.
- (l) Section NR 20.07(9) pertaining to owner's name on live boxes.
- (lm) Section NR 20.09(1)(intro.) pertaining to prohibition on dip nets (modified by ss. NR 13.12(6m) and 13.16).
- (n) Section NR 20.09(2)(a) pertaining to definition of dip net.
- (nm) Section NR 20.09(2)(g) pertaining to use of dip nets to take rough fish.
- (o) Section NR 20.09(3)(b) pertaining to use of dip nets for smelt and suckers.
- (om) Section NR 20.09(3)(e) pertaining to dip nets for smelt on specified lakes.
- (p) Section NR 20.10 Minnow nets, traps, and seines (modified by s. NR 13.12(11) and (12)).
- (pm) Section NR 20.11 Whitefish and cisco in inland waters (modified by s. NR 13.14).
- (q) Section NR 20.13 (intro.) pertaining to ice fishing.
- (qm) Section NR 20.13(1) Prohibited shelter.
- (r) Section NR 20.13(2) Fish shanties.
- (rm) Section NR 20.13(3) Size of holes for ice fishing (modified by s. NR 13.12(7)).
- (s) Section NR 20.13(4) Name of owner.
- (sm) Chapter NR 21 Wisconsin-Minnesota boundary waters (modified by s. NR 13.12(8)).
- (t) Chapter NR 23 Wisconsin-Michigan boundary waters (modified by s. NR 13.12(9)).

(tm) Chapter NR 24 Clams (modified by s. NR 13.12(10)).

(u) Chapter NR 26 Fish refuges.

NR 13.12 MODIFICATIONS AND EXCEPTIONS. (1) SUBSTITUTED PROVISIONS.

(a) In s. NR 20.01, the applicable seasons, methods, bag and possession limits for treaty rights participants are those of this subchapter.

(b) All references to licensees in s. 29.30, Stats., are deleted and permittees is substituted for the references.

(2) CRAYFISH TRAPPING. The daily lift requirement for crayfish traps in s. NR 19.27(1) is not applicable to treaty rights participants except when the traps are placed in streams containing trout.

(3) TURTLE TRAP LIMITATION. The limitation on the number of turtle traps and the size limitation on float and tank type traps in s. NR 19.27(3) are not applicable to treaty rights participants.

(4) POSSESSION LIMIT FOR FRESH FISH. The possession limit in s. NR 20.03(1)(intro.) applies only to fresh fish. No treaty rights participant may possess more than one bag limit while on the ice or water. The possession limit is not applicable to fresh fish tagged for sale pursuant to s. NR 13.05(11)(b).

(5) UNATTENDED LINES. As allowed by this chapter, unattended lines may be used for set or bank poles, setlines and ice fishing.

(6) POSSESSION. No treaty rights participant may use or possess a net, on the shore or surface of a body of water during the closed season or on the shore or surface of a body of water not open to netting.

(6m) ROUGH FISH RESTRICTIONS. (a) Nets and seines. Dip nets and seines may be used to the extent they are authorized by this chapter.

(b) Dip netting. The definition of dip net for rough fish in s. NR 20.09(2)(a) applies to all dip nets authorized by this chapter.

(7) ICE HOLES. Ice holes used for spearing and dip nets may be no larger than 24 inches by 36 inches and shall be marked in a manner which will identify them as a hazard when unused.

(8) WISCONSIN-MINNESOTA BOUNDARY WATERS. Restrictions, modifications and exceptions in this chapter apply to fishing by treaty rights participants when fishing Wisconsin-Minnesota boundary waters within Wisconsin's jurisdiction.

(9) WISCONSIN-MICHIGAN BOUNDARY WATERS. Restrictions, modifications and exceptions in this chapter apply to fishing by treaty rights participants when fishing Wisconsin-Michigan boundary waters within Wisconsin's jurisdiction.

(10) CLAM HARVEST LICENSES. The provisions regarding clam harvest licenses in s. 29.38, Stats., and ch. NR 24 are not applicable.

(11) MINNOW DIP NETS. The minnow dip net size restriction of s. NR 20.10(4)(a)2. is deleted.

(12) BAIT DEALERS. Prior to entering into the business of dealing in bait, treaty rights participants shall obtain a free bait dealers permit from the department. This permit shall entitle the permittee to the privileges afforded licensed bait dealers in s. NR 20.10.

NR 13.13 NOTIFICATION, SAFE HARVEST AND PULSE FISHING. (1) NOTIFICATION. Each band shall, no later than December 1 of each year, identify to the department those lakes to be harvested in the following year by methods for which a permit is required, and for which the bag limit is defined as TQ.

(2) SAFE HARVEST. The department shall, within 30 days of the notification under sub. (1), inform the bands of the safe harvest upon which the

tribal quota shall be based for bass, walleye, northern pike, muskellunge and any other species regulated by TQ for each lake identified.

(3) PULSE FISHING. Notwithstanding any other provisions of this subchapter, no safe harvest may be established and no spearing or netting may take place if:

(a) Any combination of spearing or netting occurred on that lake for 2 successive years; and

(b) The aggregate harvest for spearing and netting exceeded 60% of the safe harvest in each year.

(4) TRIBAL QUOTA. The TQ shall be based on a period of ice out to ice out. For the purposes of this subchapter, TQ shall consist of up to 50% of the safe harvest unless otherwise agreed to with the Chippewa bands. Actual tribal quotas shall be based on requests of the Chippewa bands, subject to the 50% maximum past harvest performance and capacity to harvest. Upon agreement with the bands, the department may substitute an appropriate daily bag limit for any species regulated by TQ.

(5) PERMITS. (a) For methods or species for which the bag limit in s. NR 13.14 is specified as TQ, individual bag limits shall be established which are equivalent to the remaining TQ divided by the number of permits issued for any one day on the specified body of water.

(b) Permits may only be issued for waters for which the cumulative tribal harvest has not exceeded the TQ.

(c) Permits are valid only for the person to whom they are issued.

(d) Permits shall be issued by the department unless otherwise provided for pursuant to s. NR 13.05(7).

(e) In lieu of permits, the department may regulate harvest to prevent the exceeding of the TQ through a system of tags in which each treaty rights participant may take only those numbers of fish for which he or she has tags. The tags shall be locked through the mouth and gill of the fish before it is brought to shore, and shall remain locked on the fish until final consumption.

NR 13.14 SEASONS, BAG LIMITS, TOTAL TRIBAL QUOTA, SIZE LIMITS AND METHODS OF TAKING. The following table applies to fishing by treaty rights participants for those kinds of fish and methods listed.

Kind of fish and locality	Methods permitted	Open season (both dates inclusive)	Individual daily bag limit or TQ	Maximum or minimum size limits
(1) <u>Largemouth and smallmouth bass.</u>				
(a) All waters north of the line described in s. NR 20.03(1)(a)9	Hook & line & ice spearing	First Saturday in May to March 1	5 of each species	12 inch minimum
(b) All waters not under par. (a)	Hook & line & ice spearing	First Saturday in May to March 1	5 of each species	14 inch minimum
(c) All lakes north of the line described in s. NR 20.03(1)(a)9	Open water spearing & snagging subject to s. NR 13.17	Year round or until TQ is reached.	TQ	12 inch minimum
(d) All lakes not under par. (c)	Open water spearing & snagging subject to s. NR 13.17	Year round or until TQ is reached.	TQ	14 inch minimum
(e) All lakes north of the line described in s. NR 20.03	Setline, set or bank pole subject to s. NR 13.15	First Saturday in May to March 1	5 of each species	12 inch minimum

(1)(a)9

(f)	All lakes not under par. (e)	Setline, set or bank pole subject to s. NR 13.15	First Saturday in May to March 1	5 of each species	14 inch minimum
(g)	All lakes north of the line described in s. NR 20.03 (1)(a)9	Traps, seine, fyke net or dip net subject to s. NR 13.16	Year round or until TQ is reached.	TQ	12 inch minimum
(h)	All lakes not under par. (g)	Traps, seine, fyke net or dip net subject to s. NR 13.16	Year round or until TQ is reached.	TQ	14 inch minimum
(i)	Lakes 1000 acres or larger north of the line described in s. NR 20.03 (1)(a)9	Gill nets subject to s. NR 13.18	June 1 to March 1 or until TQ is reached.	TQ	12 inch minimum
(j)	All lakes 1000 acres or larger not under par. (i)	Gill nets subject to s. NR 13.18	June 1 to March 1 or until TQ is reached.	TQ	14 inch minimum
(2) <u>Walleye.</u>					
(a)	All waters	Hook & line & ice spearing	First Saturday in May to March 1	5	No size limits
(b)	All lakes	Open water spearing & snagging subject to s. NR 13.17	Year round or until TQ is reached	TQ	Maximum of 20 inches; each fisher may take one fish 20-24 inches per day
(c)	All lakes	Traps, seine, fyke net or dip net subject to s. NR 13.16	Year round or until TQ is reached.	TQ	Males only during spawning season. Maximum of 18 inches thereafter.
(d)	All lakes	Setline, set	First Saturday	5	No size limits

	or bank pole subject to s. NR 13.15	in May to March 1		
(e) Lakes 1000 acres or larger	Gill nets subject to s. NR 13.18	June 1 to March 1 or until TQ is reached.	TQ	No size limits
(3) <u>Northern pike.</u>				
(a) Nemadj river, Allouez bay, St. Louis river, Little Pokegama bay, Pokegama bay, Kimballs bay, Douglas county	Hook and line	Saturday nearest May 15 to March 1	2	No size limits
(b) All waters not under par. (a)	Hook and line	First Saturday in May to March 1	5	No size limits
(c) All lakes	Setline, set or bank pole subject to s. NR 13.15	First Saturday in May to March 1	5	No size limits
(d) All lakes	Open water & ice spearing & snagging subject to s. NR 13.17	Year round or until TQ is reached	TQ	Maximum of 30 inches
(e) All lakes	Traps, seine, fyke net or dip net subject to s. NR 13.16	Year round or until TQ is reached.	TQ	No size limits
(f) Lakes 1000 acres or larger	Gill nets subject to s. NR 13.18	June 1 to March 1 or until TQ is reached.	TQ	No size limits
(4) <u>Rock or lake sturgeon.</u>				
(a) All waters	Hook and line, setline, set or bank pole subject to s. NR 13.15	June 1 to March 1	1 per year all methods	45 inch minimum

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|--------------------------------|---|--|------------------------|--------------------|
| (b) All lakes | Spearing & snagging subject to s. NR 13.17 | June 1 to March 30 | 1 per year all methods | 45 inch minimum |
| (c) All lakes | Nets other than gill nets incidental to fishing other species | Year round | 1 per year all methods | 45 inch minimum |
| (d) Lakes 1000 acres or larger | Gill nets subject to s. NR 13.18 | June 1 to March 1 | 1 per year all methods | 45 inch minimum |
| (5) <u>Muskellunge.</u> | | | | |
| (a) All waters | Hook and line | Third Saturday in May to March 1 | 1 per day | Minimum 32 inches. |
| (b) All lakes | Spearing & snagging subject to s. NR 13.17 | Year round or until TQ is reached. | TQ | 40 inch maximum |
| (c) All lakes | Nets other than gill nets incidental to fishing other species | Year round or until TQ is reached. | TQ | 40 inch maximum |
| (d) Lakes 1000 acres or larger | Gill nets subject to s. NR 13.18 | June 1 to March 1 | TQ | 40 inch maximum |
| (6) <u>Trout and salmon.</u> | | | | |
| (a) All waters | Hook and line: | Seasons, bag and size limits, and gear restrictions as established in s. NR 20.03 except that a year round season is established for lake trout and a season of January 1 to September 30 is established for other trout in inland waters except spring ponds and Lake Superior tributaries. | | |
| (b) All waters | All other methods | Permits may be issued where biologically sound after consultation with the bands. | | |

(7) White bass, rock bass, bluegill, crappie, pumpkinseed, yellow perch, bullheads, yellow bass, catfish.

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|------------------------------|---|----------------------|------|----------------|
| (a) All waters | Hook and line | Year round | None | No size limits |
| (b) All waters | Spearing
subject to
s. NR 13.17 &
traps, seines,
fyke net or
dip net subject
to s. NR 13.16 | Year round | TQ | No size limits |
| (c) Lakes over
1000 acres | Gill nets
subject to
s. NR 13.18 | June 1 to
March 1 | TQ | No size limits |

(8) Cisco and whitefish.

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|------------------------------|---|----------------------|-------------------------------|----------------|
| (a) All waters | Hook and line | No closed season | 25 pounds
plus one
fish | No size limits |
| (b) All waters | Traps, seine,
fyke net
subject to
s. NR 13.16;
dip net,
spearing subject
to s. NR 13.17 | No closed season | TQ | No size limits |
| (c) Lakes over
1000 acres | Gill nets
subject to
s. NR 13.18 | June 1 to
March 1 | TQ | No size limits |

(9) Rough fish.

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|-------------------------------|--|------------------|------|----------------|
| (a) All waters | All methods
except gill nets | No closed season | None | No size limits |
| (b) Lakes over
1000 acres | Gill nets
subject to
s. NR 13.18 | No closed season | None | No size limits |
| (c) Lakes under
1000 acres | Gill nets may be fished by department permit | | | |

(10) Paddlefish or spoonbill catfish.

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|------------|----|----------------|--|--|
| All waters | -- | No open season | | |
|------------|----|----------------|--|--|

NR 13.15 USE OF SET OR BANK POLES AND SETLINES. (1) PERMIT REQUIRED. No treaty rights participant may use, set, lift, attend or have in possession while on the inland waters any set or bank pole or setline unless he or she possesses on his or her person a permit authorizing use of such gear issued by the department.

(2) GENERAL REQUIREMENTS. (a) A set or bank pole permit authorizes the use of a maximum of 10 set or bank poles and a setline permit authorizes the use of one setline.

(b) No treaty rights participant may use, set, lift, attend or have in possession while on the inland waters any set or bank pole or setline permitted to another person.

(c) No treaty rights participant may possess sport angling equipment while setting, lifting or attending a set or bank pole or setline.

(3) SETLINE FLAG. Setline flags and buoys shall meet the requirements of this subsection.

(a) Any treaty rights participant using a setline shall place and maintain at one end of the setline a white flag 10 inches square or larger held by a pole or staff 3 feet or more above the surface of the water or bank. The flag may not be placed in the main channel of any navigable waterway.

(b) The flag shall be numbered with figures which are at least 3 inches high and which correspond to the number of the permit authorizing the setline's use.

(c) The flag staff or pole may not be more than 2 1/2 inches in diameter and the portion of the staff extending above the water or bank shall be banded horizontally with alternate black and white markings 2 inches to 6 inches wide.

(d) When a buoy is used to hold the setline's flag staff or pole, the buoy shall be cylindrical in shape, have a diameter of 15 inches or less, and be banded horizontally with alternate black and white markings 2 inches to 6 inches wide.

(4) TAGS REQUIRED. Each set or bank pole shall have attached securely to it and each setline shall have attached securely to its flag staff or pole a metal tag stamped with the number of the permit authorizing its use.

(5) LINES AND HOOKS. (a) Set or bank poles and setlines may not use stainless steel hooks.

(b) A set or bank pole may not be equipped with more than one line which may not have more than 2 hooks.

(c) A setline may have not more than 10 hooks when fished in open water, nor more than 20 hooks when fished under the ice.

(6) BAIT. All types of bait except live crayfish and live fish greater than 5 inches in length may be used on waters open to set or bank pole and setline fishing.

(7) FREQUENCY OF LIFTING AND HOURS. (a) Each set or bank pole and setline shall be lifted and the catch removed at least once each day following the day it was set.

(b) No treaty rights participant may set, attend or lift a set or bank pole or setline between one-half hour after sunset and one hour before sunrise.

NR 13.16 USE OF TRAPS, SEINES, DIP NETS AND FYKE NETS. (1) PERMIT REQUIRED. No treaty rights participant may use, set, lift, attend or have in possession while on the inland waters any trap, seine or fyke net unless he or she possesses

on his or her person a permit authorizing the use of the gear issued by the department. Each permit shall include a limitation on the number of fish to be taken so as to assure that the TQ is not exceeded.

(2) GENERAL REQUIREMENTS. (a) A trap, seine, dip net or fyke net permit authorizes the use of traps, seines, dip nets or fyke nets by the permittee.

(b) Permittees may share in the use of a trap, seine, dip net or fyke net permitted to another treaty rights participant.

(c) No treaty rights participant may possess sport angling equipment, or other harvest equipment requiring a permit, while engaged in setting, lifting or attending a trap, seine, dip net or fyke net.

(3) TAGS REQUIRED. Each trap, seine or fyke net shall have attached securely to it a metal tag stamped with the number of the permit authorizing its use.

(4) FREQUENCY OF LIFTING. Each trap or fyke net shall be lifted and the catch removed at least once each day following the day it was set.

(5) NOTICE. The permittee shall notify the department 24 hours in advance prior to placement or use of traps, seines, dip nets or fyke nets in any lake.

NR 13.17 USE OF SPEARS. (1) PERMIT REQUIRED. No treaty rights participant may use or have in possession while on the inland waters any spear unless he or she possesses on his or her person a permit issued by the department authorizing the use of a spear.

(2) GENERAL REQUIREMENTS. (a) Permittees may share in the use of a spear permitted to another treaty rights participant.

(b) No treaty rights participant may possess sport angling equipment, or other harvest equipment requiring a permit, while engaged in spearing.

(c) No treaty rights participant may use a spear unless it has a minimum of 3 barbed tines at least 4 1/2" long. Each tine shall have at least one barb which extends perpendicular from the tine at least 1/8". Smaller tines and barbs may be used when spearing for panfish.

(3) USE RESTRICTED. (a) No spear may be used on a body of water for which permits for the use of other harvesting equipment have been issued in accordance with s. NR 13.15, 13.16 or 13.18.

(b) No treaty rights participant may spear on open water unless notice of the spearing activity is first given to the department. The notice shall be given at least 4 hours before the spearing activity takes place.

(c) The department may require as a permit condition that treaty rights participants use only designated landings when engaged in spearing activity. When such is required, only designated landings may be used.

NR 13.18 GILL NETS. (1) PERMIT REQUIRED. Prior to gill netting, a treaty rights participant shall obtain a permit from the department allowing the use of gill nets. The permit shall be issued daily using the following procedures and contain the following information.

(a) Name of the person to whom issued.

(b) Lake name and county for which the permit is valid.

(c) Date the permit is valid.

(d) The maximum length in feet of gill net that can be fished by the permittee.

(e) The allowable number of each species for which a tribal quota has been established that the permittee may possess during the day.

(f) The specific mesh size (stretch mesh in inches) of gill net which the permittee is allowed to use.

(g) An appropriate form for reporting the nightly catch to the department.

(h) A unique permit number.

(2) ISSUANCE ON WALLEYE LAKES. At the request of a tribal member, the department shall issue a daily permit allowing the use of a specified amount of gill net in a specified lake containing walleyes. The permit shall also limit the number of each species for which a tribal quota has been established that may be in possession during that day. The following procedures shall be used when issuing permits for lakes containing walleye.

(a) Permits may only be issued for waters for which cumulative tribal harvest has not exceeded the established TQ and for which the department has determined the average length of the spring walleye population.

(b) The maximum allowable length of gill net in feet which can be set shall be the allowable number of walleyes as shown on the permit multiplied by 10.

(c) The allowable mesh size measured in inches stretch mesh shall be determined from the spring walleye population average length and the following chart:

<u>Spring Length</u>	<u>Allowable Mesh Size</u>
<13.5"	2.5"
13.5" - 16.49"	3.0"
16.5" - 18.49"	3.5"
18.5" - 20.49"	4.0"
>= 20.5"	4.5"

(d) The department may issue any number of permits for a given lake for each night, but the total number of any species for which a tribal quota has been

established when totalled for all permits issued may not exceed the remaining tribal quota for that lake.

(3) ISSUANCE ON NON-WALLEYE LAKES. At the request of a tribal member, the department shall issue a daily permit allowing the use of gill nets in a specified lake. The permit shall limit the number of each species that may be in possession during that day consistent with limits established in s. NR 13.14. The following procedures shall be used when issuing permits:

(a) For species for which a TQ has been established, permits may only be issued for waters for which the cumulative tribal harvest has not exceeded the established TQ.

(b) The department may issue any number of permits for a given lake for each night, but the total number of any species for which a TQ has been established when totalled for all permits issued may not exceed the remaining TQ for that lake.

(4) GEAR RESTRICTIONS. Treaty rights participants shall comply with the following regulations while using gill nets:

(a) All nets shall be marked with a buoy conforming to uniform marking requirements of the U.S. coast guard. In addition, the buoy shall be marked with the name and permit number of the treaty rights participant.

(b) Nets set with a topline within 3 feet of the surface shall be buoyed at 500 foot intervals.

(c) No part of the net may be set in water less than 10 feet in depth.

(d) All crayfish shall be removed from the nets and returned to the water or killed before taking the nets from the water.

(e) Nets may not be set before 5:00 p.m. and shall be completely removed from the water by 10:00 a.m. the following day. No nets may remain in the water other than during these times.

(5) WATERS OPEN TO GILL NETTING. (a) Gill nets may be used only in lakes over 1000 acres.

(b) For lakes containing walleye, only those over 1000 acres for which the department has spring fyke net samples to determine the average length of walleyes are open to gill netting. Only the 2 most recent spring sampling periods may be used.

NR 13.19 REPORTING AND MONITORING. (1) All treaty rights participants fishing by permit shall complete catch reports in the manner required by the department.

(2) If catch reports are not returned, the department may reduce the TQ by the maximum bag limit allowed to the non-reporting permittee.

(3) The department may inspect and measure the catch of all permittees and monitor the setting and lifting of nets.

NR 13.195 ICE FISHING WITH UNATTENDED LINES. (1) No treaty rights participant may ice fish with unattended lines except in compliance with the following provisions:

(a) All unattended lines shall have attached a single iron hook with a maximum $\frac{1}{2}$ inch point to shank gape;

(b) All unattended lines shall be of a biodegradable material and shall be securely anchored so as not to be dislodged by a hooked fish;

(c) All unattended lines shall be tagged with a valid identification tag obtained from the department indicating the member's tribal affiliation and tribal identification number;

(d) Any treaty rights participant fishing with unattended lines shall, prior to doing so, inform the department of his or her name, address, phone number, and lakes upon which the participant intends to fish with unattended lines;

(e) Each unattended line shall be checked at least once every 24 hours unless severe weather conditions render it impractical to do so;

(f) No more than a total of 30 attended or unattended lines may be used in no more than 3 lakes at any one time; and

(g) All poles used for unattended lines shall be marked so as to be visible to vehicular traffic.

NR 13.196 SPEARING AND NETTING IN STREAMS. (1) The department in conjunction with the Chippewa bands may develop a list of streams and stream segments which have discrete in-stream populations. Upon development of a list, the department may issue permits for these waters pursuant to ss. NR 13.16, 13.17 and 13.18, subject to the requirements of those sections.

(2) Permits shall be issued pursuant to s. NR 13.17 for no more than 4 boats and 12 spearers on any designated stream or stream segment. Treaty rights participants may spear from boats or by wading provided that only the designated landing is used for ingress and egress,

(3) Notwithstanding s. NR 13.14, the following bag limits apply for sturgeon, muskellunge and walleye on designated stream segments:

(a) Sturgeon: one per night per stream (all boats)

(b) Muskellunge: one per boat per night

(c) Walleye: five per night per treaty rights participant

The foregoing rules were approved and adopted by the State of Wisconsin Natural Resources Board on November 21, 1990.

The rules shall take effect on the first day of the month following publication in the Wisconsin administrative register as provided in s. 227.22 (2)(intro.), Stats.

Dated at Madison, Wisconsin March 8, 1991

STATE OF WISCONSIN
DEPARTMENT OF NATURAL RESOURCES

By Carroll D. Besadny
Carroll D. Besadny, Secretary

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State of Wisconsin

DEPARTMENT OF NATURAL RESOURCES

Carroll D. Besadny, Secretary

Box 7921

Madison, Wisconsin 53707

TELEFAX NO. 608-267-3579

TDD NO. 608-267-6897

March 8, 1991

Mr. Gary L. Poulson
Deputy Revisor of Statutes
119 Martin Luther King, Jr., Blvd.

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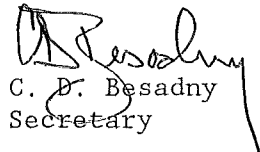
Revisor of Statutes
Bureau

Dear Mr. Poulson:

Enclosed are two copies, including one certified copy, of State of Wisconsin Natural Resources Board Order No. TR-19-90. These rules were reviewed by the Assembly Committee on Natural Resources and the Senate Committee on Urban Affairs, Environmental Resources and Elections pursuant to s. 227.19, Stats. Summaries of the final regulatory flexibility analysis and comments of the legislative review committees are also enclosed.

You will note that this order takes effect following publication. Kindly publish it in the Administrative Code accordingly.

Sincerely,


C. D. Besadny
Secretary

Enc.