



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

CR 89-86

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OCT 16 1989  
3:10 pm  
Revisor of Statutes  
Bureau

STATE OF WISCONSIN )  
DEPARTMENT OF NATURAL RESOURCES )

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. FM-2-89 was duly approved and adopted by this Department on July 27, 1989. 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 hereunto set my hand and affixed the official seal of the Department at the Natural Resources Building in the City of Madison, this 10th day of October, 1989.

Bruce B. Braun, Deputy Secretary

(SEAL)

10-1-89

ORDER OF THE STATE OF WISCONSIN NATURAL RESOURCES BOARD  
CREATING RULES

.....  
IN THE MATTER of creating ss. NR 20.015(4d) and (4e), .  
20.037, 23.02(8m) and (8n) and 23.055 Wisconsin .  
Administrative Code, pertaining to adjustments in bag. FM-2-89  
limits for walleye and size limits for muskellunge in.  
response to tribal harvest. .  
.....

Analysis Prepared by Department of Natural Resources

Statutory authority: ss. 29.085, 29.174(3), and 227.11(2)(a)  
Stats.  
Statutes interpreted: s. 29.174(2)(a), Stats.

The order adjusts the daily bag limit for walleyes and the minimum length limits for muskellunge on individual waters in response to annual harvest goals of the Chippewa bands exercising off-reservation treaty rights recognized in Lac Courte Oreilles Band v. Voigt, 700 F.2d 341 (7th Cir. 1983).

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SECTION 1. NR 20.015(4d) and (4e) are created to read:

NR 20.015(4d) "Safe harvest" means a level of harvest that incorporates an appropriate margin of safety, estimates of the population and acceptable exploitation rates which will reasonably prevent harvest of more than 35% of the population of adult walleyes or 27% of the population of adult muskellunge. The margin of safety assures that the true safe harvest is not exceeded in more than 1 of 40 cases. For waters where a population estimate has not been made, a regression model based upon population estimates from other waters will be used. The margin of safety used depends upon the age of the population estimate was made and whether a regression model was used.

(4e) "Secretary" means secretary of the department of natural resources.

SECTION 2. NR 20.037 is created to read:

NR 20.037 MODIFICATIONS IN DAILY BAG LIMIT AND MINIMUM SIZE LIMIT IN RESPONSE TO TRIBAL HARVEST. (1) ADJUSTMENT. In order to prevent a total harvest of more than 35% of the adult walleye population or 27% of the adult muskellunge population, the secretary may lower the daily bag limit on walleye and increase the minimum size limit for muskellunge in specific waters in response to the harvest goals of the Chippewa bands for their spear, net or trap fisheries. The adjusted daily bag and size limits shall be in effect until March 1 of the year following the tribal harvest. The safe harvest levels on individual waters shall be determined by the department.

(a) Walleyes. The daily bag limit will be reduced when the department is notified by the Chippewa bands of their harvest goals on individual waters. The extent of the reduction depends upon the percent of the safe harvest they intend to take and the age of the population estimate used to determine the safe harvest or if a regression model was used to determine the safe harvest. The daily bag limits to be used with the different percentages and for various basis of determining the safe harvest are as follows:

Reduced daily bag limits for walleye angling

Daily bag limit	<u>% of safe harvest to be speared, trapped or netted</u>		
	<u>current pop.est.</u>	<u>pop.est.made 1-2 yrs. ago</u>	<u>pop.est.made 3 yrs.ago or more or regression model.</u>
4	1-7	1-14	1-20
3	8-18	15-39	21-54
2	19-36	40-76	55-84
1	37-68	77-94	85-94
0	69 or more	95 or more	95 or more

(b) Muskellunge. The minimum size limit will be increased when the department is notified by the Chippewa bands that their harvest goal on an individual water is 60% or more of the safe harvest. The minimum size limits to be used with different percentages of the safe harvest are as follows:

Increased minimum size limits for muskellunge angling

<u>% of safe harvest to be speared, trapped or netted by tribes</u>	<u>Minimum size limit</u>
60 - 94	45 inches
95 or more	55 inches

(2) READJUSTMENT. If the Chippewa bands inform the department that they have completed harvesting and their goal has not been reached, the secretary may raise the daily bag limit or reduce the minimum size limit to the limit specified as appropriate using the percent of the safe harvest level expected to be harvested as indicated in sub. (1). If a new population estimate is made, the safe harvest level shall be changed

accordingly and the daily bag limit or minimum size limit shall be adjusted according to the percentage of the new safe harvest level that is expected to be harvested as indicated in sub. (1). The readjusted daily bag and size limits shall be in effect until March 1 of the year following the tribal harvest.

(3) BAG AND POSSESSION LIMITS. (a) Reduced daily bag limits calculated pursuant to this section are individual lake limits and may be combined, but no person may exceed a total daily bag limit of 5 walleyes.

(b) While fishing no person may possess fish on any water in excess of the bag limit or under the size limit for that water.

(4) NOTICE. Adjustments and readjustments of bag limits and minimum size limits under subs. (1) and (2) shall become effective upon publication of the adjustment or readjustment in the official newspaper in the area affected.

SECTION 3. NR 23.02(8m) and (8n) are created to read:

NR 23.02(8m) "Safe harvest" means a level of harvest that incorporates an appropriate margin of safety, estimates of the population and acceptable exploitation rates which will reasonably prevent harvest of more than 35% of the population of adult walleyes or 27% of the population of adult muskellunge. The margin of safety assures that the true safe harvest is not exceeded in more than 1 of 40 cases. For waters where a population estimate has not been made, a regression model based upon population estimates from other

waters will be used. The margin of safety used depends upon the age of the population estimate and whether a regression model was used.

(8n) "Secretary" means secretary of the department of natural resources.

SECTION 4. NR 23.055 is created to read:

NR 23.055 MODIFICATIONS IN DAILY BAG LIMIT AND MINIMUM SIZE LIMIT IN RESPONSE TO TRIBAL HARVEST. (1) ADJUSTMENT. In order to prevent a total harvest of more than 35% of the adult walleye population or 27% of the adult muskellunge population, the secretary may lower the daily bag limit on walleye and increase the minimum size limit for muskellunge in specific waters in response to the harvest goals of the Chippewa bands for their spear, net or trap fisheries. The adjusted daily bag and size limits shall be in effect until March 1 of the year following the tribal harvest. The safe harvest levels on individual waters shall be determined by the department.

(a) Walleyes. The daily bag limit will be reduced when the department is notified by the Chippewa bands of their harvest goals on individual waters. The extent of the reduction depends upon the percent of the safe harvest they intend to take and the age of the population estimate used to determine the safe harvest

or if a regression model was used to determine the safe harvest. The daily bag limits to be used with the different percentages and for various basis of determining the safe harvest are as follows:

Reduced daily bag limits for walleye angling

<u>Daily bag limit</u>	<u>% of safe harvest to be speared, trapped or netted</u>		
	<u>current pop.est.</u>	<u>pop.est.made 1-2 yrs. ago</u>	<u>pop.est.made 3 yrs.ago or more or regression model.</u>
4	1-7	1-14	1-20
3	8-18	15-39	21-54
2	19-36	40-76	55-84
1	37-68	77-94	85-94
0	69 or more	95 or more	95 or more

(b) Muskellunge. The minimum size limit will be increased when the department is notified by the Chippewa bands that their harvest goal on an individual water is 60% or more of the safe harvest. The minimum size limits to be used with different percentages of the safe harvest are as follows:

Increased minimum size limits for muskellunge angling

<u>% of safe harvest to be speared, trapped or netted by tribes</u>	<u>Minimum size limit</u>
60 - 94	45 inches
95 or more	55 inches

(2) READJUSTMENT. If the Chippewa bands inform the department that they have completed harvesting and their goal has not be reached, the secretary may raise the daily bag limit or reduce the minimum size limit to the limit specified as

appropriate using the percent of the safe harvest level expected to be harvested as indicated in sub. (1). If a new population estimate is made, the safe harvest level shall be changed accordingly and the daily bag limit or minimum size limit shall be adjusted according to the percentage of the new safe harvest level that is expected to be harvested as indicated in sub. (1). The readjusted daily bag and size limits shall be in effect until March 1 of the year following the tribal harvest.

(3) BAG AND POSSESSION LIMITS. (a) Reduced daily bag limits calculated pursuant to this section are individual lake limits and may be combined, but no person may exceed a total daily bag limit of 5 walleyes.

(b) While fishing no person may possess fish on any water in excess of the bag limit or under the size limit for that water.

(4) NOTICE. Adjustments and readjustments of bag limits and minimum size limits under subs. (1) and (2) shall become effective upon publication of the adjustment or readjustment in the official newspaper in the area affected.

The foregoing rule was approved and adopted by the State of Wisconsin Natural Resources Board on July 27, 1989

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 October 10, 1989

STATE OF WISCONSIN  
DEPARTMENT OF NATURAL RESOURCES

By Carroll D. Besadny  
Carroll D. Besadny, Secretary



State of Wisconsin \ DEPARTMENT OF NATURAL RESOURCES

Carroll D. Besadny, Secretary  
Box 7921  
Madison, Wisconsin 53707  
TELEFAX NO. 608-267-3579  
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October 10, 1989

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OCT 16 1989

In reply refer to 1020

Mr. Orlan L. Prestegard  
Revisor of Statutes  
Suite 702  
30 W. Mifflin Street

Revisor of Statutes  
Bureau

Dear Mr. Prestegard:

Enclosed are two copies, including one certified copy, of State of Wisconsin Natural Resources Board Order No. FM-2-89. These rules were reviewed by the Assembly Committee on Natural Resources and the Senate Committee on Transportation, Conservation and Mining 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,

A handwritten signature in cursive script that reads 'C. D. Besadny'.

C. D. Besadny  
Secretary

Enc.