



CR 90-256

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

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. FM-69-90 was duly approved and adopted by this Department on March 28, 1991. 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.

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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 29th day of May, 1991.

Bruce B. Braun
Bruce B. Braun, Deputy Secretary

(SEAL)

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ORDER OF THE STATE OF WISCONSIN
NATURAL RESOURCES BOARD
AMENDING AND CREATING RULES

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IN THE MATTER of amending ss. NR 25.05(2) .
(a), 25.06(1)(a)1. to 4. and 25.09(1)(a) .
4.a.; and creating s. NR 25.09(1)(a) .
4.bm. and d. to g. and (b)6. of the .
Wisconsin Administrative Code pertaining .
to lake trout size limits, lake trout .
quotas, and gear restrictions for .
commercial fishing in Lake Superior .
.

FM-69-90

Analysis Prepared by Department of Natural Resources

Statutory authority: ss. 23.09(2)(intro), 23.11(1),
29.174(2)(a), 29.33(1) and 227.11(2)(a), Stats.

Statutes interpreted: ss. 23.09(1), 29.174(1) and 29.33(1) and
(2)(d), Stats.

The order revises rules governing lake trout size limits, the commercial fishing annual quota for lake trout and gill net restrictions to reduce the incidental mortality of lake trout in the whitefish fishery in Lake Superior. (The revised lake trout annual quota was called for in the Lake Superior Fishery Management Agreement between the department and the Red Cliff and Bad River bands of Chippewa Indians.)

The order adds a requirement that all lake trout caught in gill nets not less than 4 1/2 inch stretch measure set in waters less than 330 feet (55 fathoms) deep be kept and tagged, while lake trout caught in gill nets in waters 330 feet (55 fathoms) deep or deeper or in entrapping nets may be returned to the water or kept and tagged, except that dead lake trout 25 inches or less in length caught in entrapping nets must be kept and tagged. All lake trout, dead or alive, larger than 25 inches in length caught in entrapping nets must be returned to the lake.

The rules restrict the footage of gill net each fisher may set in Lake Superior waters less than 55 fathoms deep. The gill net footage restrictions are seasonally adjusted in proportion to the number of lake trout quota tags held by the fisher.

The rules require an informational tag on all commercial gill nets; prohibit commercial gill netting in open water during winter; prohibit placement of gill nets within 1/4 mile of any entrapping net; and prohibit placement of entrapping nets within 1/2 mile of each other.

In the event that negotiations fail and the present agreement between the department and the Red Cliff and Bad River bands of Chippewa Indians is voided, the revised rules provide a regulation framework for tribal commercial and home use fisheries, and the rules will allow treaty fishers a transition period. They may continue to use a gill net mesh size of not less than 4 1/4 inch stretch measure until November 28, 1991, after which 4 1/2 inch stretch measure will be required.

SECTION 1. NR 25.05(2)(a) is amended to read:

Species	A Green Bay	B Lake Michigan	C Lake Superior
(a) Lake trout			17 inches <u>No size limit for gill nets and a maximum of 25 inches for entrapping nets</u>

SECTION 2. NR 25.06(1)(a)1. to 4. are amended to read:

NR 25.06(1)(a)1. The total allowable commercial and home use harvest in the waters of Lake Superior east of Bark Point may not exceed ~~58,000~~ 50,600 lake trout during the open season.

2. That number of lake trout to be harvested by non-Indian licensed commercial fishers from the waters of Lake Superior east of Bark Point may not exceed ~~15,000~~ 13,000 lake trout, and from the waters of Lake Superior west of Bark Point may not exceed 600 lake trout, during the open season.

3. That number of lake trout to be harvested by the Red Cliff and Bad River bands, including both commercial and home use fishers, from the waters of Lake Superior east of Bark Point may

not exceed ~~43,000~~ 39,600 lake trout during the open season. The Red Cliff and Bad River bands shall inform the department of the extent and method of allocation between commercial and home use fishers. If the Red Cliff and Bad River bands do not reach an agreement on the method of allocating the tribal quota between them, the department may divide the quota ~~26.5%~~ 50% for the Bad River band and ~~73.5%~~ 50% for the Red Cliff band.

4. All lake trout caught in gill nets not less than 4 1/2 inch stretch measure set in waters less than 330 feet (55 fathoms) deep shall be kept and tagged. Lake trout caught in gill nets in waters 330 feet (55 fathoms) deep or deeper or in entrapping nets may be returned to the lake or kept and tagged, except that dead lake trout 25 inches or less in length caught in entrapping nets shall be kept and tagged. All lake trout, dead or alive, larger than 25 inches in length caught in entrapping nets shall be returned to the lake. All lake trout and siscowet harvested by commercial and home use fishers shall be tagged in accordance with sub. (3).

SECTION 3. NR 25.09(1)(a)4.a. is amended to read:

NR 25.09(1)(a)4.a. Not more than 30 meshes in depth and only when set on the bottom of the lake, except that treaty fishers may use a mesh size of not less than 4 1/4 inch stretch measure and not more than 50 meshes deep until November 28, 1991.

SECTION 4. NR 25.09(1)(a)4.bm and d. to g. and (b)6. are created to read:

NR 25.09(1)(a)4.bm. In water less than 330 feet (55 fathoms) deep: 1) No more than 1,000 total feet of these nets may be set by each licensed commercial fisher over the entire time period of November 28 through March 31 for every 18 lake trout tags issued to the fisher under s. NR 25.07(1) and obtained by transfer prior to November 28 under s. NR 25.08;

2) No more than X total feet of these nets may be set by each licensed commercial fisher over the entire time period of April 1 through May 31, where $X = 1.636$ multiplied by the feet of net allowed but not set under subpar. bm.1); and

3) No more than Y total feet of these nets may be set by each licensed commercial fisher over the entire time period of June 1 through September 30, where $Y = 3.67$ multiplied by the number of feet of net allowed but not set under subpar. bm.2).

d. May not be set in water less than 330 feet (55 fathoms) deep for the remainder of the lake trout open season by a licensed commercial fisher upon use of all tags issued for lake trout to the fisher under s. NR 25.07(1)(a), or upon use of the total number of feet of gill net permitted to be set in any time period under subpar. bm.

e. Shall be tagged by the licensed commercial fisher using the gill net with an informational tag, supplied by the department, on each buoy line 10 feet below the water's surface. Each tag shall state the time and date upon which the gill net was set,

the length of the gang of nets, the license number and the licensee's initials.

f. May not be placed in the waters of Lake Superior from a boat or watercraft from January 15 through March 31.

g. May not be set or placed within 1/4 mile of any entrapping net.

(b)6. May not be placed within 1/2 mile of any other entrapping net.

The foregoing rules were approved and adopted by the State of Wisconsin Natural Resources Board on March 28, 1991.

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

Dated at Madison, Wisconsin May 28, 1991.

STATE OF WISCONSIN
DEPARTMENT OF NATURAL RESOURCES

By Carroll D. Besadny
Carroll D. Besadny, Secretary

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