

TRIBAL CODE

CHAPTER 20:

**GREAT LAKES AND ST. MARY’S RIVER
TREATY FISHING REGULATIONS**

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HISTORY NOTE:

Introduction.

This Chapter regulates the exercise of treaty fishing rights in the Great Lakes and connecting waters ceded by the Treaty of March 28, 1836; 7 Stat. 491. These fishing rights have been the subject of extensive litigation, as recounted in the Cases section below.

Three tribes participate in the treaty fishery: the Sault Ste. Marie Tribe of Chippewa Indians, Bay Mills Indian Community, and Grand Traverse Band of Ottawa and Chippewa Indians. In 1980, these tribes formed the Chippewa-Ottawa Treaty Fishery Management Authority (COTFMA) to formulate policy and promulgate regulations on an intertribal basis. In 1981, COTFMA promulgated its first set of treaty fishing regulations, and COTFMA has regulated the treaty fishery ever since.

The COTFMA regulations are extensive and comprehensive. They are not reproduced as a part of this Tribal Code, but they are readily available from COTFMA. This Chapter instead includes only those supplemental regulations governing treaty fishing that are unique to the Tribe.

The treaty fishery is currently conducted and regulated under an Agreement for Entry of Consent Order filed in United States v. Michigan, WD Mich No M26 73CA on May 31, 1985. 12 Indian L Rep 3079. The Agreement will expire in the year 2000. The Agreement provides a mechanism by which the parties -- the three treaty tribes, the State of Michigan, and the United States -- can resolve disputes over regulation of the fishery.

Current Regulations:

Adopted by Tribal Resolution 11-20-90J, November 20, 1990.

Reenacted as part of the Tribal Code July 5, 1995, Resolution No. 95-89, effective immediately.

Amendments:

Tribal Resolution 2023-366, adopted November 14, 2023 amending §20.104 by adding Permits and creating §20.104(3).

Tribal Resolution 2017-127, adopted June 20, 2017 amending §20.106 Co-Captain. (Effective 12/31/2017)

Tribal Resolution 2017-192, adopted September 18, 2017 creating §20.121, Emergency Orders.

Tribal Resolution 2012-170, adopted August 21, 2012 creating §§20.102(14) and 20.102(15).

Tribal Resolution 2011-118, adopted June 7, 2011, amends §20.108 Waishkey Bay Closure expiring on May 31, 2012.

Tribal Resolution 2011-104, adopted May 24, 2011, amends §20.107, by adding §20.107 (7).

Tribal Resolution 2010-275, adopted December 7, 2010, amends §20.102(4).

Tribal Resolution 2010-220, adopted October 5, 2010, amends §20.102 by adding a revised §102(8)(b).

Tribal Resolution 2010-202, adopted September 28, 2010, amends §20.102, by deleting §102(8)(b).

Tribal Resolution 2010-137, adopted July 6, 2010, amends §20.106 by establishing (9) Co-Captains.

Tribal Resolution 2010-132, adopted June 10, 2010, amends by establishing §20.120 Access to Vessels.

Tribal Resolution 2010-76, adopted April 6, 2010, amends §20.108 Waishkey Bay Closure, May 19, 2011.

Tribal Resolution 2010-40, adopted February 23, 2010, amends §20.107(b).

Tribal Resolution 2009-150, adopted July 7, 2009, amends §20.108 Waishkey Bay Closure thru May 19, 2010.

Tribal Resolution 2009-138, adopted June 23, 2009, amends the title.

Tribal Resolution 2007-122, adopted August 14, 2007, amends §20.102 (2)(b), (5)(b)(c).

Tribal Resolution 2007-75, adopted May 9, 2007, amends §20.106 "Co-Captains", effective June 8, 2007.

Tribal Resolution 2006-78, adopted June 12, 2006, amends §102(5)(b), helper's license.

Tribal Resolution 2-19-91A, adopted February 19, 1991, imposed a spring fishing closure in a portion of Little Bay de Noc.

Tribal Resolution 93-95, adopted August 17, 1993, required safety vests for all crew members.

Tribal Resolution 94-106, adopted September 6-1994, amended the requirement for fishing cards to be issued pursuant to 25 CFR Part 249.

Tribal Resolution 94-165, adopted on December 6, 1994, vested jurisdiction of violations of this Chapter in the Sault Ste. Marie Chippewa Tribal Court.

Tribal Resolution 95-31 adopted on March 6, 1995, reduced the commercial fishing fees

Tribal Resolution 95-32, adopted on March 6, 1995, required additional safety equipment

Tribal Resolution 96-30, adopted on February 6, 1996, added '20.108 Commercial Fishing for Salmon.

Tribal Resolution 96-73 adopted April 16, 1996 adding to '20.102 (13)(a,b,c)

Tribal Resolution 96-116, adopted on August 20, 1996 deleting '20.108 Commercial Fishing for Salmon.

Tribal Resolution 98-131, adopted on October 20, 1998 adding '20.106, temporary licenses alternate captains '20.118 escrow of license and '20.119 ice fishing regulation.

Tribal Resolution 99-72 adopted on May 18, 1999 adding to '20.102 (5) (c) members under 16 years of age permission to fish on commercial boat with licensed fisherman.

Prior Regulations:

(1) The first Treaty Fishing Rules and Regulations was adopted on June 27, 1977, Resolution 5-11-77G. Amendments:

Resolution 8-23-77D, adopted August 23, 1977, extended the effective date of the rules.

Resolution 2-22-78A, adopted February 22, 1978, delegated authority to the tribal attorney to issue licenses under the rules.

Resolution 3-22-78D, adopted March 22, 1978, provided for a temporary fishery closure in Little Traverse Bay and Grand Traverse Bay.

Resolution 9-14-78A, adopted September 14, 1978, closed fishing in a large portion of southern Lake Michigan.

Resolution 9-14-78B, adopted September 14, 1978, closed fishing in the Les Cheneaux Islands.

Resolution No. 10-25-78B, adopted November 29, 1978, changed the rules regarding commercial licenses.

Resolution No. 11-29-78B, adopted November 29, 1978, authorized the Special Officer of the Michigan Agency of BIA to issue citations for violation of the rules.

Resolution 12-28-78B, adopted December 28, 1978, extended the terms of commercial fishing licenses.

Resolution 1-18-79E, adopted January 18, 1979, changed the license fees.

Amendments to the rules were made by Board motion on May 30, 1979.

Resolution No. 7-27-79D, adopted July 25, 1979, made various amendments to the rules, including a reopening of southern Lake Michigan waters.

(2) The first set of Joint Treaty Fishing Rules was adopted on September 26, 1979, Resolution 9-26-79B. Prior consistent treaty fishing rules and regulations were continued in effect, however. Amendments:

Resolution 3-25-81G, adopted March 25, 1981, extended the deadline for applying for commercial fishing licenses.

The Board by motion December 16, 1981, increased fishing license fees.

Resolution 1-27-82F, adopted January 27, 1982, placed restrictions on issuance of licenses and required that new licensees be quarter bloods.

Resolution 2-24-82G, adopted February 24, 1982, adopted various amendments to the rules.

Resolution 2-24-82I, adopted February 24, 1982, closed fishing in fishery management zone MM-6. This closure was rescinded by Board motion on March 10, 1982.

Resolution 3-24-82 R-T, adopted March 24, 1982, ratifies and approves Resolutions 1-27-82F and 2-24-82G and the fishing fees motion of December 16, 1981.

Resolution 4-28-82 AT, adopted April 28, 1982, reaffirms Resolution 2-24-82G and the fishing fees motion of December 16, 1981.

Resolution 4-28-82 BT, adopted April 28, 1982, makes changes in the restrictions on the issuance of treaty fishing licenses adopted in Resolution 1-27-82F.

(3) A new set of Treaty Fishing Rules and Regulations was adopted on November 17, 1982, Resolution 11-17-82 AT. It received BIA approval on November 24, 1982. Amendments:

Resolution 1-26-83D, adopted January 26, 1983, increased the allowable boat length for small boats.

Resolution 6-22-83C, adopted June 22, 1983, changed the hours within which nets could be lifted and set. An identical provision was also adopted by Resolution 7-6-83A on July 6, 1983. This resolution was approved by BIA on July 7, 1983. The action was reaffirmed by Board motion on July 27, 1983.

Resolution 8-24-83F, adopted August 26, 1983, authorized the establishment of non-snagging areas. This resolution was approved by BIA on September 1, 1983. The action was reaffirmed by Board motion on September 12, 1983.

The Board by motion February 22, 1984, increased the minimum boat length.

Resolution 2-19-85, adopted October 22, 1985, provided for the passing on of commercial fishing licenses within a family.

The Board by motion April 22, 1986, made several changes in the rules, including imposition of new fees.

Resolution 6-21-88B, adopted June 21, 1988, waives subsistence license fees for Tribal elders.

Tribal Resolution 2-28-89, adopted February 28, 1989, imposed a spring fishing closure in a portion of Little Bay de Noc. This action was reaffirmed by Board motion on March 9, 1989.

The Board by motion March 21, 1989, adopted various conservation Committee recommendations for rules relating to subsistence fishing and boat and net measurement standards.

The Board by motion August 28, 1989, adopted Conservation Committee recommendations on the number of commercial fishing licenses.

Tribal Resolution 1-23-90A, adopted January 23, 1990, imposed a spring fishing closure in a portion of Little Bay de Noc.

(4) A new set of Treaty Fishing Rules and Regulations was adopted by Board motion on July 28, 1990.

Other Board Actions:

Resolution 5-11-77H, adopted May 11, 1977, requested the Commissioner of Indian Affairs to issue treaty fishing identification cards to tribal members under 25 CFR Part 256 (now 25 CFR Part 249).

Resolution No. 12-28-78A, adopted December 28, 1978, established a Tribal Conservation Committee.

On September 5, 1979, the Tribe executed a Memorandum of Understanding with the Bay Mills Indian Community and the U.S. Department of the Interior for joint regulation of the treaty fishery and promulgation of the joint regulations as federal regulations.

Resolution 4-10-80A, adopted April 10, 1980, supported the establishment of a single conservation court to hear violations of treaty fishing regulations for all three treaty tribes.

An intertribal treaty fishery management authority (COTFMA) was approved by Board motion on April 29, 1981.

Cases:

People v. LeBlanc, 399 Mich 31, 248 NW2d 199 (1976), upheld the continued existence of treaty fishing rights under the Treaty of 1836 and set the conditions under which the state could regulate the exercise of treaty rights.

United States v. Michigan, 471 F Supp 192 (WD Mich 1979). The original "Fox decision"; upholds the continued existence of the right and provides that tribal self-regulation preempts state regulation.

United States v. Michigan, 505 F Supp 467 (WD Mich 1980). Denies a stay pending appeal.

United States v. Michigan, 623 F2d 448 (6th Cir 1980). Remands the case to district court for consideration of the preemptive effect of federal regulations promulgated after the district court opinion.

United States v. Michigan, 89 FRD 307 (WD Mich 1980). Denies intervention by two sport fishing organizations.

United States v. Michigan, 508 F Supp 480 (WD Mich 1980). Enjoins a state court proceeding to ban treaty gill net fishing in Grand Traverse Bay.

United States v. Michigan, 520 F Supp 207 (WD Mich 1981). Applies LeBlanc standards to state regulation and upholds tribal self-regulation.

United States v. Michigan, 653 F2d 277 (6th Cir 1981). Applies LeBlanc standards and denies state's request to vacate the remand order.

United States v. Michigan, 534 F Supp 668 (WD Mich 1982). Grants tribal injunction putting COTFMA's joint regulations into effect.

United States v. Michigan, 712 F2d 242 (6th Cir 1983). Upholds injunction restraining state court banning of gill net fishing in Grand Traverse Bay.

United States v. Michigan, 115 FRD 621 (WD Mich 1987). Denies post-consent order intervention by commercial fisher organization.

TRIBAL CODE

CHAPTER 20:

TREATY FISHING RULES AND REGULATIONS

20.101 Authority, Purpose and Scope.

(1) The following rules and regulations are hereby promulgated by the Board of Directors of the Sault Ste. Marie Tribe of Chippewa Indians pursuant to the powers contained in Article VII, Section 1 (j) of the Tribal Constitution.

(2) These rules govern fishing activity by members of the Sault Ste. Marie Tribe of Chippewa Indians in the waters ceded in the Treaty of March 28, 1836 except for fishing activity conducted pursuant to a license issued by the State of Michigan. They supplement the regulations contained in the Chippewa/Ottawa Treaty Fishing Management Authority Regulations.

(3) All prior treaty fishing regulations of the Sault Ste. Marie Tribe of Chippewa Indians are hereby repealed.

(4) Unless a contrary intent is indicated, terms used in these rules shall have the meaning employed in the Chippewa/Ottawa Treaty Fishing Management Authority Regulations.

20.102 Licensing of Commercial Treaty Fishing Activity.

(1) No member of the Tribe shall engage in commercial fishing activity without first having obtained a license from the Tribe to do so, in accordance with this section. A tribal license shall be evidenced by a Treaty Fishing Identification Card authorized by the Chairman.

(2) Two types of licenses may be issued:

(a) A commercial license which entitles the holder to operate a fishing boat, to fish on his own behalf, and employ helpers; and

(b) A member, the ages of sixteen and seventeen, shall be eligible for a helper's license only with the written consent of a parent or guardian.

(3) Licenses shall be issued under the supervision of the Tribal Chairman in accordance with these rules and any subsequent enactments of the Tribal Board of Directors. They shall expire on December 31st of each year.

(4) The fees for the issuance of tribal commercial fishing licenses shall be as follows:

- (a) A fee of \$25.00 for a helper on a boat owned by a licensed commercial fisherman.
 - (b) A fee of \$50.00 for a fisherman fishing without a boat or with a boat not exceeding twenty-five feet in length.
 - (c) A fee of \$100.00 for a fisherman fishing with a boat in excess of twenty five feet in length.
 - (d) No fee shall be charged for issuance of a helper's license if a licensed commercial fisherman surrenders the unexpired Treaty Fishing Identification Card of a former employee in lieu thereof.
 - (e) All boats that do not have United States Coast Guard documentation will be measured by the Tribe from the bow to the stern straight down the middle.
- (5) The age requirement for issuance of tribal commercial fishing licenses shall be as follows:
- (a) A member eighteen year of age or older shall be eligible for a tribal fishing license if available.
 - (b) A member the ages of sixteen and seventeen shall be eligible for a helper's license only with the written consent of a parent or guardian
 - (c) A member, under the age of sixteen may fish with an immediate family member, who is a licensed fisherman, with the written consent of a parent or guardian. The minor can only fish during non school hours.
- (6) A license issued pursuant to sub. (4)(c) or (d) hereof also authorizes holder to operate a fishing boat of twenty feet or less.
- (7) A commercial fishing license may identify two partners and co-operators of a licensed boat.
- (8) Issuance of new commercial fishing licenses is closed unless opened by action of the Tribal Board of Directors.
- (a) A license shall not be issued to a person who was unlicensed in the previous year.

(b) No small boat license shall be increased to a large boat license unless in accordance with the 2000 Great Lakes Consent Decree. A small boat shall be defined as a boat with a total length of 25 feet or less; a large boat shall be defined as a boat with a total length greater than 25 feet.

(c) A licensee who leaves the area for purposes of military service may renew his license notwithstanding the provision of sub. (a), within one year of leaving the service.

(9) A tribal commercial fishing license may be passed on only to the natural son or daughter, spouse or husband as authorized by the Tribal Board of Directors.

(10) Any Sault Ste. Marie tribal license holder who fails to renew his tribal treaty fishing license for a period of one (1) year shall not thereafter be relicensed.

(11) The provisions of sub. (8), (9) and (10) do not restrict issuance of helper's cards.

(12) Licensing of tribal fishing enterprises may be authorized by the Tribal Board of Directors.

(13) The Chairman with the consent of the Board of Directors may approve the transfer of a Commercial fishing license holder to an eligible Tribal member, upon recommendation of the Conservation Committee if:

(a) The license holder or his heirs has filed notice with the Conservation Committee of his intent to sell his fishing equipment.

(b) The license holder or his heirs has sold his fishing equipment to the transferee.

(c) If the license holder or his heirs have filed official notice of intent to sell his fishing equipment and a sale has not been finalized within 3 years from the date of notice, the license shall revert back to the Sault Ste. Marie Tribe of Chippewa Indians .

(14) No tribal member shall captain in any capacity a commercial fishing vessel on behalf of anyone other than a Captain licensed pursuant to this Chapter except upon approval of the Committee.

(15) No tribal member holding a small mesh permit issued pursuant to this Chapter shall work for, employ, fish for shares, or in any way conduct a joint commercial fishing operation with a Captain licensed pursuant to this Chapter or a captain fishing for another tribe pursuant to the Chippewa Ottawa Resource Authority Fishing Regulations.

20.103 Suspension and Revocation of Licenses.

Any tribal license may be suspended by order of the Tribal Chairman upon reasonable notice, when any license fee, fine or court costs, or other fishery-related financial obligation owed to the Tribe is overdue and unpaid. During any period of suspension the fisherman shall be deemed to be

unlicensed by the Tribe for all purposes, and his Treaty Fishing Identification Card shall be subject to seizure.

20.104 Limitations on the Use of Tribal Licenses and Permits.

(1) No licensee of the Tribe shall fish as an employee of or for shares with a person not licensed to exercise treaty fishing rights. This section shall be liberally interpreted to prohibit a licensee from exercising treaty rights for the benefit of non-Indian entrepreneurs.

(2) A helper may fish only in the presence of his employer, save in exceptional circumstances of a temporary nature which prevent the employer from being present in the boat.

(3) Any person issued a license or permit by the Tribe or Law Enforcement must adhere to all stipulations encompassed in that permit or license. If discovered that a person is violating any of the stipulations encompassed in a license or permit issued to them, that person will receive a civil citation under this Code. Any violation will automatically suspend a person's license or permit pending a hearing on the citation. A guilty finding by the Tribal Court will result in the revocation of a person's license or permit, and a finding of not guilty will result in reinstating a person's license or permit.

20.105 Requirement of Safety Vests.

All captains of the boats are to require their crew to wear the safety vests. If the vests are not worn, there will be the following penalties:

- (1) First Offense- Warning.
- (2) Second Offense- Minimum fine of \$25.00.
- (3) Third Offense-Minimum fine of \$75.00.
- (4) Fourth Offense- Minimum fine of \$150.00.
- (5) Fifth Offense-Judge's discretion.

20.106 Co-Captain.

(1) A Captain may delegate his commercial fishing activity to an eligible individual by obtaining for that individual a Co-Captain's license for the following reasons:

- (a) A temporary illness or injury to the Captain or a member of their immediate family; or

(b) any military activity where the Captain due to the activity, would be reasonably unable to operate the fishery; or

(c) any educational activity where the Captain, due to the activity, would be reasonably unable to operate his fishery.

(d) Administration is authorized issue up to a seven day Co-Captain license for emergencies and shall promulgate policy and procedures to the effectuate the forgoing.

(2) An individual shall be eligible to receive a Co-Captain's license if they would be eligible to receive a commercial fishing license pursuant to Section 20.102 *et al.*

(3) A Co-Captain shall be licensed for one year. If the circumstance giving rise to the need for the Co-Captain is for a longer duration, a Co-Captain may be re-licensed upon expiration of the preceding one year license period.

(4) A Captain and their respective Co-Captain shall be restricted to conducting their respective or simultaneous commercial fishing activity from a single identified vessel for the duration of the applicable Co-Captain's license.

(5) It shall be a violation of this subsection for a Captain and/or Co-Captain to conduct their respective or simultaneous commercial fishing activity from any vessel other than the single vessel identified pursuant to subsection (4). The penalties for such a violation are:

(a) Mandatory no less than a six month suspension of the Captain's commercial fishing license.

(b) Mandatory no less than a one year suspension of the Captain's ability to utilize a Co-Captain license under this Section; which shall begin to run upon completion of the sentence of suspension of his Captain's license pursuant to subsection (5)(a).

(c) Mandatory no less than a one year suspension of the Co-Captain's ability to utilize a Co-Captain license under this Section;

(d) Mandatory fine of not less than \$250.00 and not more than \$1,000.00.

(e) Forfeitures as set forth in the Chippewa Ottawa Resource Authority Commercial, Subsistence, and Recreational Fishing Regulations for the 1836 Treaty Ceded Waters of Lakes Superior, Huron and Michigan, Section XXVI(c), (d), and (e).

(f) Any other penalty provided for by the civil or criminal code as applicable

(6) Violations committed by the Co-Captain of any code, ordinance or regulation whatsoever in furtherance of the Captain's commercial fishing operation, other than any criminal offense and the violation identified in subsection (5) above, shall be the responsibility of the Captain.

(7) Notwithstanding subsection (6) above, a Captain and Co-Captain may choose to execute an agreement wherein the Co-Captain assumes all liability for violations of any code, ordinance or regulation whatsoever, committed by the Co-Captain in furtherance of the Captain's commercial fishing operation, other than any criminal offense and the violation identified in subsection (5) above.

(8) The administration is hereby charged with implementing the issuance of Co-Captain's licenses pursuant to this Section and is further charged with promulgating what policies and procedures it deems necessary to effectuate the forgoing.

(9) A Co-Captain's license may only be fished in that portion of Lake Huron identified by the 2000 Consent Decree at Section VII-A as MH-1 pursuant to the following.:

(a) A Co-Captain license issued for a temporary illness, injury or emergency may be issued for no more than sixty days. If a Captain requires a Co-Captain, subsequent to the expiration of a prior Co-Captain, such a subsequent Co-Captain license may be issued upon further documentation of the continuing illness, injury or emergency. For purposes of this subsection "prior" shall mean a Co-Captain within the last ninety days.

(b) A Captain shall provide documentation demonstrating the temporary illness, injury or emergency or the permanent illness sufficient to demonstrate that said temporary illness, injury or emergency or the permanent illness or injury renders the Captain physically incapable of performing commercial fishing activities.

20.107 Subsistence Fishing Rules.

(1) This section governs subsistence fishing activity by members of the Sault Ste. Marie Tribe of Chippewa Indians.

(a) Fishing activity means fishing for, catching, taking or attempting to fish or catch, or take any species of fish from treaty waters, and includes all related activities which occur in or on the water, and the process of loading or unloading fish, nets, or related gear, in or from a boat.

(b) No member shall sell or offer for sale any species of fish harvested under a subsistence license.

(2) Gear used for subsistence fishing shall comply with the following:

(a) Subsistence fishing activity means fishing with a hook and line, spear or a single gill net not exceeding 300 feet in length for personal and family use and not for sale or exchange.

(b) Subsistence nets in the St. Mary's River system shall not exceed 100 feet in length.

(3) Subsistence fishing shall be subject to the following regulations:

(a) Any tribal member regardless of age shall have in his possession a valid tribal identification card while engaged in subsistence fishing activity. A member using a gill net for subsistence purposes shall have in his possession a netting permit issued pursuant to sub. (4).

(b) A tribal member shall have in his possession a valid tribal subsistence netting permit while engaged in subsistence fishing activity with a net.

(c) A tribal member engaged in subsistence netting activity may be assisted by a member of his/her family or household.

(d) No subsistence netting permit shall be issued to a member of a household if any member of the household possesses a state commercial fishing license, a tribal commercial fishing license or helpers license, or a subsistence netting permit.

(e) No tribal member shall engage in subsistence fishing while in possession of a tribal identification card issued to another member.

(f) No tribal member shall sell, give or lend his/her tribal identification card to another person.

(g) No member possessing a subsistence fishing license shall sell, offer to sell, or exchange (barter) fish or fish parts.

(h) Fish captured by subsistence fishers shall not be used for any purpose other than consumption by themselves or their families.

(I) Possession of more than 100 pounds of fish based on the combined weight of all species by a subsistence fisher in any one day is strictly prohibited.

(4) A subsistence netting permit shall be issued to a tribal member upon application and payment of an annual fee, which may be waived by the Tribal Chairman for those who are unable to pay, senior citizens (55 years of age or older) and handicapped. Issuance of permits and netting are subject to the following conditions:

(a) Each applicant for a subsistence netting permit shall identify the location of fishing activity sufficiently in his application to permit conservation officers to locate and identify the net.

(b) Each net in subsistence netting shall be marked with a buoy bearing the subsistence netting permit number of the user.

(c) No subsistence gill net shall be set within 50 feet of another gill net.

(d) Each subsistence netting permittee is required to report his catch on forms provided by the Tribe, and shall verbally report his catch to a tribal conservation officer upon request.

(5) Non-snagging areas may be designated in accordance with this section.

(a) The Tribal Chairman may designate specific areas within the boundaries of any city, village or town as non-snagging areas, provided that notice of such designation is posted and published at least twice.

(b) Within any areas designated as a non-snagging area, it shall be a violation of these rules for any Tribal member to snag or attempt to snag any fish, and the possession of snagging gear in such areas is also prohibited.

(c) "Snagging" as used in this rule is defined to mean the taking or the attempt to take fish by hook, either barbed or unbarbed, through penetration of some part of the fish's body other than the mouth. "Snagging gear" as used in this rule means any pointed hook, barbed or unbarbed, attached to a line or pole in such manner that the weight or sinker is on or below the shank of the hook, or any hook used without bait or lure for fishing.

(6) No member shall unreasonably waste, injure or destroy, or impair fish resources while engaged in subsistence fishing activities.

(7) The fine for a Subsistence License and Gill Net Permit holder, failing to timely file a catch report as required pursuant to Section XXII (b) of the Chippewa Ottawa Resource Authority Fishing Regulations shall be \$25.00.

20.108 Waishkey Bay Closure.

There shall be no netting in that portion of Grid S-1646 which lies west of a line beginning at the west bank of the Waishkey River and ending at Bay Mills Point. This closure shall automatically expire on May 31, 2012.

20.109 Immunity of Tribal Officers.

Tribal conservation officers, tribal employees, tribal judicial officers, tribal attorneys, and the Tribal Board of Directors, shall be immune from civil liability for acts committed in connection with the enforcement of tribal or federal conservation laws and regulations.

20.110 Violations.

Fishing activity conducted contrary to these rules, or contrary to the terms of any license or permit issued by the Tribe, shall constitute a violation of these rules. Violations shall be subject to the penalties provided for in the rules of the Chippewa/Ottawa Treaty Fishery Management Authority.

20.111 Jurisdiction.

The Sault Ste. Marie Chippewa Tribal Court shall have exclusive jurisdiction over any violation of these rules and regulations alleged to have been committed by a tribal member.

20.112 Fishing Vessel Equipment Requirements.

In order to protect members engaged in commercial fishing from potential death, personal injury and property damage which are risks of said activity, any vessel used for commercial fishing purposes in the ceded waters and owned or operated by a tribal member shall carry the following equipment:

(1) Lights. Affixed to the vessel shall be an all around light and a bow-placed dual light which has a red beam on the port side and a green beam on the starboard side, each of which are of sufficient intensity to be visible at a minimum range of two (2) miles.

(2) Visual distress signals. The vessel shall carry:

(a) a distress signal kit (Coast Guard approval series 160-066-8-0), which contains three (3) hand flares, a dye maker, and one (1) distress flag, which is orange-colored canvas with a black square and circle; and

(b) a water proof flashlight.

(3) Personal flotation devices. The vessel shall carry:

(a) a ring life buoy at least 20 inches in size, or a buoyant boat cushion (Coast Guard approved, Type IV PFD), with 60 feet of line attached; and

(b) one (1) life jacket or vest (Coast Guard approved Type I or Type II PFD) for each person on the vessel which has attached thereto a Coast Guard approved light.

(4) Survival craft. Any vessel which carries a crew of four (4) or more persons shall contain a buoyant apparatus, or shall, when underway, maintain an auxiliary fishing craft which is an integral and necessary element of the vessel's normal fishing operations.

20.113 Additional Equipment Requirements for Vessels 26 feet in Length or Larger:

Any commercial fishing vessel which is 26 feet or more in length shall also carry the following equipment:

(1) Fire extinguisher. One (1) B-II or two (2) B-I hand portable fire extinguisher.

(2) Radio. A VHF marine radio for which the vessel owner has a license from the Federal Communications Commission.

(3) Horn or whistle. A foghorn or whistle of sufficient volume to ensure audibility within one (1) nautical mile of the vessel.

(4) Ring life buoy. A ring life buoy at least 24 inches in size with 60 feet of line attached, in place of the smaller ring buoy required in '20.112 (3)(a).

20.114 Additional Equipment Requirements for Vessels 40 feet in Length or Larger.

Any commercial fishing vessel which is 40 feet or more in length shall carry the following equipment, in addition to those requirements contained in '20.112 and '20.113 shall also carry one (1) B-1 or B-2 hand portable fire extinguisher mounted in a bracket in the machinery space area of the vessel.

20.115 Dockside Inspection.

Any vessel utilized for commercial fishing activities shall be inspected by enforcement personnel at dockside every two (2) years. Proof of inspection shall be demonstrated by the affixing by enforcement personnel to the vessel's outer hull a Coast Guard approved decal.

20.116 Enforcement by U.S. Coast Guard.

United States Coast Guard personnel are authorized to enforce the provisions of "20.112-20.115 of this Code against members of the Tribe and to cite violations to the Sault Ste. Marie Chippewa Tribal Court.

20.117 Penalties for Violation.

(1) Termination of voyage. A vessel which does not carry any one of the required safety equipment items listed in "20.112-20.115 may at the discretion of the enforcement officer, be directed to shore and no person may thereafter operate the vessel for any other purpose but to attain landing.

(2) Civil remedial penalties. The owner of a vessel shall be cited for any violations of "20.112-20.115, and may be subject to a civil remedial money penalty for each violation of not more than \$250.00.

(3) Vessel use restrictions. No vessel may be utilized for commercial fishing which has been found to violate '20.112-20.115 until its owner provides documentation to the Court that the violation has been remedied through acquisition of the lacking equipment.

20.118 Escrow of License.

(1) The Conservation Committee may hold a commercial fishing license in escrow for a minor child of a licensed commercial fisherman in cases where the commercial fisherman is deceased or seriously injured.

(2) A commercial fishing license will be held in escrow until the minor child reaches the age of 24 years old. Once the child reaches the age of 18 years, the license may be issued in the child's name upon request. If the child does not request to have the license issued by the time the child reaches 24 years of age, the license will revert to the Sault Ste. Marie Tribe of Chippewa Indians .

20.119 Ice Fishing Regulations.

(1) No member may be allowed to fish with more than 10 tip-ups at one time.

(2) Each tip-up must be clearly marked with the member's name and address

20.120 Access to Vessels.

(1) Inter-Tribal Fisheries and Assessment Program, or any successor entity, employees, or a designee, are empowered to board and ride on any vessel used for commercial fishing during ongoing commercial fishing operations.

- (2) Employees carrying out activities pursuant to this section are hereby prohibited from reporting any activity they witness upon a commercial fishing vessel that may violate this Chapter, C.O.R.A. Fishing Regulations or the 2000 Consent Decree.
- (3) It shall be a violation of this Chapter for a Captain, Co-Captain or Helper to:
- (a) Refuse an employee's request to board a commercial fishing vessel; or
 - (b) Intentionally through inaction or action cause an employee to be unable to board a commercial fishing vessel, including, but not limited to, violating any policies and procedures promulgated for the conduct of this section.
- (4) Violations of this section shall be punishable by:
- (a) \$100.00 for the first offense
 - (b) \$200.00 for the second offense
 - (c) Suspension of commercial fishing operations for a seven day period for the third offense.
 - (d) Suspension of a commercial fishing operations for a fourteen day period for all additional offenses beyond a third offense.
- (5) A Captain penalized pursuant to subsection (4)(c) or (d) is prohibited from:
- (a) Obtaining a Co-Captain, or
 - (b) Causing another individual to fish his or her commercial fishing nets.
- (6) A Captain penalized pursuant to subsection (4)(c) or (d) shall be required to, as may be applicable, either;
- (a) Remove their gill nets from the water; or
 - (b) Render their trap net pots incapable of holding fish.

20.121 Emergency Orders.

(1) The Chairman or Designee is authorized to issue an emergency fisheries management order for the purpose of ensuring that the Tribe and or the fishery do not suffer harm as a result of a fisheries issue whose negative consequences may be averted via action pursuant to this section.

(2) Any action taken pursuant to this section shall be immediately noticed to the Board of Directors in such a way as fully convey the reason for the action and immediately noticed to Captains.