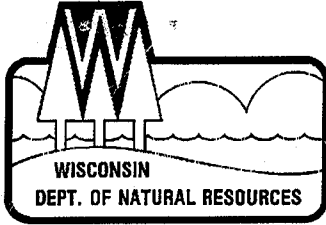


# Clearinghouse Rule 96-174



## State of Wisconsin \ DEPARTMENT OF NATURAL RESOURCES

Tommy G. Thompson, Governor  
George E. Meyer, Secretary

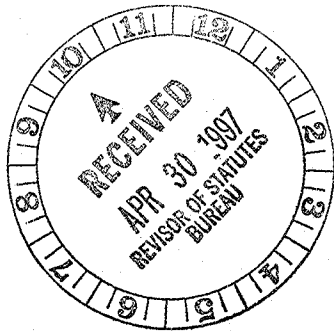
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STATE OF WISCONSIN )  
 ) SS  
DEPARTMENT OF NATURAL RESOURCES )

TO ALL TO WHOM THESE PRESENTS SHALL COME, GREETINGS:

I, George E. Meyer, 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-51-96 was duly approved and adopted by this Department on February 26, 1997. 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 2nd day of April, 1997.



(SEAL)

*George E Meyer*  
George E. Meyer, Secretary

7-1-97

96-174

Quality Natural Resources Management  
Through Excellent Customer Service



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

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The Wisconsin Natural Resources Board proposes an order to repeal NR 25.10(1)(b)7. and 26.23 (2)(a); to amend NR 25.06(1)(a)(intro.), 1. to 4., 25.09(1)(a)3.bm.3), d., (b)2., 25.10(1)(b) 4. and 6., 26.23(1)(a) and (b); to create NR 25.09(1)(b)9., 25.10(1)(b)9. and (c) relating to the Lake Superior fisheries management plan

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FM-51-96

Analysis Prepared by Department of Natural Resources

Statutory authority: ss. 29.174(3) and 227.11(2)(a), Stats.

Statutes interpreted: ss. 29.174(2)(a), 29.30 and 29.33, Stats.

This rule will implement the terms of the fisheries management plan for lake Superior agreed to by the State and the Red Cliff and Bad River Bands of Chippewa. The changes include new quota allocations between the State and the Bands, refuge and restricted-use area modifications, and an allowance for increased fishing effort (feet of net) during periods 1 and 2 in exchange for a requirement that live lake trout be returned to the water.

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

NR 25.06(1)(a) Lake trout. (intro.) The total allowable annual harvest of lake trout by state and tribal commercial fishers and tribal home use fishers and under par. (b) during the open season in Wisconsin waters of Lake Superior east of Bark Point (WI-2) and west of Bark point (WI-1) shall be determined by the natural resources board based upon recommendations from the ~~department, the U.S. fish and wildlife service and the Great Lakes fishery commission.~~ No lake trout quota is established for the waters of Lake Superior west of Bark Point for state or tribal commercial and tribal home use fishers. All lake trout harvested by state and tribal commercial and tribal home use fishers in these waters shall be deducted from the lake trout quota established for the waters of Lake Superior east of Bark Point state/tribal biological committee which consists of state, tribal and national biological service representatives.

1. The total allowable commercial and home use harvest in waters of Lake Superior east of Bark Point may not exceed ~~50,600~~ 59,510 lake trout ~~during the open season.~~ The total allowable commercial and home use harvest in waters of Lake Superior west of Bark Point may not exceed 4,430 lake trout.

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 5,710 lake trout, and from the waters of Lake Superior west of Bark Point may not exceed 1,430 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 ~~39,600~~ 53,800 lake trout ~~during the open season. The Red Cliff and Bad River bands shall inform the department of the extent and method of the allocation between commercial and home use fishers.~~ 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 west of Bark Point may not exceed 3,000 lake trout. 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 50% for the Bad River band and 50% for the Red Cliff band, or by any other equitable method.

4. All lake trout caught in gill nets not less than ~~4 1/2~~ 4 7/16 inch stretch measure set in waters less than 330 feet (55 fathoms) deep shall be kept and tagged except during November 28 through May 31 live lake trout may be released. 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 harvested by commercial and home use fishers shall be tagged in accordance with sub. (3).

SECTION 2. NR 25.09(1)(a)3.b.m.3) is amended to read:

NR 25.09(1)(a)3.b.m.3) The following catch-per-unit-of-efforts (CPEs) shall be used for the lake trout open season of November 28, ~~1993~~ 1995 to September 30, ~~1994~~ 1997:

period 1 - ~~15.9~~ 15.6

period 2 - ~~11.9~~ 22.5

period 3 - ~~4.6~~ 5.1

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

NR 25.09(1)(a)3.d. Shall be tagged by the licensed commercial fisher using the gill net with an informational tag, supplied by the department, on ~~each~~ the buoy ~~line 10 feet below the water's surface~~ staff above the water line. 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.

SECTION 4. NR 25.09(1)(b)2. is amended to read:

NR 25.09(1)(b)2. May be set, placed or operated only by permit issued under s. NR 25.10(4) in that part of Lake Superior lying between a line extending due north ~~from the harbor entrance at Cornucopia in section 34, township 51 north, range 6~~ of a point one mile east of the mouth of the Iron river in section 34, township 50 north, range 9 west, Bayfield county, and a line extending due north from the mouth of the Bad river in section 17, township 48 north, range 2 west, Ashland county, ~~and~~ including all of the Apostle Islands area.

SECTION 5. NR 25.09(1)(b)9. is created to read:

NR 25.09(1)(b)9. Entrapment nets fished in the area west of Bark Point and also in the area known as the Van Tassells Point area described in s. NR 25.10(1)(c) may harvest only whitefish and lake herring.

SECTION 6. NR 25.10(1)(b)4. is amended to read:

NR 25.10(1)(b)4. All waters less than 90 feet (15 fathoms) deep lying between a point extending due north from the mouth of the Iron river in section 34, township 50 north, range 9 west, and a line extending due north from the mouth of the Cranberry river at Herbster in section 5,

township 50 north, range 7 west, all in Bayfield county except float nets described in s. NR 25.09(1)(a)2.c. may be fished from October 15 to December 31, a minimum distance of 1/2 mile from shore.

SECTION 7. NR 25.10(1)(b)6. is amended to read:

NR 25.10(1)(b)6. All waters less than 72 feet (12 fathoms) deep lying between a line extending due north from the mouth of the Cranberry pier at Herbster in section 5, township 50 north, range 7 west, and a line extending due north from the northernmost point of Roman (Quarry) point in section 29, township ~~50~~ 51 north, range 6 west, all in Bayfield county, except that portion of Bark bay lying southwesterly of a line beginning at Roman (Quarry) point and extending northwesterly to Bark point in section 24, township ~~50~~ 51 north, range 7 west, all in Bayfield county, which shall be open from April 1 through May 31.

SECTION 8. NR 25.10(1)(b)7. is repealed.

SECTION 9. NR 25.10(1)(b)9. is created to read:

NR 25.10(1)(b)9. Those waters less than 35 fathoms lying east of a line extending due north from the northwest corner of the Gull Island refuge as described in s. NR 26.23(1)(a) in management grids 1311, 1312, 1211 and 1212.

SECTION 10. NR 25.10(1)(c) is created to read:

NR 25.10(1)(c). No commercial fishing gear of any kind except by permit issued under sub. (4) for the taking of whitefish and lake herring only from June 1 to August 15 may be used, set, placed or operated in the following waters: the area from the easterly most tip of Houghton Point, section 27, township 49 north, range 4 west, Bayfield county, northerly along the shoreline to the entry to the city of Bayfield marina, then easterly to Point Defroid on Madeline island, section 30, township 50 north, range 3 west, Ashland county, then southerly along the western end of the

island to the tip of Grants Point, section 6, township 49 north, range 3 west, Ashland county, then southerly to Chequamegon Point on the western tip of Long island, section 13, township 49 north, range 4 west, Ashland county, thence southwesterly to the eastern tip of Houghton Point, except that float nets as described in s. NR 25.09(1)(a)2.c. may be fished under the ice only, gill nets of not less than 4 7/16 inch minimum stretch measure may be fished under the ice and not from a boat north of latitude 46° 45' at a minimum depth of 19 fathoms, gill nets of not greater than 1 3/4 inch stretch measure may be fished for smelt and herring under the ice, but must be at least 1/2 mile from the mouth of any trout stream, and smelt pound nets may be allowed by permit from ice out to May 15.

SECTION 11. NR 26.23(1)(a) is amended to read:

NR 26.23(1)(a) From the southernmost point of Outer island in a straight line and a southerly direction to the Gull island light and then south to the northernmost point of Michigan island proceeding in a southerly direction following the shoreline of Michigan island to the Michigan island light, then southerly towards the center of the mouth of the Bad river in Ashland county to latitude 46°40'; then due east to the Michigan state line; then northerly along the state line to a point due east of the southerly tip of Outer island; from that point due west to the southernmost point of Outer island, the place of beginning excluding those waters within 2 miles of Outer island and within one mile of the mainland shoreline of Ashland county; except that licensed commercial fishers may fish all that area within these external boundaries wherein the lake bottom lies at a depth of 35 fathoms (210 feet) or more; and, except in those included waters less than 7 fathoms in depth which immediately adjoining Michigan island, gill nets with a mesh size of ~~2 3/4~~; 2 3/4" or less stretch measure may be used from November 5 to December 5 for the taking of ~~Menominee~~ menominee whitefish. Float nets with a maximum stretch measure of 3 inches may be fished in this area for lake herring from November 1 to December 15 out to a bottom depth of 25 fathoms. The nets shall be a minimum of 2 fathoms from the bottom.

SECTION 12. NR 26.23(1)(b) is amended to read:

NR 26.23(1)(b) All waters ~~wherein~~ in which the bottom lies at a depth of less than 35 fathoms northerly from a line beginning 2 miles north of the Outer island light and extending westerly to the north end of North Twin island, then along the shoreline to the south end of North Twin island, then southwesterly to the north end of South Twin island, then northerly to the north end of Rocky island, then along the north shoreline to the northwest point of Rocky island, then northwesterly to the south end of Devils island, then along the shoreline to the north end of Devils island, then westerly to a point 2 1/2 miles north of the York Island Shoal bell buoy. The area within the refuge from the northern tip of Devils island following the compass bearing 300 degrees to the refuge's western boundary, then due south to the southwest corner of the refuge and back to the north tip of Devils island will be open to fishing during period 3 (June 1 to September 30).

SECTION 13. NR 26.23(2)(a) is repealed.

SECTION 14. NR 26.23(2)(intro) and (b) are amended to read:

NR 26.23(2) In order to prevent substantial depletion of the fish supply, the following described spawning area in Lake Superior is hereby created and established as a fish refuge and no person may take, catch, capture, kill or fish for fish in any manner in, on or along ~~the following described area during the prescribed period, both dates inclusive:~~

(b) Lake Superior from the outlet of the cooling water discharge of the Northern States Power Company in the City of Ashland to a line located 50 feet in all directions from the outlet, from March 1 through May 15.

The foregoing rules were approved and adopted by the State of Wisconsin Natural Resources Board on February 26, 1997.

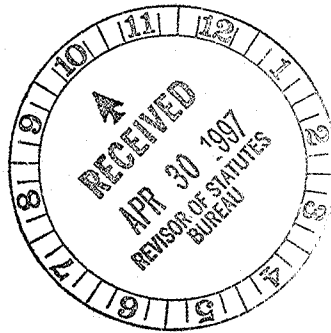
The rules shall take effect on the first day of the month following publication as provided in s. 227.22(2)(intro.), Stats.

Dated at Madison, Wisconsin April 22, 1997

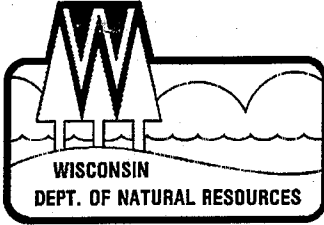
STATE OF WISCONSIN  
DEPARTMENT OF NATURAL RESOURCES

By George E. Meyer  
George E. Meyer, Secretary

(SEAL)







State of Wisconsin \ DEPARTMENT OF NATURAL RESOURCES

Tommy G. Thompson, Governor  
George E. Meyer, Secretary

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April 22, 1997

Mr. Gary L. Poulson  
Assistant Revisor of Statutes  
131 West Wilson Street - Suite 800  
Madison, WI

Dear Mr. Poulson:

Enclosed are two copies, including one certified copy, of State of Wisconsin Natural Resources Board Order No. FM-51-96. These rules were reviewed by the Assembly Committee on Natural Resources and the Senate Committee on Agriculture and Environmental Resources 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,

George E. Meyer  
Secretary

Enc.

