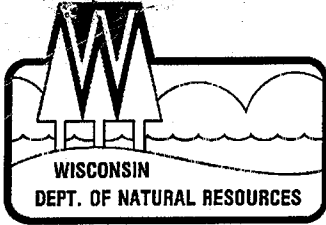


# Clearinghouse Rule 96-041



## State of Wisconsin \ DEPARTMENT OF NATURAL RESOURCES

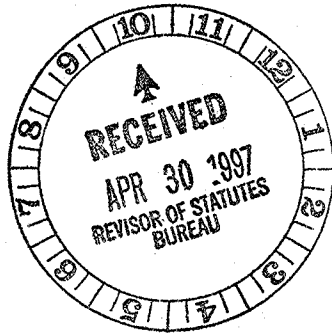
Tommy G. Thompson, Governor  
George E. Meyer, Secretary

Box 7921  
101 South Webster Street  
Madison, Wisconsin 53707-7921  
TELEPHONE 608-266-2621  
FAX 608-267-3579  
TDD 608-267-6897

STATE OF WISCONSIN )  
 )  
DEPARTMENT OF NATURAL RESOURCES ) SS

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-11-96 was duly approved and adopted by this Department on December 4, 1996. 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 22nd day of April, 1997

*George E. Meyer*  
George E. Meyer, Secretary

(SEAL)

96-041

7-1-97

ORDER OF  
THE STATE OF WISCONSIN NATURAL RESOURCES BOARD  
REPEALING AND RECREATING RULES

.....  
The Wisconsin Natural Resources Board adopts an order to repeal and recreate s. NR 25.04(2)(b) relating to the transfer of Great Lakes commercial fishing licenses upon the death or incapacity of the licensee  
.....

FM-11-96

Analysis Prepared by the Department of Natural Resources

Statutory authority: ss. 29.085, 29.174(3), 29.33(1) and 227.11(2)(a), Stats.

Statutes interpreted: ss. 29.085, 29.174(2)(a) and 29.33(2)(d), Stats.

Under current law, the appropriate commercial fishing board (which must act under rules adopted by the department) may grant a request from a Great Lakes commercial fisher licensed under s. 29.33, Stats., to transfer his or her commercial fishing license to another person who meets several common law, statutory and administrative code criteria. Specific criteria are found in ss. NR 25.03 and 25.04 and s. 29.33, Stats. The person must:

- meet residency requirements,
- be at least 18 years of age,
- not already have a commercial fishing license,
- not have a commercial fishing license under suspension or revocation,
- not be charged with a violation that could result in license revocation or suspension,
- show a minimum investment of \$5,000 in commercial fishing gear, and,
- in the case of Lake Michigan, either be an immediate family member of the transferor or have served as a licensed crew member for a licensee for the previous 2 license years.

A transfer application may be submitted anytime. In addition, a licensee may designate on the annual license application a person to whom the licensee wishes that license to be transferred in the event of the licensee's death or incapacity. In the absence of such a designation, or a qualified transferee or a transferee capable of accepting the transfer, under s. NR 25.04(2)(a), Wis. Adm. Code, members of the immediate family of the licensee who meet the eligibility requirements are offered the license in the following order:

1. Spouse;
2. Children, eldest first, then in order of age;
3. Parents;
4. Siblings, eldest first, then in order of age.

If no immediate family members are eligible, the license is extinguished if it is for Lake Michigan or it becomes available for reissuance if it is for Lake Superior.

Currently, by rule, a prospective transferee who relies on commercial fishing gear of a deceased licensee to meet the \$5,000 minimum investment eligibility criterion, where such gear has not been distributed or assigned in accordance with appropriate probate procedures, has 2 years from the date of acceptance of the transfer to meet this eligibility requirement. During that time, the license is held in abeyance by the department. However, if any other eligibility criteria are not met at the time the license is offered, the department must offer the license to the next person in the order, if one exists.

This rule revision adopts a more liberal rule for license transfers upon the death or disability of a commercial fisher. (This rule revision is a companion to proposed Order No. FM-7-96, which adopts similar, more liberal rules for individual licensee catch quota transfers upon the death or disability of commercial fishers.) If a designated transferee or immediate family member initially fails to meet any of the eligibility criteria (for example, the person does not meet residency requirements or is only 17 years old), this revision will allow the department to hold the license in abeyance for up to 2 years, giving the person time to qualify for licensing. In cases where it is apparent to the department that the person cannot possibly qualify within 2 years (for example, if the person is only 14 years old or if the person is permanently incapacitated), the department would be able to offer the license to the next person in line without waiting for the 2-year qualification period to end.

This rule revision makes it less likely that a deceased or incapacitated fisher's license will be extinguished because of the lack at the time of the fisher's death or incapacitation of a qualified designated transferee or immediate family member.

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SECTION 1. NR 25.04(2)(b) is repealed and recreated to read:

NR 25.04(2)(b) If, under the criteria of s. 29.33, Stats., and this chapter, a prospective transferee under this subsection is not eligible to receive a license at the time it is offered,

but he or she could become eligible within 2 years, the department shall offer the license to the person. If the person accepts the license within 30 days of the offer, the person shall have 2 years from the date of acceptance to show that he or she meets the eligibility requirements of s. 29.33, Stats., and this chapter, during which time the license shall be held in abeyance by the department. However, if it becomes apparent to the department that the person cannot become eligible within 2 years from the date of acceptance; if the person fails to become eligible within the 2 year period; or if the person does not accept the offer within 30 days, the department shall offer the license to the next prospective transferee under this subsection, if any exist.

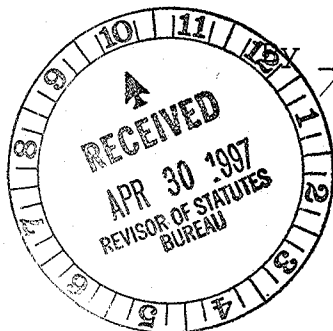
The foregoing rules were approved by the State of Wisconsin Natural Resources Board on \_\_\_\_\_.

The rules contained herein 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.

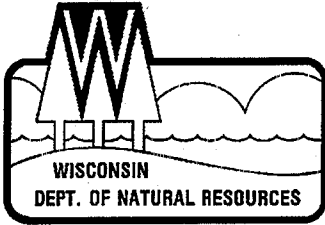
Dated at Madison, Wisconsin April 22, 1997.

STATE OF WISCONSIN  
DEPARTMENT OF NATURAL RESOURCES

*George E. Meyer*  
\_\_\_\_\_  
George E. Meyer, Secretary



(SEAL)



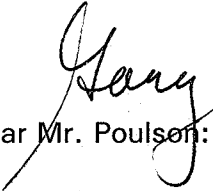
State of Wisconsin | DEPARTMENT OF NATURAL RESOURCES

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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-11-96. 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.

