

CR 89-137



State of Wisconsin \ DEPARTMENT OF NATURAL RESOURCES

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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. LE-53-89 was duly approved and adopted by this Department on November 16, 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 here-
unto set my hand and affixed the
official seal of the Department at
the Natural Resources Building in
the City of Madison, this 19th
day of January, 1990.

Bruce B. Braun
Bruce B. Braun, Deputy Secretary

(SEAL)

3-1. 90

ORDER OF THE STATE OF WISCONSIN NATURAL RESOURCES BOARD
CREATING RULES

RECEIVED

IN THE MATTER of creating ch. NR 13,
of the Wisconsin Administrative Code
pertaining to Chippewa Indian treaty
hunting, trapping and gathering rights

JAN 25 1990

Revisor of Statutes
Bureau

LE-53-89

Analysis Prepared by Department of Natural Resources

Authorizing statutes: ss. 23.09(2), 23.11, 27.01(2)(j), 29.085, 29.174,
227.11(2)(a) and 227.24, Stats.

Statutes interpreted: Chs. 23, 26 to 31, 95, 97, 167, 340 to 350 and 939 to
948, Stats.

The creation of ch. NR 13 will result in a set of rules regulating Chippewa
Indian off-reservation hunting, trapping, and gathering based on the treaty
rights recognized by Lac Courte Oreilles Band v. Voigt, 700 F. 2d 341 (7th
Cir. 1983) and Lac Courte Oreilles Chippewa Ind. v. State of Wis.,
653 F. Supp. 1420 (W. D. Wis. 1987).

SECTION 1. Chapter NR 13 is created to read:

Chapter NR 13
Regulation of Chippewa Treaty Rights Participants

Subchapter I - General Provisions

NR 13.01 Purpose and applicability
NR 13.02 Definitions
NR 13.03 Identification
NR 13.04 Restrictions and department authority
NE 13.05 Exceptions and modifications

Subchapter III - Hunting and Trapping

- NR 13.30 Restrictions
- NR 13.32 Statutory modifications and exceptions
- NR 13.34 Modifications to administrative code relating to migratory game bird hunting
- NR 13.36 Modifications to administrative code relating to hunting & trapping small game and protected wild animals
- NR 13.38 Modifications to administrative code relating to deer hunting
- NR 13.37 Modifications to administrative code relating to trapping small game, furbearers and protected animals
- NR 13.40 Modifications to administrative code relating to handguns and crossbows
- NR 13.42 Modifications to administrative code relating to baiting, hunting hours and highways
- NR 13.44 Modifications to administrative code relating to bear hunting

Subchapter I.

GENERAL PROVISIONS

Note: Chapter NR 13 is a direct result of the off-reservation treaty rights first recognized in Lac Courte Oreilles v. Voigt, 700 F. 2d 341 (7th Cir. 1983). This rule does not actually amend other state statutes. Rather, it represents the Department's interpretation of how these laws must be interpreted or limited in order to comply with the general limitations on state regulatory authority expressed in Lac Courte Oreilles v. State of Wisconsin, 668 F. Supp. 1233 (W.D. Wis. 1987) and the specific limitations expressed in the regulatory phase of the Voigt litigation. (See e.g., Lac Courte Oreilles v. State of Wisconsin, 707 F. Supp. 1034 (W.D. Wis. 1989).

Chapter NR 13 will serve four purposes:

1. It provides the federal court with the State's litigation position in the ongoing Chippewa off-reservation treaty rights litigation.
2. The rule provides the State with a set of regulations for those species on which the court has not yet ruled. The state has acknowledged that certain of the current state laws do not meet the aforementioned reasonableness standards for enforcement of Chippewa off-reservation treaty rights.
3. The rule provides a set of back-up regulations for those species on which the court has already ruled. In Lac Courte Oreilles v. State of Wisconsin, 668 F. Supp. 226 (W.D. Wis. 1988) the court accepted the Chippewa Off-Reservation Code as the primary set of regulations applicable to off-reservation treaty rights. However, it allowed for enforcement of state law should the Chippewa fail to enact or enforce their code. It is expected that a similar pattern will prevail for all species covered by ch. NR 13.
4. Should the federal court rule in future trials that the Chippewa Off-Reservation Code does not preempt state law, ch. NR 13 will serve as the primary set of regulations for Chippewa off-reservation treaty rights.

Assuming that the federal court rules in the trials on deer, small game, furbearers and other species that the tribal off-reservation code is to be the primary method of regulating the off-reservation harvest, ch. NR 13 may

eventually serve only as a backup set of regulations to be used in the event a tribe fails to enact or enforce the tribal code mandated by the court.

Chapter NR 13 is written to be a comprehensive set of regulations dealing with all aspects of the off-reservation treaty harvest. The first permanent rule enactment includes all introductory and general materials (including those for fishing and gathering) and specific rules for hunting and trapping. The specific rules for fishing and gathering will be added at a later date.

Note: This chapter contains a number of provisions for which modifications have been added to reflect limitations on the state's authority as a result of the litigation arising from Lac Courte Oreilles v. Voigt, 700 F. 2d 341 (7th Cir. 1983). The modifications are placed in this chapter rather than done as a actual change to the underlying statute or administrative code provision due to the applicability of the Voigt decision to only enrolled members of the Chippewa bands and the need for a single document summarizing all regulations dealing with off-reservation treaty rights.

NR 13.01 PURPOSE AND APPLICABILITY. (1) PURPOSE. This chapter is intended to regulate the off-reservation treaty rights of treaty rights participants recognized by Lac Courte Oreilles Band v. Voigt, 700 F. 2d 341 (7th Cir. 1983) to the extent permissible under Lac Courte Oreilles v. State of Wisconsin, 668 F. Supp. 1233 (W.D. Wis. 1987).

(2) APPLICABILITY. (a) Treaty rights participants. This chapter is intended to apply to treaty rights participants when hunting, fishing, spearing, trapping or gathering in areas of the ceded territory subject to the treaty rights recognized in Lac Courte Oreilles v. Voigt, 700 F. 2d 341 (7th Cir. 1983).

(b) Walleye and muskellunge. Regulations pertaining to walleye and muskellunge are applicable to treaty rights participants only upon a failure of that member's band to comply with the order of the court in Lac Courte Oreilles Band of Lake Superior Chippewa v. Wisconsin, 707 F. Supp. 1034 (W.D. Wis. 1989).

(c) Wild rice. Regulations pertaining to wild rice are applicable to treaty rights participants only upon a failure of that member's band to comply with the wild rice regulatory phase consent decree signed by District Judge Barbara B. Crabb on November 1, 1989.

(d) General. Where applicable, provisions of this chapter dealing with sharing or checking of gear, possession, transactions and transfer apply to any person.

NR 13.02 DEFINITIONS. In addition to definitions established in ss. NR 10.001, 12.001, 19.001 and 20.015, the following definitions apply to this chapter.

(1) "Ceded territory" means the territory in Wisconsin ceded by the Chippewa Indians to the United States in the Treaty of 1837, 7 Stat. 536, and in the Treaty of 1842, 7 Stat. 591. A map of the ceded territory is found in the appendix to United States v. Bouchard, 464 F. Supp. 1316 (W.D. Wis. 1978).

(2) "Department" means the department of natural resources.

(3) "Enrolled Chippewa tribal member" means an individual listed on the official roll of one of the Chippewa bands entitled to exercise off-reservation treaty rights under Lac Courte Oreilles v. Voigt, 700 F. 2d 341 (7th Cir. 1983).

(4) "Gill net" means any net set to capture fish by entanglement rather than entrapment.

(5) "Ice fishing" means taking, capturing or killing fish or fishing for any variety of fish at any time through an artificial hole in the ice.

(6) "Management unit", "hunting zone" and "management zone" mean those management units established for deer in s. NR 10.28, black bear hunting zones established in s. NR 10.30 and Canada goose management zones established in s. NR 10.31.

(7) "Public lands" means land currently held in fee title by federal, state or local governments or lands held under the forest crop or managed forest land programs but only to the extent such lands are required to be open to public hunting and fishing.

(8) "Remaining tribal quota" means the difference between the tribal quota and the cumulative harvest of the particular species by all treaty rights participants using all harvest methods permissible under this chapter. The cumulative harvest includes all harvest to the date that the remaining tribal quota is calculated. If the cumulative harvest exceeds the tribal quota, the remaining tribal quota shall be zero (0).

(9) "Safe harvest" means a level of harvest meeting the guidelines of Lac Courte Oreilles Band of Lake Superior Chippewa v. Wisconsin, 707 F. Supp. 1034 (W.D. Wis. 1989) 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 and 27% of the population of adult muskellunge. The margin of safety shall assure 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 shall be used. The margin of safety used depends upon the age of the population estimate and whether a regression model was used.

(10) "Snare" means a steel cable device in the form of a noose with a stop, lock and swivel which is set to capture an animal by the body, neck or foot.

(11) "Spear fishing" means taking or attempting to take a fish by means of a hand held spear or other similar device which is directed by the spearer to impale the target fish. Spearing may include the use of an artificial light.

(12) "Tribal quota" or "TQ" means the total number of a particular species which may be harvested annually from a given body of water, management unit, hunting zone or management zone by all treaty rights participants.

(13) "Treaty rights participant" means an enrolled Chippewa tribal member exercising off-reservation rights under Lac Courte Oreilles Band v. Voigt, 700 F. 2d 341 (7th Cir. 1983).

NR 13.03 IDENTIFICATION. A treaty rights participant shall be issued a photo identification card by his or her band and shall carry the card on his or her person when exercising treaty rights. Treaty rights participants shall display their photo identification card upon request by state or local law enforcement personnel, state biologists or state, federal or local property managers. A treaty rights participant is not required to have a state hunting, fishing, trapping or ricing license.

NR 13.04 RESTRICTIONS AND DEPARTMENT AUTHORITY. (1) DEPARTMENT AUTHORITY. The following statutory and administrative code provisions are unaffected by Lac Courte Oreilles v. Voigt, 700 F. 2d 341 (7th Cir. 1983):

(a) Statutory provisions.

1. Sections 23.09 and 23.11 Powers of the department.
2. Section 23.10 Conservation wardens.
3. Section 23.115 Designation of trails, etc.
4. Section 23.15 Sale of state owned lands under the jurisdiction of the department of natural resources.
5. Section 23.27 Natural areas; definitions; importance; inventory; acquisition; sales.
6. Section 23.28 State natural areas; designated state natural areas.
7. Section 23.29 Wisconsin natural areas heritage program.
8. Section 23.30 Outdoor recreation program.
9. Section 23.305 Leasing of department land for recreational purposes.
10. Section 23.31 Recreation resources facilities.

11. Section 23.32 Wetlands mapping.
12. Section 26.07 Money, how disposed of.
13. Section 26.08 Leases and licenses.
14. Section 26.22 Sales, etc.
15. Section 26.30 Forest insects and diseases; department jurisdiction; procedure.
16. Ch. 28 Public forests.
17. Section 29.02 Title to wild animals.
18. Section 29.03 Public nuisances (modified by s. NR 13.05(4)).
19. Section 29.06 Sale of confiscated game and apparatus.
20. Section 29.08 Interstate comity.
21. Section 29.085 Department to regulate hunting and fishing in interstate waters.
22. Section 29.09 Hunting, trapping and fishing; licenses and other approvals; issuance. (applicable only when a license or approval is required)
23. Section 29.092(2)(n) Hunter education and firearm safety; instruction fee; certificate of accomplishment.
24. Section 29.092(5)(a) Guide license.
25. Section 29.092(6) Trapping and fur dealer licenses and taxidermist permits.
26. Section 29.092(7)(h) Wholesale fish dealer license.
27. Section 29.092(8)(c) through (f) Relating to private fish hatchery fees.
28. Section 29.092(9) Bird and game farms, related activities and wildlife in captivity; licenses, tag; permits.
29. Section 29.092(10) Scientific collector permit.
30. Section 29.092(13) Fees for duplicate approvals (applicable only when a license or approval is required).

31. Section 29.092(15) Issuing fee (applicable only when a license or approval is required).

32. Section 29.093 Fish and wildlife; effective periods; restrictions (applicable only when a license or approval is required).

33. Section 29.137(2)(a) Relating to the definition of bait.

34. Section 29.137(5) Relating to department rule authority for taking, handling, and storing of bait.

35. Section 29.137(7) Relating to issuance of permits for taking bait.

36. Section 29.137(8) Relating to bait from private fish hatcheries.

37. Section 29.17 Scientific collector permit.

38. Section 29.174 Conservation of fish and game; powers of department.

39. Section 29.175 Nongame species.

40. Section 29.225 Hunter education and firearm safety programs; certificate of accomplishment.

41. Section 29.24 Hunting and trapping by landowners.

42. Section 29.255 Training of hunting dogs and rules for dog trials.

43. Section 29.283(1) Relating to rules for ice fishing shanties.

44. Section 29.336 Description of nets; use of.

45. Section 29.42(3) Mounted collections.

46. Section 29.49(1)(b) Relating to permits to serve game to guests.

47. Section 29.50 Propagation privileged.

48. Section 29.51(1) State fish hatcheries.

49. Section 29.51(2) Transplantation of fish.

50. Section 29.54(1) Relating to state propagation of wild mammals and birds.

51. Section 29.544(1) and (2) Relating to title wild rice and powers of the department.

52. Section 29.55 Wild animals for parks.

53. Section 29.555 Public hunting and fishing grounds.
54. Section 29.579 Domestic fur-bearing animal farms.
55. Section 29.59 Removal of wild animals.
56. Section 29.598 Wildlife damage abatement programs; wildlife damage claim program.

57. Section 29.605 Giving away of predatory animals to public zoos.
58. Section 29.62 Removal of injurious rough fish.
59. Section 29.623 Control of detrimental fish.
60. Section 29.625 Permit to take rough fish.

(b) Administrative code provisions.

1. Ch. NR 1 Natural resources board policies.
2. s. NR 10.03(1) and (2) Relating to birds causing depredation.
3. s. NR 10.102(1) Bear quotas.
4. s. NR 10.104(1) Relating to the management of the deer herd.
5. s. NR 10.104(7). Deer harvest quotas.
6. s. NR 10.117 Deer season modification.
7. s. NR 10.28 Deer management units.
8. s. NR 10.29 Wild turkey hunting zones.
9. s. NR 10.30 Black bear hunting zones.
10. ch. NR 12 Wildlife damage and nuisance control.
11. s. NR 19.01 Approval deadlines (applicable only when an approval is required).
12. s. NR 19.03 Control of muskrats on cranberry marshes.
13. s. NR 19.07 Shooting preserves.
14. s. NR 19.11(1) through (4) Relating to scientific collector permits.
15. s. NR 19.75-19.83 Relating to the wildlife damage abatement and claims program.

16. s. NR 20.03(1)(intro) Relating to open and closed seasons, size and bag limits and measurements.

17. s. NR 20.03(4) Relating to special regulations for toxicant-treated waters.

18. s. NR 20.04(3) Special waters-lakes.

19. s. NR 20.07(3) Relating to taking rough fish by hand.

20. s. NR 20.07(4) Relating to taking certain fish by spear in designated waters.

21. s. NR 20.14 Department permitted to take fish.

22. s. NR 20.15 Control of detrimental fish.

(2) RESTRICTIONS UNRELATED TO TREATY RIGHTS. The following statutory and administrative code provisions are unaffected by Lac Courte Oreilles Band v. Voigt, 700 F. 2d 341 (7th Cir. 1983) and are not intended to be modified, except as expressly provided, by any provision of this chapter:

(a) Statutory provisions.

1. Section 23.33 All-terrain vehicles.

2. Section 23.40 Environmental impact statement.

3. Section 26.12(5) Relating to setting fires - intensive protection areas.

4. Section 26.14 Forest fires, law enforcement, police power of wardens, compensation, penalties, civil liability.

5. Section 26.19 Destruction of forest protection equipment or notices.

6. Section 26.21 Civil liability for forest fires.

7. Ch. 27 Public parks and places of recreation. (modified by s. NR 13.05(9)).

8. Section 29.288 Throwing refuse in waters; abandoning automobiles, boats or other vehicles.

9. Section 29.29(3) Deleterious substances.

10. Section 29.64 Resisting conservation warden.
 11. Section 29.641 False impersonation of warden.
 12. Section 29.642 Incorrect information.
 13. Section 29.643 Changing approval.
 14. Section 29.644 Breaking seals of department.
 15. Section 29.645 Larceny of game.
 16. Ch. 30 Navigable waters, harbors and navigation.
 17. Ch. 31 Regulation of dams and bridges affecting navigable waters.
 18. Section 167.26 Leaving unguarded ice holes.
 19. Section 167.31 Safe use and transportation of firearms and bows.
 20. Chs. 340 to 349. Relating to laws regulating motor vehicles.
 21. Ch. 350 Snowmobiles.
 22. Chs. 939 to 948 Relating to laws regulating crimes.
- (b) Administrative code provisions.
1. Ch. NR 5 Boat regulations and registration.
 2. Ch. NR 6 Snowmobile standards certification.
 3. Ch. NR 30 Forest fire control.
 4. ss. NR 45.01 through 45.03, 45.04(1)(b) through 45.08 and 45.10 to the end. Relating to miscellaneous regulations on state lands (modified by s. NR 13.05(9)).

(3) ENFORCEMENT IMPLEMENTATION. The following statutory provisions are directly related to and required for the enforcement of this chapter and shall be applicable to treaty rights participants:

- (a) Section 23.50 to 23.90 Relating to procedures used in forfeiture actions.
- (b) Section 23.99 Parties to a violation.
- (c) Section 26.01 Definition.
- (d) 26.06(1) Relating to enforcement of timber laws.
- (e) Section 26.98 General penalty.

- (f) Section 26.99 Parties to a violation.
- (g) Section 29.01 General definitions.
- (h) Section 29.05 Police powers; searches; seizures.
- (i) Section 29.07 Assistance of police officers.
- (j) Section 29.65 Civil actions for damages caused by law violations.
- (k) Section 29.99 General penalty provisions.
- (l) Section 29.995 Penalties; repeaters.
- (m) Section 29.996 Parties to a violation.
- (n) Section 29.997 Natural resources assessments.
- (o) Section 29.998 Natural resources restitution payments.
- (4) GENERAL RESTRICTIONS. Subject to the modifications and exceptions

in s. NR 13.04(5), the following provisions shall be applicable to treaty rights participants:

- (a) Statutory provisions.
 - 1. Section 23.095 Malicious waste of natural resources.
 - 2. Section 29.134 Fur dealers regulated (modified by s. NR 13.05(11)(a)).
 - 3. Section 29.135 Wholesale fish dealer license (modified by s. NR 13.05(11)(a)).
 - 4. Section 29.136 Taxidermists (modified by s. NR 13.05(11)(a)).
 - 5. Section 29.137(9) Relating to molesting bait traps.
 - 6. Section 29.165 Guide licenses.
 - 7. Section 29.39 Possession during close season or in excess of bag limit (modified by s. NR 13.05(1)).
 - 8. Section 29.395 Game, possession in open season.
 - 9. Section 29.415 Endangered and threatened species protected.
 - 10. Section 29.42(1) Approval necessary (modified by s. NR 13.05(4)).
 - 11. Section 29.42(2) Nests and eggs.

12. Section 29.425 Possession and sale of live game animals and fur-bearing animals.
13. Section 29.427 Possession, sale, release and destruction of live skunks.
14. Section 29.43(1)(4) & (5) Relating to transportation during the close season (modified by s. NR 13.05(2)).
15. Section 29.44 Interstate transportation of game (modified by s. NR 13.05(1) and (2)).
16. Section 29.47 Transportation of fish.
17. Section 29.475 Wildlife on Indian reservations protected (modified by s. NR 13.05(3) and (6)).
18. Section 29.48 Sale of game or fish (modified by s. NR 13.05(11)).
19. Section 29.49 Serving of game to guests (modified by s. NR 13.05(11)).
20. Section 29.513 Permit for private management.
21. Section 29.515 Trespass to state fish hatchery.
22. Section 29.52 Private fish hatcheries.
23. Section 29.535 Introducing fish and game.
24. Section 29.56 Game or wildlife refuge.
25. Section 29.57 Wildlife refuges.
26. Section 29.572 Game farms; license.
27. Section 29.573 Pheasant and quail farms; department control; shooting license.
28. Section 29.574 Game bird and animal farms.
29. Section 29.575 Fur animal farms.
30. Section 29.578 Deer farms; venison serving permits.
31. Section 29.585 Wildlife exhibit licenses.
32. Section 29.586 Humane, adequate and sanitary care of wild animals.
33. Section 29.60 Use of poison and explosives; pole traps.

(b) Administrative code provisions.

1. ch. NR 16 Game farms and exhibits.
2. ch. NR 17 Dog trials and training.
3. s. NR 19.05 Release and importation of fish and wildlife.
4. s. NR 19.07 Shooting preserves.
5. s. NR 19.11(5) Permit usage.
6. s. NR 19.12 Tagging the carcasses of wild animals, birds and fish taken on Indian reservations (modified by s. NR 13.05(3) and (6)).
7. s. NR 19.13 Disposition of deer accidentally killed by a motor vehicle.
8. s. NR 19.25 Wild animal protection.
9. s. NR 19.28 Taxidermy.
10. ch. NR 27 Endangered and threatened species.

(5) ADDITIONAL GENERAL RESTRICTIONS. (a) Equipment use. Treaty rights participants may not share fishing, trapping, hunting or spearing gear with nontribal members and may not permit nontribal members to tend their gear.

(b) Assisting. No person other than treaty rights participants may assist with or otherwise tend the fishing, trapping, hunting or spearing gear of treaty rights participants.

(c) Tag and permit use. Tags and permits issued or authorized by the department for use by treaty rights participants may not be transferred to or possessed by nontreaty rights participants unless specifically authorized by this chapter.

(d) Off-reservation land. Treaty rights participants may not hunt on the following public lands:

1. Campgrounds, beaches and picnic areas;
2. School forests, landfills and gravel pits where deer hunting is prohibited and where notice of the prohibition is clearly posted;

3. Land within incorporated areas except at the time and in the manner that hunting is allowed by the appropriate unit of government;

4. Any state park except those parks where deer gun or archery is permitted, subject to the provisions of s. NR 13.38.

5. Any other public land on which hunting or shooting is prohibited for public safety purposes.

NR 13.05 EXCEPTIONS AND MODIFICATIONS TO S. NR 13.04. (1) SEASONS AND BAG LIMITS. Whenever a regulatory provision incorporated by this chapter in s. NR 13.04 refers to a season, possession limit or bag limit, the season, possession limit or bag limit of this chapter supersedes any other administrative code.

(2) TRANSPORTATION. The transportation restrictions in s. 29.43(1), Stats., shall apply only to fresh fish. In s. 29.44, Stats., a tribal identification card may be substituted for a license.

(3) CLOSED SEASONS. For the purpose of s. 29.475, Stats., and s. NR 19.12, the state's general closed season is applicable to the removal of fish and game from the reservation on which it has been harvested.

(4) SUBSTITUTED PROVISIONS. (a) Public nuisances. Section 29.03, Stats., is applicable only to the extent the articles are possessed or used in violation of this chapter.

(b) Approval necessary. The restrictions of s. 29.42(1), Stats., are not applicable to treaty rights participants with appropriate tribal identification.

(5) PROSECUTIONS. The department may, at its discretion or by agreement with the bands, refer prosecutions of treaty rights participants to the appropriate tribal court. If this is done, tribal penalties shall apply.

(6) TAGGING. (a) Tagging abbreviations. Whenever any provision of this chapter requires that an item be tagged (except when the tag is furnished

by the department), the tag shall include the name, address and tribal affiliation of the treaty rights participant. Members of the Chippewa bands shall use the following initials to indicate tribal affiliation:

1. Bad River - "BR";
2. Keweenaw Bay - "KB";
3. Lac Courte Oreilles - "LCO";
4. Lac du Flambeau - "LDF";
5. Mille Lacs - "MLC";
6. Mole Lake - "ML";
7. Red Cliff - "RC"; and
8. St. Croix - "SC".

(b) Tagging game animals. In addition to the provisions of s. 29.475, Stats., and s. NR 19.12, the following species shall at all times be tagged prior to removal from the reservation:

1. Bear
2. Bobcat
3. Deer
4. Fisher
5. Otter
6. Sturgeon

(7) TRIBAL GOVERNMENT PARTICIPATION. The department may enter into agreements with the Chippewa bands to establish procedures for the issuance of tags and permits and the registration of animals by the bands, provided:

(a) The department determines that the tribal procedures would be in substantial compliance with this chapter;

(b) The bands agree to record all necessary information as requested by the department; and

(c) The bands agree that all information recorded under par. (b) shall be available to the department upon request.

(8) INCIDENTAL OR ILLEGAL TAKE. Any animal taken in violation of this chapter may be turned over to the appropriate Chippewa band. The animal may not be returned to the violator, his or her immediate family or other members of the hunting party.

(9) ADMISSION FEES. Admission fees to department properties are not required of treaty rights participants who are solely involved in hunting, fishing or gathering activities authorized by this chapter.

(10) COSTS. The department may not charge a fee for issuance of written permission under this chapter. All other charges for approvals, including campground fees, shall be applicable to the treaty rights participant.

(11) COMMERCIALIZATION. (a) Intra-tribal transactions. The requirements of ss. 29.134, 29.135, 29.136, 29.48 and 29.49, Stats., are not applicable to legally taken fish and game so long as the transactions involve only treaty rights participants.

(b) Transactions involving nontreaty rights participants. Treaty rights participants may sell or barter fish and game otherwise subject to s. 29.48 or 29.49, Stats., only under the following conditions:

1. All treaty rights participants selling or bartering fish and game shall have a license authorizing sale issued by their respective band. Written records of all individuals who are licensed to sell or barter shall be made available to the department upon request.

2. All treaty rights participants involved in sale or barter shall keep records of all transactions subject to the following requirements:

a. The records shall be kept on forms provided by the department.

b. The records shall be open to inspection by the department at the place they are retained.

c. Inspection may take place between 8 a.m. and 8 p.m. or whenever the business is open.

d. The records shall be subject to inspection by state and local health officials.

3. All sellers or barterers shall provide buyers with a bill containing the name of the treaty rights participant and buyer, the date, amount and type of fish or game and the treaty rights participant's tribal sale or barter license number.

4. The bill shall be a 4-part form furnished by the department. Copies shall be given to the buyer, band and department. The treaty rights participant's copy of the form shall be a record open to inspection.

5. All carcasses or part thereof shall be tagged, stamped or labeled by the seller or barterer prior to sale or barter indicating the band origin. Whole fish shall be tagged with tags furnished by the department. Fish tags shall remain with the fish until it is consumed, smoked or fileted. Smoked or fileted fish shall be stamped or labeled in the manner provided for smoked lake trout by s. NR 25.16(2).

6. Packaged meat shall be labeled as "Chippewa".

7. Treaty rights participants serving fish or game to nontribal member shall obtain a tribal serving permit and maintain records indicating the source of the fish or game, any tags used on the animal and the ultimate disposition. These records shall be open to department inspection.

8. Live fish and fish eggs may not be sold or bartered except as allowed by s. 29.48, Stats.

SUBCHAPTER II - FISHING AND SPEARING

Note: This subchapter is being created as a separate order by the department.

SUBCHAPTER III

HUNTING AND TRAPPING

NR 13.30 RESTRICTIONS. Subject to the modifications and exceptions in ss. NR 13.32(1) and (2) the following provisions are applicable to treaty rights participants engaged in hunting or trapping:

- (1) STATUTORY PROVISIONS.
 - (a) Section 29.101 Lead shot shell restrictions.
 - (b) Section 29.104(4)(b) Relating to crossbow permits.
 - (c) Section 29.107 Special deer hunting permits. (modified by s. NR 13.38)
 - (d) Section 29.1085 Bear harvest permits. (modified by s. NR 13.44)
 - (e) Section 29.109(2) Authorization. (modified by s. NR 13.44)
 - (f) Section 29.125 Reports of hunters.
 - (g) Section 29.13(1)(d) Tags. (modified by s. NR 13.32)
 - (h) Section 29.13(2) Relating to marking of shipments.
 - (i) Section 29.13(3) Relating to reporting.
 - (j) Section 29.13(5) Relating to molesting of traps.
 - (k) Section 29.22 General restrictions on hunting (modified by s. NR 13.32).
 - (l) Section 29.221 Duties on accidental shooting.
 - (m) Section 29.222 Hunting accident; failure to report.
 - (n) Section 29.226 Requirement for certificate of accomplishment to obtain hunting approval for certain persons born on or after January 1, 1973.
 - (o) Section 29.227 Restrictions on hunting and use of firearms by persons under 16 years of age.
 - (p) Section 29.23 Hunting with aid of airplane prohibited.
 - (q) Section 29.245 Shining animals.
 - (r) Section 29.256 Taking homing pigeons.
 - (s) Section 29.27 Regulation of waterfowl blinds.

(t) Section 29.29(1) and (2) Relating to noxious substances and poison bait.

(u) Section 29.40 Possession of deer, heads & skins. (s. 29.40(2) modified by s. NR 13.32)

(v) Section 29.405 Group deer hunting. (s. 29.405(1)(b) modified by s. NR 13.32)

(w) Section 29.41 Skins of fur-bearing animals.

(x) Section 29.45(2), (4) and (5) Relating to transportation of game birds.

(2) ADMINISTRATIVE CODE PROVISIONS.

(a) s. NR 10.01 Open and closed seasons. (modified by ss. NR 13.32 to 13.44)

(b) s. NR 10.02 Protected wild animals. (modified by s. NR 13.36)

(c) s. NR 10.03 Birds causing depredation.

1. s. NR 10.03(3) Inspection of premises.

2. s. NR 10.03(4) Disposition.

(d) s. NR 10.04 Unprotected wild animals.

(e) s. NR 10.05(1) General hunting.

(f) s. NR 10.06 Hunting hours.

1. s. NR 10.06(1) General hunting.

2. s. NR 10.06(2) Hunting zones.

3. s. NR 10.06(3) Big game and small game hunting.

(g) s. NR 10.07 General hunting.

1. s. NR 10.07(1)(a) Aircraft.

2. s. NR 10.07(1)(b)1. Relating to prohibited devices.

3. s. NR 10.07(1)(d) Molesting.

4. s. NR 10.07(1)(f) Retrieval.

5. s. NR 10.07(1)(g) and (h) Relating to baiting and salt. (modified by s. NR. 13.42)

- 6. s. NR 10.07(1)(i) Dog use.
- (h) s. NR 10.08(1), (2) and (4) Relating to opening day limits, daily bag and field possession limit.
 - (i) s. NR 10.09 Guns, ammunition and other devices.
 - 1. s. NR 10.09(1)(a)1. Slugs or balls.
 - 2. s. NR 10.09(1)(a)2. Size.
 - 3. s. NR 10.09(1)(a)3. Game bird hunting.
 - 4. s. NR 10.09(1)(b) Incendiary shells.
 - 5. s. NR 10.09(1)(c) Guns and devices. (modified by s. NR 13.40)
 - 6. s. NR 10.09(2) Special one-day restriction.
 - 7. s. NR 10.09(3) Bows and arrows restriction.
 - 8. s. NR 10.10(1)(b) Dogs. (modified by s. NR 13.44).
 - (j) s. NR 10.101 Bear hunting.
 - 1. s. NR 10.101(1)(a) Dennded bear.
 - 2. s. NR 10.101(1)(b) Restricted areas.
 - 3. s. NR 10.101(1)(c) Adult bear with cubs.
 - 4. s. NR 10.101(3) Relating to baiting and dog use restrictions.
- (10.101(3)(e) modified by s. NR 13.42)
 - 5. s. NR 10.101(4) Bear carcass tags.
- (k) s. NR 10.102 Bear hunting permits. (modified by s. NR 13.44).
 - 1. s. NR 10.102(2) Application procedure.
 - 2. s. NR 10.102(3) Permit issuance.
 - 3. s. NR 10.102(5) Permit attachment.
 - 4. s. NR 10.102(6) Bear pursuit.
- (l) s. NR 10.103(1) Tags. (modified by ss. NR 13.32 and 13.38)
- (m) s. NR 10.104 Deer hunting permits.
 - 1. s. NR 10.104(1) Finding.
 - 2. s. NR 10.104(2) Application procedure.
- (n) s. NR 10.105 Transportation of deer and bear.

(o) s. NR 10.106 Recording deer and bear. (10.106(2) modified by ss. NR 13.38 and 13.44)

(p) s. NR 10.12 Migratory game bird hunting.

1. s. NR 10.12(1) Prohibited methods. (10.12(1)(c) is modified by s. NR 13.34)

2. s. NR 10.12(2) Possession.

3. s. NR 10.12(3) Open water restrictions.

4. s. NR 10.12(5) Taking methods.

5. s. NR 10.12(6) Tagging.

6. s. NR 10.12(7) Dressing.

7. s. NR 10.12(8) Shipment.

8. s. NR 10.12(9) Importation.

(q) s. NR 10.13 Furbearing animals.

1. s. NR 10.13(1)(a) Hunting. (modified by s. NR 13.36)

2. s. NR 10.13(1)(b)1. Traps and snares.

3. s. NR 10.13(1)(b)2. Bait or scent.

4. s. NR 10.13(1)(b)4. Watersets.

5. s. NR 10.13(1)(b)5. Trap and snare placement. (modified by s. NR 13.37)

6. s. NR 10.13(1)(b)6. Trap and snare use. (modified by s. NR 13.37)

7. s. NR 10.13(1)(b)8. Killer traps and snares.

8. s. NR 10.13(1)(b)9. Steeljawed traps.

9. s. NR 10.13(1)(b)10. Toothed traps.

10. s. NR 10.13(1)(b)11. Minimum waterset.

11. s. NR 10.13(1)(b)12. Trap placement.

12. s. NR 10.13(1)(b)13. Snare specifications.

13. s. NR 10.13(2) Molesting.

14. s. NR 10.13(3)(c) Special checking period.

(r) s. NR 10.145 Recording of bobcat. (modified by s. NR 13.37)

- (s) s. NR 10.27 State park deer hunting.
- (t) Ch. NR 11 Closed areas located within the ceded territory.
- (u) Ch. NR 15 Game refuges located within the ceded territory.
- (v) Ch. NR 18 Falconry.
- (w) s. NR 45.09 Firearms and hunting.

NR 13.32 STATUTORY MODIFICATIONS AND EXCEPTIONS. (1) TRAP TAGS. Trap tags shall conform with the requirements of s. NR 13.05(6). The provisions of s. 29.13(1)(d), Stats., relating to untagged traps remain applicable.

(2) BACK TAGS AND CLOTHING COLOR. Back tags issued by the department and blaze orange clothing shall be worn by treaty rights participants only during the state deer gun season. The back tag is not a valid state license and may not be used as a state carcass tag.

(3) TAGGING. Deer shall be tagged in accordance with s. NR 13.38.

(4) GROUP DEER HUNTING. For purposes of this chapter, the term "Group deer hunting party," as used in s. 29.405, Stats., means 2 or more hunters, each of whom is a treaty rights participant, hunting in a group, all using firearms.

NR 13.34 MODIFICATIONS TO ADMINISTRATIVE CODE RELATING TO MIGRATORY GAME BIRD HUNTING. (1) SEASON. Except as provided in this paragraph, open season for duck and goose hunting shall begin 15 days prior to the season established in s. NR 10.01(1)(b) and continue through the respective seasons established in that paragraph except that Canada goose hunting on the Powell Marsh wildlife area shall close 5 days prior to the opening of the season established in s. NR 10.01(1)(b).

(2) POSSESSION. Migratory game birds in possession or custody of tribal members on ceded lands shall be considered to have been taken on these lands.

(3) HOURS. Legal shooting hours shall be the same as the statewide hours established in s. NR 10.06(2), except on the first day of the statewide migratory game bird season established in s. NR 10.01(1) when shooting hours shall start at 12:00 noon.

(4) HUNTING FROM PIERS, ETC. Treaty rights participants may hunt from piers, dams, docks or similar structures so long as they are publicly owned unless prohibited by the owner for safety purposes.

(5) BAG LIMITS. Bag limits and possession limits for migratory game birds shall be as follows:

(a) Ducks. The daily bag limit is reached when the point value, as established by this paragraph, of the last duck taken plus the total value of ducks already taken during that day reaches or exceeds 100 points. The possession limit for ducks taken off the reservation is double the daily bag limit. Point values shall be as follows:

1. 100 points: Hen mallard, black duck.
2. 70 points: Wood duck, redhead, hooded merganser.
3. 35 points: Drake mallard, pintail, ring-necked duck, goldeneye, bufflehead, all other duck species not listed.
4. 20 points: Blue-winged teal, green-winged teal, widgeon, gadwall, shoveler, scaup, common merganser, red-breasted merganser.

(b) Special scaup-only season. Bag limit of 5 per day; possession limit of 10.

(c) Rest period. If waterfowl distribution in certain locales is significantly altered because of hunting pressure by treaty rights participants as determined by the department, those locales will be closed in 48 hours by department order until noon on the opening day of the general state waterfowl season.

(d) Canada geese. Bag limit 3, possession limit 6.

(e) Other geese. (Snow geese, blue geese, white-fronted geese): Bag limit of 5, including the legal limit of Canada geese specified in par (d) taken, during the open season, and including no more than 2 white-fronted geese; possession limit of 10, minus the number of Canada geese possessed taken during the open season, and including no more than 4 white-fronted geese.

(f) Coot and gallinule. 20 daily, singly or in aggregate; possession limit 40.

(g) Sora and Virginia rails. 25 daily, singly or in aggregate. Possession limit 25.

(h) Common snipe. 8 daily. Possession limit 16.

(i) Woodcock. 5 daily. Possession limit 10.

NR 13.36 MODIFICATIONS TO ADMINISTRATIVE CODE RELATING TO HUNTING SMALL GAME, FURBEARERS AND PROTECTED WILD ANIMALS. The seasons for hunting small game, furbearers and protected animals shall be as follows:

(1) RUFFED GROUSE. Beginning on the day after Labor Day and continuing through January 31.

(2) SNOWSHOE HARE. Year-round.

(3) COTTONTAIL RABBIT. Year-round.

(4) RED, GRAY AND FOX SQUIRREL. Year-round.

(5) COYOTE. Year-round, except that the special closure specified in s. NR 10.01(3)(h)3. is applicable during the deer hunting season established in s. NR 13.38.

(6) RED AND GRAY FOX. Beginning on the Saturday nearest October 10 and continuing through March 1.

(7) RACCOON. Beginning on the Saturday nearest October 10 and continuing through March 1.

(8) BOBCAT. Beginning on the Saturday nearest October 10 and continuing through March 1.

(9) PHEASANTS. Roosters and hens beginning the Saturday nearest October 17 at 12 noon and continuing for 54 consecutive days.

(10) WOODCHUCKS. Year-round.

(11) BEAVER. Year-round.

NR 13.37 MODIFICATIONS TO ADMINISTRATIVE CODE RELATING TO TRAPPING

SMALL GAME, FURBEARERS AND PROTECTED ANIMALS. (1) CLOSED SEASON RESTRICTION.

Traps and snares may not be set or placed during the closed seasons specified in sub. (2).

(2) SEASONS. The seasons for trapping small game and furbearers shall be as follows:

(a) Bobcat. Beginning the Saturday nearest October 10 and continuing through March 1.

(b) Coyote. Year-round.

(c) Cottontail. Year-round.

(d) Raccoon. Beginning on the Saturday nearest October 10 and continuing through March 1.

(e) Red and gray fox. Beginning on the Saturday nearest October 10 and continuing through March 1.

(f) Red, gray and fox squirrel. Year-round.

(g) Snowshoe hare. Year-round.

(h) Mink. Beginning on the Saturday nearest October 21 and continuing through March 1 north of state highway 64; beginning on the Saturday nearest October 28 and continuing through February 28 south of state highway 64.

(i) Muskrat. Beginning on the Saturday nearest October 21 and continuing through May 1 north of state highway 64; beginning on the Saturday nearest October 28 and continuing through April 30 south of state highway 64.

(j) Beaver. Year-round.

(k) Otter. November 15 through March 15.

(l) Fisher. November 15 through December 31.

(3) TRAP AND SNARE PLACEMENT NEAR BEAVER DAMS. A treaty rights participant may place a trap or snare within 15 feet of a beaver dam provided the trap or snare is not placed on or touching the dam. The trap or snare shall be marked by a tag attached to an object above the water line and set near the trap or snare in a visible manner. The tag shall contain the information required by s. NR 13.05(5).

(4) TRAPPING AND SNARING HOURS. Treaty rights participants may trap or snare between the hours of 6:00 a.m. of the opening date for each furbearer and 12:00 midnight of the respective closing dates.

(5) USE OF SNARES. Treaty rights participants trapping off-reservation may use snares only during established tribal small game and trapping seasons subject to the following specifications:

(a) Anchoring and tagging. Snares shall be permanently anchored so as not to drag and shall be tagged with a metal tag marked in a legible manner with the treaty rights participant's name and address.

(b) Manner of set. Snares may not be spring activated and shall be set in a manner which prevents an animal from being suspended off the ground or in the water unless it is attached to a drowning mechanism.

(c) Snare removal dates. Snares set in water shall be removed by May 1. All other snares shall be removed by March 1 except if set for hare or rabbit.

(d) Snare specifications. 1. All snares shall have a mechanical lock, a swivel device on the anchor end and a stop device which will prevent the loop size from exceeding 10 inches in diameter and prevent the loop from closing to less than 2 1/2 inches in diameter.

2. All snare cable or wire shall be made of ferrous metal and have a diameter not exceeding 1/8". Cable or wire may not be made of stainless steel or exceed 5 feet in length.

(e) Maximum number of snares. No more than 30 total snares may be used by any one trapper. For determination purposes, all snares set in water and attached to a common stake or pole shall be counted as a single snare.

(f) Snares set in water. Any snares set in water shall have the snare loop one-half submerged in the water at all times.

(g) Maximum snare loop height. All snares not set in water shall be subject to the following restrictions:

1. The bottom of the loop may not be more than 6" above the ground or, when the ground is snow-covered, no more than 6" above the bottom of a person's footprint made in the snow beneath the snare with full body weight on the foot.

2. All snares not set in water shall be checked every 24 hours.

(6) BOBCAT, FISHER AND OTTER TAGS AND REGISTRATION. (a) Permit. No treaty rights participant may snare, trap, possess, control, shoot or shoot at a bobcat, or snare, trap, possess or control a fisher or otter unless in possession of a valid tag for the animal issued under par. (c).

(b) Quotas. 1. A minimum of 100 bobcat and 75 otter carcass tags shall be allocated to treaty rights participants. The department may allocate additional tags upon a request with the Chippewa bands.

2. Maximum tribal fisher quotas for each fisher management zone as established in s. NR 10.01(4), located within the ceded lands territory shall be based upon the following formula:

state quota x % public land (including forest crop land and managed forest land open to public hunting) x 50%

3. Actual tribal fisher quotas shall be established based on requests of the Chippewa bands provided the requests are submitted to the department prior to August 15, subject to the maximum of subd. 2. Tribal requests shall be based upon past harvest performance and capacity to harvest.

4. The department shall issue fisher carcass tags in an amount sufficient to harvest the tribal quota for each fisher management zone. The number of permits for each zone shall be determined by using treaty rights participant trapping success rate data.

(c) Application procedures. Treaty rights participants may obtain a single bobcat and fisher carcass tag and 2 otter carcass tags from the department on a first-come, first-served basis prior to or during the open season for the species the tag is applied for by requesting such tags from the department. Provided treaty tags are available, treaty participants may apply for and receive another tag if they have utilized previously issued tags and the registration certification slip accompanies the application. The request shall include the species to be trapped, the name and address of the individual and a copy of the individual's tribal photo identification card.

(d) Tagging. Each treaty rights participant shall immediately upon possessing a bobcat, otter or fisher affix a tag issued under this section through the opening of the mouth to the opening of the eye immediately beneath the skin. No person may have a bobcat, otter or fisher pelt in possession or under control unless the tag is attached in the manner described.

(e) Bobcat and fisher carcass retention. Bobcat and fisher pelts shall be separated from the carcass and both the pelt and carcass shall be presented to the department for registration within 10 days after it is killed. The bobcat and fisher carcass may be retained by the department for research purposes.

(f) Registration stations. Bobcat, otter and fisher shall be registered at department stations or by any state conservation warden. Registrants will receive a certification slip which may be used to obtain additional tags.

(g) Possession restrictions. No person may possess raw bobcat, otter or fisher pelts taken by treaty rights participants more than 10 days after the close of the season until the opening date of the following season unless a valid registration tag has been attached and locked by the department.

(h) Transactions. No person may transfer, give, trade, sell or purchase any bobcat, fisher or otter pelt taken by treaty rights participants unless a valid registration tag has been attached in the manner specified in par. (d) and locked through the opening of the eye of each pelt by the department.

(i) Nontransfer. Tags issued under this section to treaty rights participants may not be transferred to any person other than another treaty rights participant.

NR 13.38 MODIFICATIONS TO ADMINISTRATIVE CODE RELATING TO DEER HUNTING.

(1) DEER SEASON. The deer season shall begin the day after Labor Day and continue through the Thursday prior to the state gun deer season established in s. NR 10.01(3)(e). The season shall resume on the Saturday preceding the Thanksgiving holiday and continue through December 31.

(2) TRIBAL ANTLERLESS DEER QUOTA. (a) Minimum antlerless deer harvest limit. The tribal antlerless deer quotas for each management unit located in part or whole within the ceded lands territory shall be at least 25 deer.

(b) Maximum antlerless deer harvest limit. The maximum tribal harvest limit shall be calculated according to the following formula:

The management unit deer harvest quota as calculated under

s. NR 10.103(7) x % public land acreage in the management unit

(including forest crop and managed forest land open to public hunting) x 50%.

(c) Tribal requests and past harvest performance. Tribal quotas for each deer management unit shall be based on annual requests from the Chippewa bands submitted to the department by June 15, the tribe's past harvest performance and may not exceed the maximum harvest limit specified in par.

(b).

(3) DEER HUNTING TAGS. (a) Requirements and issuance procedures. Prior to killing any deer, treaty rights participants shall obtain a numbered metal carcass tag from the department. No more than 2 carcass tags may be issued at a time to any individual treaty rights participant. Treaty rights participants may receive additional tags by presenting a registration form completed by a department registration station indicating that a tag has been used.

(b) Tagging requirement. All deer regardless of sex shall be tagged with a valid metal carcass tag immediately upon killing and before field dressing or moving the deer. For a deer to be properly tagged, the tag shall be placed through the ear and locked. Failure to attach the tag in this manner renders possession of the deer illegal.

(4) ANTLERLESS DEER. (a) Permit requirement. In addition to the tag requirement specified under sub. (3), treaty rights participants shall obtain an antlerless deer permit from the department prior to killing any antlerless deer.

(b) Possession in field requirement. No treaty rights participant may shoot an antlerless deer without being in possession of a valid antlerless deer permit for the management unit where the deer is located at the time of shooting.

(c) Permit validity. Antlerless deer permits shall be valid only in the management unit specified on the permit.

(d) Issuance procedures. The antlerless deer permits will be issued on a first-come, first-served basis according to the following conditions:

1. Up to 2 antlerless deer permits may be issued to any treaty rights participant at any one time.

2. Treaty rights participants may receive additional permits only by presenting a registration form completed by a department registration station indicating that an antlerless deer has been registered or upon presentation of an unused, expired permit.

3. Any antlerless deer taken by bow or crossbow shall be counted against the tribal antlerless deer quota.

4. The department shall issue antlerless deer permits in an amount sufficient to harvest the tribal quota for each management unit. The number of permits for each management unit shall be determined by using tribal hunter success data.

5. Antlerless deer permits applicable to a management unit where 50% of the quota has not been harvested shall be valid only for 14 days, including the day of issuance, or until harvest of an antlerless deer.

6. Antlerless deer permits applicable to a management unit where 50% of the quota has been reached shall be valid only for 7 days including the day of issuance or until harvest of an antlerless deer.

7. No permit will be valid on the day preceding the state gun deer season established in s. NR 10.01(3)(e) or beyond December 31.

8. An antlerless deer permit shall include the date of issuance and expiration and the applicable management unit.

9. Each antlerless deer permit is valid for only one antlerless deer and expires upon the harvest of an antlerless deer.

10. No more than 2 unused antlerless deer permits may be possessed by a treaty rights participant at any one time.

11. Each antlerless deer permit shall bear a number corresponding to the number found on the carcass tag issued to a treaty rights participant.

(5) DEPARTMENT HOURS. Tags and antlerless deer permits shall be issued during normal weekday working hours at department district or area offices within the ceded territory or at other designated department offices.

(6) REGISTRATION. (a) Antlerless deer. Treaty rights participants shall register all antlerless deer at a department authorized registration station in the management unit where the deer is killed or in an adjoining unit provided the deer is transported directly to a station in that adjoining unit no later than 5:00 p.m. on the third working day after the deer is killed. Upon registration of an antlerless deer, the antlerless deer permit shall be retained by the registration station.

(b) Antlered deer. Treaty rights participants shall register antlered deer at a department authorized registration station within the ceded territory by 5:00 p.m. on the third working day after the deer is killed.

(7) DEER HUNTING IN STATE PARKS AND RECREATIONAL AREAS. Where deer hunting is permitted in a state park or recreational area, gun hunting by treaty rights participants is allowed during the state gun deer season through December 31.

(8) TRIBAL IDENTIFICATION CARD. Each treaty rights participant shall possess a tribal identification card and a carcass tag while hunting deer.

NR 13.40 MODIFICATIONS TO ADMINISTRATIVE CODE RELATING TO HANDGUNS AND CROSSBOWS. (1) HANDGUNS. Treaty rights participants may possess handguns authorized by s. NR 10.09(1)(c)1.c. in addition to other types of permissible firearms while hunting deer and bear.

(2) CROSSBOWS. Treaty rights participants may hunt with cross bows which meet the requirements of s. 29.104(4)(b), Stats.

NR 13.42 MODIFICATIONS TO ADMINISTRATIVE CODE RELATING TO BAITING.

HOURS AND HIGHWAYS. (1) BAITING. Treaty rights participants may use bait not authorized in s. NR 10.07(1)(g), including salt, but except honey provided the bait is marked with a metal identification tag stating the treaty rights participant's name, address and tribal affiliation and attached to the nearest tree at eye level and directly facing the bait. All solid material shall be confined to a hole in the ground measuring no more than 2 feet square.

(2) HIGHWAYS. (a) Treaty rights participants may possess loaded and uncased firearms and strung and unenclosed bows in a stationary vehicle provided that the vehicle is parked off the highway and more than 50 feet from the roadway's center.

(b) Treaty rights participants may load, fire or shoot a firearm or bow in or from a stationary vehicle provided the vehicle is parked off the highway and more than 50 feet from the roadway's center.

(c) The exemptions of pars. (a) and (b) are not applicable during the state gun deer season.

(3) HUNTING HOURS. No hunting hours apply for any open season authorized by this chapter from March 1 through August 31.

NR 13.44 MODIFICATIONS TO ADMINISTRATIVE CODE RELATING TO BEAR HUNTING.

(1) BEAR SEASON. The tribal bear hunting season shall begin on the day after Labor day and continue through October 31. Both bait and dogs may be used.

(2) TRIBAL BEAR QUOTA. The tribal bear quotas for each black bear hunting zone established in s. NR 10.30, located in part or whole within the ceded lands territory shall be based upon the following:

(a) Tribal request and past performance. Tribal bear quotas shall be established based on requests from the Chippewa bands submitted to the department by June 15, the tribe's past harvest performance and may not exceed the maximum limit specified in par. (b).

(b) Maximum bear harvest limit. The maximum tribal harvest limit shall be calculated according to the following formula:

The bear harvest quota, as calculated under s. NR 10.102(1), x % public land acreage (including forest crop land and managed forest land open to public hunting) x 50%.

(3) BEAR HUNTING PERMITS. (a) The department shall issue to treaty rights participants bear harvest permits in an amount sufficient to harvest the tribal quota established in sub. (2) for each black bear hunting zone. The number of permits for each black bear hunting zone shall be determined by using tribal hunter success rate data.

(b) No treaty rights participant may kill a bear unless in possession of a valid permit and carcass tag at the point of kill. Permits shall be valid only in the designated black bear hunting zone.

(c) The department shall issue metal carcass tags and bear harvest permits to treaty rights participants upon presentation of the tribal photo identification card. No more than one metal carcass tag may be issued to a participant at a time. An additional metal carcass may be issued to a treaty rights participant upon registration, as provided in s. NR 13.30(2)(o), of a bear tagged with the bear carcass tag previously issued.

(d) Each permit is valid for one bear and expires upon the harvest of a bear. No more than one bear harvest permit may be issued to or possessed by a treaty rights participant at any time.

(e) Each bear harvest permit shall have a number corresponding to the number found on the carcass tag issued to a treaty rights participant.

(f) Each treaty rights participant shall possess a tribal photo identification card while hunting bear.

(g) Dog use restriction. Dogs may be used to hunt bear during the open seasons provided in this section but no more than 6 dogs in a single pack may be used to pursue a bear regardless of the dog ownership.

SUBCHAPTER IV

GATHERING

Note: This subchapter is being created as a separate order by the department.

The foregoing rules were approved and adopted by the State of Wisconsin Natural Resources Board on November 16, 1989.

The rules shall take effect 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 January 19, 1990

STATE OF WISCONSIN
DEPARTMENT OF NATURAL RESOURCES

By Carroll D. Besadny
Carroll D. Besadny, Secretary

(SEAL)

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State of Wisconsin \ DEPARTMENT OF NATURAL RESOURCES

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RECEIVED

JAN 25 1990

Revisor of Statutes
Bureau

January 19, 1990

IN REPLY REFER TO: 1020

Mr. Gary Poulson
Assistant Revisor of Statutes
Suite 702
30 West Mifflin St.
Madison, WI

Dear Mr. Poulson:

Enclosed are two copies, including one certified copy, of State of Wisconsin Natural Resources Board Order No. LE-53-89. 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,


C. D. Besadny
Secretary

Enc.

