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Chapter NR 13

CHIPPEWA TREATY RIGHTS PARTICIPANTS

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Note: Chapter NR 13 was created as an emergency rule effective 8−4−89; emerg. cr. NR 13.10 to 13.196 and 13.50 to 13.57 effective 2−2−90.

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 4 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.

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 an 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. This chapter is intended to regulate 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), *Lac Courte Oreilles v. State of Wisconsin*, 707 F. Supp. 1034 (W.D. Wis. 1989), *Lac Courte Oreilles v. State of Wisconsin*, 740 F. Supp. 1400 (W.D. Wis. 1990), *Lac Courte Oreilles v. State of Wisconsin*, 758 F. Supp. 1262 (W.D. Wis. 1991) and the final judgment thereto entered on March 19, 1991. Where applicable, provisions of this chapter dealing with tending, sharing or checking of gear, transactions including sale and transfer of tags, permits and other approvals also apply to nontreaty rights participants.

History: Cr. Register, February, 1990, No. 410, eff. 3−1−90; r. and recr. Register, May, 1992, No. 437, eff. 6−1−92.

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 or any other area established by the department for management purposes.

(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.

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(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).

History: Cr. Register, February, 1990, No. 410, eff. 3–1–90; am. (6), Register, May, 1992, No. 437, eff. 6–1–92.

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.

History: Cr. Register, February, 1990, No. 410, eff. 3–1–90.

NR 13.035 Allocation. The department may limit the number of permits, tags or quota available to treaty rights participants so as to limit the Chippewa harvest in any harvest or management unit to no more than 50% of the total harvest within that harvest or management unit.

History: Cr. Register, May, 1992, No. 437, eff. 6–1–92.

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. Chapter 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 to wild rice and powers of the department.

52. Section 29.55 Wild animals for parks.

53. Section 29.555 Public hunting and fishing grounds.

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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. Chapter NR 1 Natural resources board policies.

2. Section NR 10.03 (1) and (2) Relating to birds causing depredation.

3. Section NR 10.102 (1) Bear quotas.

4. Section NR 10.104 (1) Relating to the management of the deer herd.

5. Section NR 10.104 (7) Deer harvest quotas.

6. Section NR 10.117 Deer season modification.

7. Section NR 10.28 Deer management units.

8. Section NR 10.29 Wild turkey hunting zones.

9. Section NR 10.30 Black bear hunting zones.

10. Chapter NR 12 Wildlife damage and nuisance control.

11. Section NR 19.01 Approval deadlines (applicable only when an approval is required).

12. Section NR 19.03 Control of muskrats on cranberry marshes.

13. Section NR 19.07 Shooting preserves.

14. Section NR 19.11 (1) through (4) Relating to scientific collector permits.

15. Sections NR 19.75−19.83 Relating to the wildlife damage abatement and claims program.

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

17. Section NR 20.03 (4) Relating to special regulations for toxicant−treated waters.

18. Section NR 20.04 (3) Special waters−lakes.

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

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

21. Section NR 20.14 Department permitted to take fish.

22. Section 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. Chapter 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. Chapter 30 Navigable waters, harbors and navigation.

17. Chapter 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. Chapters 340 to 349 Relating to laws regulating motor vehicles.

21. Chapter 350 Snowmobiles.

22. Chapters 939 to 948 Relating to laws regulating crimes.

(b) *Administrative code provisions.* 1. Chapter NR 5 Boat regulations and registration.

2. Chapter NR 6 Snowmobile standards certification.

3. Chapter NR 30 Forest fire control.

4. Sections 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) Section 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.

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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. Chapter NR 17 Dog trials and training.

3. Section NR 19.05 Release and importation of fish and wildlife.

4. Section NR 19.07 Shooting preserves.

5. Section NR 19.11 (5) Permit usage.

6. Section 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. Section NR 19.13 Disposition of deer accidentally killed by a motor vehicle.

8. Section NR 19.25 Wild animal protection.

9. Section NR 19.28 Taxidermy.

10. Chapter 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.

History: Cr. Register, February, 1990, No. 410, eff. 3−1−90.

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.

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(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 the department inspection.

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

History: Cr. Register, February, 1990, No. 410, eff. 3−1−90.

Subchapter II —Fishing

NR 13.10 Restrictions. Subject to the modifications and exceptions of this subchapter, the following provisions are applicable to treaty rights participants:

(1) STATUTORY PROVISIONS.

(a) Section 29.137 (5m) pertaining to recordkeeping (modified by s. NR 13.12 (12)).

(b) Section 29.148 (4) pertaining to sturgeon tagging.

(c) Section 29.283 (3) pertaining to ice fishing shanties.

(d) Section 29.29 (1) & (2) Explosives; stupefactives and poison bait.

(e) Section 29.30 (2) (e) pertaining to restrictions on the use of nets and setlines (modified by s. NR 13.12 (1)).

(f) Section 29.36 Set or bank poles licenses (modified by s. NR 13.15).

(g) Section 29.37 (3) and (4) pertaining to setlines (modified by s. NR 13.15).

(h) Section 29.38 Clams, clamming and commercial clamming (modified by s. NR 13.12 (10)).

(i) Section 29.47 (6) pertaining to transportation of injurious fish.

(j) Section 29.51 (4) Removal of spawn or fish from state.

(2) ADMINISTRATIVE CODE PROVISIONS.

(a) Section NR 19.06 (1) pertaining to taking fish from or interfering with any fish net or trap placed or authorized by the department.

(am) Section NR 19.06 (2) pertaining to taking fish within 500 feet above or below any net, dam or weir when posted.

(b) Section NR 19.27 (1) pertaining to crayfish regulations (modified by s. NR 13.12 (2)).

(bm) Section NR 19.27 (2) (b)pertaining to frog regulations.

(c) Section NR 19.27 (3) pertaining to turtle regulations (modified by s. NR 13.12 (3)).

(cm) Section NR 19.27 (4) pertaining to additional restrictions on crayfish.

(d) Section NR 20.01 pertaining to closed seasons, bag and possession limits (modified by s. NR 13.12 (1)).

(dm) Section NR 20.03 (1) (intro) (last 2 sentences) pertaining to possession limits, measurements (modified by s. NR 13.12 (4)).

(e) Section NR 20.03 (2) pertaining to sturgeon tagging and registration.

(em) Section NR 20.04 (4) Experimental waters; permits; reports.

(f) Section NR 20.06 (1) (a) pertaining to no fishing during closed season in trout streams.

(fm) Section NR 20.06 (1) (c) pertaining to no fishing near dams.

(g) Section NR 20.07 (1) (b) pertaining to unattended lines, snagging, firearms and pellet guns, implanted telemetry devices (modified by ss. NR 13.12 (5) and 13.15)).

(gm) Section NR 20.07 (1) (c) pertaining to use of bait on treated trout waters.

(h) Section NR 20.07 (1) (d) pertaining to minnow traps on treated trout waters.

(hm) Section NR 20.07 (1) (f) pertaining to determination of bag limit.

(i) Section NR 20.07 (2) (a) pertaining to illegal possession of guns, nets, spears or bow and arrows.

(im) Section NR 20.07 (2) (b) pertaining to tampering with commercial gear.

(j) Section NR 20.07 (4) (a) pertaining to exception for bow and arrow use.

(jm) Section NR 20.07 (5) (a) pertaining to use of gun, bow and arrow or spear on a trout stream.

(k) Section NR 20.07 (7) pertaining to use of goldfish and alewife.

(km) Section NR 20.07 (8) pertaining to snagging.

Removed by Register February 2001 No. 542. For current adm. code see: http://docs.legis.wisconsin.gov/code/admin_code.

(L) Section NR 20.07 (9) pertaining to owner's name on live boxes.

(Lm) Section NR 20.09 (1) (intro.) pertaining to prohibition on dip nets (modified by ss. NR 13.12 (6m) and 13.16).

(n) Section NR 20.09 (2) (a) pertaining to definition of dip net.

(nm) Section NR 20.09 (2) (g) pertaining to use of dip nets to take rough fish.

(o) Section NR 20.09 (3) (b) pertaining to use of dip nets for smelt and suckers.

(om) Section NR 20.09 (3) (e) pertaining to dip nets for smelt on specified lakes.

(p) Section NR 20.10 Minnow nets, traps, and seines (modified by s. NR 13.12 (11) and (12)).

(pm) Section NR 20.11 Whitefish and cisco in inland waters (modified by s. NR 13.14).

(q) Section NR 20.13 (intro.) pertaining to ice fishing.

(qm) Section NR 20.13 (1) Prohibited shelter.

(r) Section NR 20.13 (2) Fish shanties.

(rm) Section NR 20.13 (3) Size of holes for ice fishing (modified by s. NR 13.12 (7)).

(s) Section NR 20.13 (4) Name of owner.

(sm) Chapter NR 21 Wisconsin−Minnesota boundary waters (modified by s. NR 13.12 (8)).

(t) Chapter NR 23 Wisconsin−Michigan boundary waters (modified by s. NR 13.12 (9)).

(tm) Chapter NR 24 Clams (modified by s. NR 13.12 (10)).

(u) Chapter NR 26 Fish refuges.

History: Cr. Register, May, 1991, No. 425, eff. 6−1−91.

NR 13.12 Modifications and exceptions. (1) SUBSTITUTED PROVISIONS. (a) In s. NR 20.01, the applicable seasons, methods, bag and possession limits for treaty rights participants are those of this subchapter.

(b) All references to licensees in s. 29.30, Stats., are deleted and permittees is substituted for the references.

(2) CRAYFISH TRAPPING. The daily lift requirement for crayfish traps in s. NR 19.27 (1) is not applicable to treaty rights participants except when the traps are placed in streams containing trout.

(3) TURTLE TRAP LIMITATION. The limitation on the number of turtle traps and the size limitation on float and tank type traps in s. NR 19.27 (3) are not applicable to treaty rights participants.

(4) POSSESSION LIMIT FOR FRESH FISH. The possession limit in s. NR 20.03 (1) (intro.) applies only to fresh fish. No treaty rights participant may possess more than one bag limit while on the ice or water. The possession limit is not applicable to fresh fish tagged for sale pursuant to s. NR 13.05 (11) (b).

(5) UNATTENDED LINES. As allowed by this chapter, unattended lines may be used for set or bank poles, setlines and ice fishing.

(6) POSSESSION. No treaty rights participant may use or possess a net, on the shore or surface of a body of water during the closed season or on the shore or surface of a body of water not open to netting.

(6m) ROUGH FISH RESTRICTIONS. (a) *Nets and seines.* Dip nets and seines may be used to the extent they are authorized by this chapter.

(b) *Dip netting*. The definition of dip net for rough fish in s. NR 20.09 (2) (a) applies to all dip nets authorized by this chapter.

(7) ICE HOLES. Ice holes used for spearing and dip nets may be no larger than 24 inches by 36 inches and shall be marked in a manner which will identify them as a hazard when unused.

(8) WISCONSIN–MINNESOTA BOUNDARY WATERS. Restrictions, modifications and exceptions in this chapter apply to fishing by treaty rights participants when fishing Wisconsin−Minnesota boundary waters within Wisconsin's jurisdiction.

(9) WISCONSIN–MICHIGAN BOUNDARY WATERS. Restrictions, modifications and exceptions in this chapter apply to fishing by treaty rights participants when fishing Wisconsin−Michigan boundary waters within Wisconsin's jurisdiction.

(10) CLAM HARVEST LICENSES. The provisions regarding clam harvest licenses in s. 29.38, Stats., and ch. NR 24 are not applicable.

(11) MINNOW DIP NETS. The minnow dip net size restriction of s. NR 20.10 (4) (a)2. is deleted.

(12) BAIT DEALERS. Prior to entering into the business of dealing in bait, treaty rights participants shall obtain a free bait dealers permit from the department. This permit shall entitle the permittee to the privileges afforded licensed bait dealers in s. NR 20.10.

History: Cr. Register, May, 1991, No. 425, eff. 6−1−91.

NR 13.13 Notification, safe harvest and pulse fishing. (1) NOTIFICATION. Each band shall, no later than December 1 of each year, identify to the department those lakes to be harvested in the following year by methods for which a permit is required, and for which the bag limit is defined as TQ.

(2) SAFE HARVEST. The department shall, within 30 days of the notification under sub. (1), inform the bands of the safe harvest upon which the tribal quota shall be based for bass, walleye, northern pike, muskellunge and any other species regulated by TQ for each lake identified.

(3) PULSE FISHING. Notwithstanding any other provisions of this subchapter, no safe harvest may be established and no spearing or netting may take place if:

(a) Any combination of spearing or netting occurred on that lake for 2 successive years; and

(b) The aggregate harvest for spearing and netting exceeded 60% of the safe harvest in each year.

(4) TRIBAL QUOTA. The TQ shall be based on a period of ice out to ice out. For the purposes of this subchapter, TQ shall consist of up to 50% of the safe harvest unless otherwise agreed to with the Chippewa bands. Actual tribal quotas shall be based on requests of the Chippewa bands, subject to the 50% maximum past harvest performance and capacity to harvest. Upon agreement with the bands, the department may substitute an appropriate daily bag limit for any species regulated by TQ.

(5) PERMITS. (a) For methods or species for which the bag limit in s. NR 13.14 is specified as TQ, individual bag limits shall be established which are equivalent to the remaining TQ divided by the number of permits issued for any one day on the specified body of water.

(b) Permits may only be issued for waters for which the cumulative tribal harvest has not exceeded the TQ.

(c) Permits are valid only for the person to whom they are issued.

(d) Permits shall be issued by the department unless otherwise provided for pursuant to s. NR 13.05 (7).

(e) In lieu of permits, the department may regulate harvest to prevent the exceeding of the TQ through a system of tags in which each treaty rights participant may take only those numbers of fish for which he or she has tags. The tags shall be locked through the mouth and gill of the fish before it is brought to shore, and shall remain locked on the fish until final consumption.

History: Cr. Register, May, 1991, No. 425, eff. 6−1−91.

Removed by Register February 2001 No. 542. For current adm. code see: http://docs.legis.wisconsin.gov/code/admin_code.

NR 13.14 Seasons, bag limits, total tribal quota, size limits and methods of taking. The following table applies to fishing by treaty rights participants for those kinds of fish and methods listed.

	Kind of fish and locality	Methods permitted	Open season (both dates inclusive)	Individual daily bag limit or TQ	Maximumor minimum size limits
(1)	*Largemouth and smallmouth bass.*				
(a)	All waters north of the line described in s. NR 20.03 (1) (a) 9	Hook & line & ice spearing	First Saturday in May to March 1	5 of each species	12 inch minimum
(b)	All waters not under par. (a)	Hook & line & ice spearing	First Saturday in May to March 1	5 of each species	14 inchminimum
(c)	All lakes north of the line described in s. NR 20.03(1) (a) 9	Open water spearing & snagging subject to s. NR 13.17	Year round or until TQ is reached.	TQ	12 inch minimum
(d)	All lakes not under par. (c)	Open water spearing & snagging subject to s. NR 13.17	Year round or until TQ is reached.	TQ	14 inch minimum
(e)	All lakes north of the line described in s. NR 20.03(1) (a) 9	Setline, set or bank pole subject to s. NR 13.15	First Saturday in May to March 1	5 of each species	12 inch minimum
(f)	All lakes not under par. (e)	Setline, set or bank pole subject to s. NR13.15	First Saturday in May to March 1	5 of each species	14 inch minimum
(g)	All lakes north of the line described in s. NR 20.03(1) (a) 9	Traps, seine, fyke net or dip net subject to s. NR 13.16	Year round or until TQ is reached.	TQ	12 inch minimum
(h)	All lakes not under par. (g)	Traps, seine, fyke net or dip net subject to s. NR 13.16	Year round or until TQ is reached.	TQ	14 inch minimum
(i)	Lakes 1000 acres or larger north of the line describedin s. NR 20.03 (1) (a) 9	Gill nets subject to s. NR 13.18	June 1 to March 1 or until TQ is reached.	TQ	12 inch minimum
(j)	All lakes 1000 acres or larger not under par. (i)	Gillnets subject to s. NR 13.18	June 1 to March 1 or until TQ is reached.	TQ	14 inch minimum
(2)	*Walleye.*				
(a)	All waters	Hook & line & ice spearing	First Saturday in May to March 1	5	No size limits
(b)	All lakes	Open water spearing & snagging subject to s. NR 13.17	Year round or until TQ is reached.	TQ	Maximum of 20inches; each fisher may take one fish 20−24 inches per day
(c)	All lakes	Traps, seine, fyke net or dip net subject to s. NR 13.16	Year round or until TQ is reached.	TQ	Males onlyduring spawning season. Maximum of 18 inches thereafter.
(d)	All lakes	Setline, set or bank pole subject to s. NR 13.15	First Saturday in May to March 1	5	No size limits
(e)	Lakes 1000 acres or larger	Gill nets subject to s. NR 13.18	June 1 to March 1 or until TQ is reached.	TQ	Nosize limits
(3)	*Northern pike.*				
(a)	Nemadj river, Allouez bay, St. Louis river, Little Pokegama bay, Pokegama bay, Kimballs bay, Douglas county	Hook and line	Saturday nearest May 15 to March 1	2	No size limits
(b)	All waters not under par. (a)	Hook and line	FirstSaturday in May to March 1	5	No size limits
(c)	All lakes	Set line, set or bank pole subject tos. NR 13.15	First Saturday in May to March 1	5	No size limits
(d)	All lakes	Open water & ice spearing & snagging subject to s. NR 13.17	Year round or until TQ is reached.	TQ	Maximum of 30 inches
(e)	All lakes	Traps, seine, fyke net or dip net subject to s. NR 13.16	Year round or until TQ is reached.	TQ	No size limits
(f)	Lakes 1000 acres or larger	Gill nets subject to s. NR 13.18	June 1 to March 1 or until TQ is reached.	TQ	No size limits
(4)	*Rock or lake sturgeon.*				
(a)	All waters	Hook and line, setline, set or bank pole subject to s. NR 13.15	June 1 to March 1	1 per year all methods	45 inch minimum
(b)	All lakes	Spearing & snagging subject to s. NR13.17	June 1 to March 30	1 per year all methods	45 inch minimum
(c)	All lakes	Nets other than gill nets incidental to fishing other species	Year round	1 per year all methods	45 inch minimum
(d)	Lakes 1000 acres or larger	Gill nets subject to s. NR 13.18	June 1 to March 1	1 per year all methods	45 inch minimum
(5)	*Muskellunge.*				
(a)	All waters	Hook and line	Third Saturday in May to March 1	1 per day	Minimum 32 inches.
(b)	All lakes	Spearing & snagging subject to s. NR13.17	Year round or until TQ is reached.	TQ	40 inch maximum

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(c)	All lakes	Nets other than gill nets incidental to fishing other species	Year round or until TQ is reached.	TQ	40 inch maximum
(d)	Lakes 1000 acres or larger	Gill nets subject to s. NR 13.18	June 1 to March 1	TQ	40 inch maximum
(6)	**Trout and salmon.**				
(a)	All waters	Hook and line:	Seasons, bag and size limits, and gear restrictions as established in s. NR 20.03 except that a year round season is established for lake trout and a season of January 1 to September 30 is established for other trout in inland waters except spring ponds and Lake Superior tributaries.		
(b)	All waters	All other methods	Permits may be issued where biologically sound after consultation with the bands.		
(7)	*White bass, rock bass, bluegill, crappie, pumpkinseed, yellow perch, bullheads, yellow bass, catfish.*				
(a)	All waters	Hook and line	Year round	None	No size limits
(b)	All waters	Spearing subject to s. NR 13.17 &traps, seines, fyke net or dip net subject to s. NR 13.16	Year round	TQ	No size limits
(c)	Lakes over 1000 acres	Gill nets subject to s. NR13.18	June 1 to March 1	TQ	No size limits
(8)	*Cisco and whitefish.*				
(a)	All waters	Hook and line	No closed season	25 pounds plus one fish	No size limits
(b)	All waters	Traps, seine, fyke net subject tos. NR 13.16; dip net, spearing subject to s. NR 13.17	No closed season	TQ	No size limits
(c)	Lakes over 1000 acres	Gill nets subject to s.NR 13.18	June 1 to March 1	TQ	No size limits
(9)	*Rough fish.*				
(a)	All waters	All methods except gill nets	No closed season	None	No size limits
(b)	Lakes over 1000 acres	Gill nets subject to s.NR 13.18	No closed season	None	No size limits
(c)	Lakes under 1000 acres	Gill nets may be fished by department permit			
(10)	*Paddlefish or spoonbill catfish.*				
	All waters	—	No open season		

History: Cr. Register, May, 1991, No. 425, eff. 6–1–91.

NR 13.15 Use of set or bank poles and setlines. **(1)** PERMIT REQUIRED. No treaty rights participant may use, set, lift, attend or have in possession while on the inland waters any set or bank pole or setline unless he or she possesses on his or her person a permit authorizing use of such gear issued by the department.

(2) GENERAL REQUIREMENTS. (a) A set or bank pole permit authorizes the use of a maximum of 10 set or bank poles and a setline permit authorizes the use of one setline.

(b) No treaty rights participant may use, set, lift, attend or have in possession while on the inland waters any set or bank pole or setline permitted to another person.

(c) No treaty rights participant may possess sport angling equipment while setting, lifting or attending a set or bank pole or setline.

(3) SETLINE FLAG. Setline flags and buoys shall meet the requirements of this subsection.

(a) Any treaty rights participant using a setline shall place and maintain at one end of the setline a white flag 10 inches square or larger held by a pole or staff 3 feet or more above the surface of the water or bank. The flag may not be placed in the main channel of any navigable waterway.

(b) The flag shall be numbered with figures which are at least 3 inches high and which correspond to the number of the permit authorizing the setline's use.

(c) The flag staff or pole may not be more than 2 $^1/_2$ inches in diameter and the portion of the staff extending above the water or bank shall be banded horizontally with alternate black and white markings 2 inches to 6 inches wide.

(d) When a buoy is used to hold the setline's flag staff or pole, the buoy shall be cylindrical in shape, have a diameter of 15 inches or less, and be banded horizontally with alternate black and white markings 2 inches to 6 inches wide.

(4) TAGS REQUIRED. Each set or bank pole shall have attached securely to it and each setline shall have attached securely to its flag staff or pole a metal tag stamped with the number of the permit authorizing its use.

(5) LINES AND HOOKS. (a) Set or bank poles and setlines may not use stainless steel hooks.

(b) A set or bank pole may not be equipped with more than one line which may not have more than 2 hooks.

(c) A setline may have not more than 10 hooks when fished in open water, nor more than 20 hooks when fished under the ice.

(6) BAIT. All types of bait except live crayfish and live fish greater than 5 inches in length may be used on waters open to set or bank pole and setline fishing.

(7) FREQUENCY OF LIFTING AND HOURS. (a) Each set or bank pole and setline shall be lifted and the catch removed at least once each day following the day it was set.

(b) No treaty rights participant may set, attend or lift a set or bank pole or setline between one–half hour after sunset and one hour before sunrise.

History: Cr. Register, May, 1991, No. 425, eff. 6–1–91.

NR 13.16 Use of traps, seines, dip nets and fyke nets. **(1)** PERMIT REQUIRED. No treaty rights participant may use, set, lift, attend or have in possession while on the inland waters any trap, seine or fyke net unless he or she possesses on his or her person a permit authorizing the use of the gear issued by the department. Each permit shall include a limitation on the number of fish to be taken so as to assure that the TQ is not exceeded.

(2) GENERAL REQUIREMENTS. (a) A trap, seine, dip net or fyke net permit authorizes the use of traps, seines, dip nets or fyke nets by the permittee.

(b) Permittees may share in the use of a trap, seine, dip net or fyke net permitted to another treaty rights participant.

(c) No treaty rights participant may possess sport angling equipment, or other harvest equipment requiring a permit, while engaged in setting, lifting or attending a trap, seine, dip net or fyke net.

(3) TAGS REQUIRED. Each trap, seine or fyke net shall have attached securely to it a metal tag stamped with the number of the permit authorizing its use.

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(4) FREQUENCY OF LIFTING. Each trap or fyke net shall be lifted and the catch removed at least once each day following the day it was set.

(5) NOTICE. The permittee shall notify the department 24 hours in advance prior to placement or use of traps, seines, dip nets or fyke nets in any lake.

History: Cr. Register, May, 1991, No. 425, eff. 6–1–91.

NR 13.17 Use of spears. (1) PERMIT REQUIRED. No treaty rights participant may use or have in possession while on the inland waters any spear unless he or she possesses on his or her person a permit issued by the department authorizing the use of a spear.

(2) GENERAL REQUIREMENTS. (a) Permittees may share in the use of a spear permitted to another treaty rights participant.

(b) No treaty rights participant may possess sport angling equipment, or other harvest equipment requiring a permit, while engaged in spearing.

(c) No treaty rights participant may use a spear unless it has a minimum of 3 barbed tines at least 4 $^1/_2$″ long. Each tine shall have at least one barb which extends perpendicular from the tine at least 1/8¿. Smaller tines and barbs may be used when spearing for panfish.

(3) USE RESTRICTED. (a) No spear may be used on a body of water for which permits for the use of other harvesting equipment have been issued in accordance with s. NR 13.15, 13.16 or 13.18.

(b) No treaty rights participant may spear on open water unless notice of the spearing activity is first given to the department. The notice shall be given at least 4 hours before the spearing activity takes place.

(c) The department may require as a permit condition that treaty rights participants use only designated landings when engaged in spearing activity. When such is required, only designated landings may be used.

History: Cr. Register, May, 1991, No. 425, eff. 6–1–91.

NR 13.18 Gill nets. (1) PERMIT REQUIRED. Prior to gill netting, a treaty rights participant shall obtain a permit from the department allowing the use of gill nets. The permit shall be issued daily using the following procedures and contain the following information.

(a) Name of the person to whom issued.

(b) Lake name and county for which the permit is valid.

(c) Date the permit is valid.

(d) The maximum length in feet of gill net that can be fished by the permittee.

(e) The allowable number of each species for which a tribal quota has been established that the permittee may possess during the day.

(f) The specific mesh size (stretch mesh in inches) of gill net which the permittee is allowed to use.

(g) An appropriate form for reporting the nightly catch to the department.

(h) A unique permit number.

(2) ISSUANCE ON WALLEYE LAKES. At the request of a tribal member, the department shall issue a daily permit allowing the use of a specified amount of gill net in a specified lake containing walleyes. The permit shall also limit the number of each species for which a tribal quota has been established that may be in possession during that day. The following procedures shall be used when issuing permits for lakes containing walleye.

(a) Permits may only be issued for waters for which cumulative tribal harvest has not exceeded the established TQ and for which the department has determined the average length of the spring walleye population.

(b) The maximum allowable length of gill net in feet which can be set shall be the allowable number of walleyes as shown on the permit multiplied by 10.

(c) The allowable mesh size measured in inches stretch mesh shall be determined from the spring walleye population average length and the following chart:

Spring Length	Allowable Mesh Size
<13.5″	2.5″
13.5″ – 16.49″	3.0″
16.5″ – 18.49″	3.5″
18.5″ – 20.49″	4.0″
>= 20.5″	4.5″

(d) The department may issue any number of permits for a given lake for each night, but the total number of any species for which a tribal quota has been established when totalled for all permits issued may not exceed the remaining tribal quota for that lake.

(3) ISSUANCE ON NON–WALLEYE LAKES. At the request of a tribal member, the department shall issue a daily permit allowing the use of gill nets in a specified lake. The permit shall limit the number of each species that may be in possession during that day consistent with limits established in s. NR 13.14. The following procedures shall be used when issuing permits:

(a) For species for which a TQ has been established, permits may only be issued for waters for which the cumulative tribal harvest has not exceeded the established TQ.

(b) The department may issue any number of permits for a given lake for each night, but the total number of any species for which a TQ has been established when totalled for all permits issued may not exceed the remaining TQ for that lake.

(4) GEAR RESTRICTIONS. Treaty rights participants shall comply with the following regulations while using gill nets:

(a) All nets shall be marked with a buoy conforming to uniform marking requirements of the U.S. coast guard. In addition, the buoy shall be marked with the name and permit number of the treaty rights participant.

(b) Nets set with a topline within 3 feet of the surface shall be buoyed at 500 foot intervals.

(c) No part of the net may be set in water less than 10 feet in depth.

(d) All crayfish shall be removed from the nets and returned to the water or killed before taking the nets from the water.

(e) Nets may not be set before 5:00 p.m. and shall be completely removed from the water by 10:00 a.m. the following day. No nets may remain in the water other than during these times.

(5) WATERS OPEN TO GILL NETTING. (a) Gill nets may be used only in lakes over 1000 acres.

(b) For lakes containing walleye, only those over 1000 acres for which the department has spring fyke net samples to determine the average length of walleyes are open to gill netting. Only the 2 most recent spring sampling periods may be used.

History: Cr. Register, May, 1991, No. 425, eff. 6–1–91.

NR 13.19 Reporting and monitoring. (1) All treaty rights participants fishing by permit shall complete catch reports in the manner required by the department.

(2) If catch reports are not returned, the department may reduce the TQ by the maximum bag limit allowed to the non–reporting permittee.

(3) The department may inspect and measure the catch of all permittees and monitor the setting and lifting of nets.

History: Cr. Register, May, 1991, No. 425, eff. 6–1–91.

Removed by Register February 2001 No. 542. For current adm. code see: http://docs.legis.wisconsin.gov/code/admin_code.

NR 13.195 Ice fishing with unattended lines. (1) No treaty rights participant may ice fish with unattended lines except in compliance with the following provisions:

(a) All unattended lines shall have attached a single iron hook with a maximum $^1/_2$ inch point to shank gape;

(b) All unattended lines shall be of a biodegradable material and shall be securely anchored so as not to be dislodged by a hooked fish;

(c) All unattended lines shall be tagged with a valid identification tag obtained from the department indicating the member's tribal affiliation and tribal identification number;

(d) Any treaty rights participant fishing with unattended lines shall, prior to doing so, inform the department of his or her name, address, phone number, and lakes upon which the participant intends to fish with unattended lines;

(e) Each unattended line shall be checked at least once every 24 hours unless severe weather conditions render it impractical to do so;

(f) No more than a total of 30 attended or unattended lines may be used in no more than 3 lakes at any one time; and

(g) All poles used for unattended lines shall be marked so as to be visible to vehicular traffic.

History: Cr. Register, May, 1991, No. 425, eff. 6−1−91.

NR 13.196 Spearing and netting in streams. (1) The department in conjunction with the Chippewa bands may develop a list of streams and stream segments which have discrete in−stream populations. Upon development of a list, the department may issue permits for these waters pursuant to ss. NR 13.16, 13.17 and 13.18, subject to the requirements of those sections.

(2) Permits shall be issued pursuant to s. NR 13.17 for no more than 4 boats and 12 spearers on any designated stream or stream segment. Treaty rights participants may spear from boats or by wading provided that only the designated landing is used for ingress and egress,

(3) Notwithstanding s. NR 13.14, the following bag limits apply for sturgeon, muskellunge and walleye on designated stream segments:

(a) Sturgeon: one per night per stream (all boats)

(b) Muskellunge: one per boat per night

(c) Walleye: five per night per treaty rights participant

History: Cr. Register, May, 1991, No. 425, eff. 6−1−91.

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) Sections 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) Section NR 10.01 Open and closed seasons. (modified by ss. NR 13.32 to 13.44)

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

(c) Section NR 10.03 Birds causing depredation.

1. Section NR 10.03 (3) Inspection of premises.
2. Section NR 10.03 (4) Disposition.

(d) Section NR 10.04 Unprotected wild animals.

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

(f) Section NR 10.06 Hunting hours.

1. Section NR 10.06 (1) General hunting.
2. Section NR 10.06 (2) Hunting zones.
3. Section NR 10.06 (3) Big game and small game hunting.

(g) Section NR 10.07 General hunting.

1. Section NR 10.07 (1) (a) Aircraft.
2. Section NR 10.07 (1) (b) 1. Relating to prohibited devices.
3. Section NR 10.07 (1) (d) Molesting.
4. Section NR 10.07 (1) (f) Retrieval.
5. Section NR 10.07 (1) (g) and (h) Relating to baiting and salt. (modified by s. NR 13.42)
6. Section NR 10.07 (1) (i) Dog use.

(h) Section NR 10.08 (1), (2) and (4) Relating to opening day limits, daily bag and field possession limit.

(i) Section NR 10.09 Guns, ammunition and other devices.

1. Section NR 10.09 (1) (a) 1. Slugs or balls.
2. Section NR 10.09 (1) (a) 2. Size.
3. Section NR 10.09 (1) (a) 3. Game bird hunting.
4. Section NR 10.09 (1) (b) Incendiary shells.
5. Section NR 10.09 (1) (c) Guns and devices. (modified by s. NR 13.40)
6. Section NR 10.09 (2) Special one−day restriction.
7. Section NR 10.09 (3) Bows and arrows restriction.
8. Section NR 10.10 (1) (b) Dogs. (modified by s. NR 13.44)

(j) Section NR 10.101 Bear hunting.

1. Section NR 10.101 (1) (a) Denned bear.
2. Section NR 10.101 (1) (b) Restricted areas.
3. Section NR 10.101 (1) (c) Adult bear with cubs.
4. Section NR 10.101 (3) Relating to baiting and dog use restrictions. (NR 10.101 (3) (e) modified by s. NR 13.42)
5. Section NR 10.101 (4) Bear carcass tags.

(k) Section NR 10.102 Bear hunting permits. (modified by s. NR 13.44).

1. Section NR 10.102 (2) Application procedure.
2. Section NR 10.102 (3) Permit issuance.

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3. Section NR 10.102 (5) Permit attachment.

4. Section NR 10.102 (6) Bear pursuit.

(L) Section NR 10.103 (1) Tags. (modified by ss. NR 13.32 and 13.38)

(m) Section NR 10.104 Deer hunting permits.

1. Section NR 10.104 (1) Finding.

2. Section NR 10.104 (2) Application procedure.

(n) Section NR 10.105 Transportation of deer and bear.

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

(p) Section NR 10.12 Migratory game bird hunting.

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

2. Section NR 10.12 (2) Possession.

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

4. Section NR 10.12 (5) Taking methods.

5. Section NR 10.12 (6) Tagging.

6. Section NR 10.12 (7) Dressing.

7. Section NR 10.12 (8) Shipment.

8. Section NR 10.12 (9) Importation.

(q) Section NR 10.13 Furbearing animals.

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

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

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

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

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

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

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

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

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

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

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

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

13. Section NR 10.13 (2) Molesting.

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

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

(s) Section NR 10.27 State park deer hunting.

(t) Chapter NR 11 Closed areas located within the ceded territory.

(u) Chapter NR 15 Game refuges located within the ceded territory.

(v) Chapter NR 18 Falconry.

(w) Section NR 45.09 Firearms and hunting.

History: Cr. Register, February, 1990, No. 410, eff. 3–1–90.

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.

History: Cr. Register, February, 1990, No. 410, eff. 3–1–90.

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.

History: Cr. Register, February, 1990, No. 410, eff. 3–1–90.

NR 13.36 Modifications to administrative code relating to hunting small game, furbearers and protected wild animals. The seasons for hunting specified small game, furbearers and protected wild 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.

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(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.

(12) WHITE DEER. Beginning on the day after Labor Day and continuing through December 31.

History: Cr. Register, February, 1990, No. 410, eff. 3−1−90; am. (intro.), cr. (12), Register, May, 1992, No. 437, eff. 6−1−92.

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 date.

(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 6G above the ground or, when the ground is snow−covered, no more than 6G 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 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,

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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.

History: Cr. Register, February, 1990, No. 410, eff. 3−1−90; am. (6) (b) 2., Register, May, 1992, No. 437, eff. 6−1−92.

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 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 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 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.

History: Cr. Register, February, 1990, No. 410, eff. 3−1−90; am. (1), (2) (b), (4) (d) 7., Register, May, 1992, No. 437, eff. 6−1−92.

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.

History: Cr. Register, February, 1990, No. 410, eff. 3−1−90.

Removed by Register February 2001 No. 542. For current adm. code see: http://docs.legis.wisconsin.gov/code/admin_code.

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.

History: Cr. Register, February, 1990, No. 410, eff. 3−1−90.

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.

History: Cr. Register, February, 1990, No. 410, eff. 3−1−90.

Subchapter IV —Gathering

NR 13.50 Definitions. In addition to definitions in s. NR 13.02, the following definitions apply to this subchapter:

(1) "Band" means one of the Wisconsin Chippewa bands entitled to exercise off−reservation treaty rights under *Lac Courte Oreilles v. Voigt,* 700 F. 2d 341 (7th Cir. 1983).

(2) "Department gathering permit" means a permit issued by the department authorizing a treaty rights participant to gather miscellaneous forest products listed in ss. NR 13.54 (1) and 13.55 (1) on department land.

(3) "Department land" means land under the ownership of the department within the ceded territory where the department has authority to manage and harvest timber and other forest products on the land.

(4) "Department property" means a department project including but not limited to a state forest, state park, wildlife area or fisheries area.

(5) "Forest products" means all forms of vegetation, and parts thereof, including fruits, seeds, berries and roots.

(6) "Natural area" means land designated or dedicated under s. 23.28 or 23.29, Stats.

(7) "Treaty rights participant", for purposes of this subchapter, means any person defined as a treaty rights participant in s. NR 13.02 (13) or any of the 6 Wisconsin Chippewa bands.

(18) "Year" means the calendar year.

History: Cr. Register, October, 1990, No. 418, eff. 11−1−90; r. (1), (3), (7) to (9), (11), (13) to (21), (23) and (25), renum. (2), (4) to (6), (10), (12), (22) and (24) to be (1) to (8), Register, May, 1992, No. 437, eff. 6−1−92.

NR 13.51 Restrictions. Subject to the modifications and exceptions of this subchapter, and in addition to the modifications and exceptions provided elsewhere in this chapter, the following provisions are applicable to treaty rights participants engaged in gathering activities:

(1) STATUTORY PROVISIONS. (a) Chapter 24 Public domain and trust funds

(b) Section 26.05 Timber theft.

(c) Section 26.06 (2) and (3) Relating to possession of timber products.

(d) Section 26.09 Civil liability for unlawful cutting, removal and transport.

(e) Section 29.415 Endangered and threatened species protected.

(f) Section 29.547 Ginseng protected.

(g) Section 85.075 Rail program rules.

(h) Sections 85.15 and 85.16 Property management and Department rules and forms.

(i) Section 86.02 Injury to highway.

(j) Section 86.03 Trees on and adjacent to highway.

(k) Section 86.07 (2) Relating to alteration in any highway.

(2) ADMINISTRATIVE CODE PROVISIONS.

(a) Section NR 1.24 Management of state and county forests

(b) Section NR 19.09 Wild rice conservation.

(c) Section NR 19.11 (1) − (5) Scientific collectors permits.

(d) Section NR 45.04 (1) (a) Relating to gathering on state property.

(e) Chapter NR 28 Wild plants.

History: Cr. Register, October, 1990, No. 418, eff. 11−1−90.

NR 13.52 Miscellaneous forest product gathering eligibility and assistance. Treaty rights participants gathering forest products on department land may not be assisted in the gathering by any person other than another treaty rights partici-

Removed by Register February 2001 No. 542. For current adm. code see: http://docs.legis.wisconsin.gov/code/admin_code.

pant. Treaty rights participants may not permit any person other than another treaty rights participant to tend or operate equipment involved in the gathering.

History: Cr. Register, October, 1990, No. 418, eff. 11–1–90; am. Register, May, 1992, No. 437, eff. 6–1–92.

NR 13.54 Gathering miscellaneous forest products on department land. (1) Any treaty rights participant interested in gathering from department land firewood, tree bark, maple sap, lodge poles, boughs, marsh hay or other miscellaneous forest products not enumerated in s. NR 13.55 or this section shall obtain a permit from the manager of the department property upon which the gathering is desired. The department shall respond to the gathering request no later than 14 days after receipt of the request. The permit shall indicate the location of the material to be gathered, the volume of material to be gathered, and conditions on the gathering of the material necessary for conservation of the timber and other forest products on the department land or for public health or safety.

(2) The department may not deny a request to gather miscellaneous forest products on a department property under this section unless the gathering is inconsistent with the management plan for that property or the gathering will conflict with the preexisting rights of a permittee, other person who has an approval to conduct an activity on the department property or a contractor of the department or is otherwise inconsistent with conservation, public health or safety.

History: Cr. Register, October, 1990, No. 418, eff. 11–1–90; am. Register, May, 1992, No. 437, eff. 6–1–92.

NR 13.55 Gathering fruits, seeds, berries or certain plants. (1) NO GATHERING PERMIT REQUIRED. Except as provided in subs. (2) and (3), treaty rights participants may gather fruits, seeds or berries on department property without a permit issued by the department.

(2) NATURAL AREAS. (a) No treaty rights participant may gather anything other than edible berries on a natural area without a department gathering permit. The department shall respond to the gathering permit request no later than 14 days after receipt of the request. The permit shall indicate the type of material, location and volume of material to be gathered and conditions on the gathering of the material necessary for conservation of the timber and other forest products on the department land or for public health or safety.

(b) The department may not deny a request to gather miscellaneous products on a natural area unless the gathering is inconsistent with the management plan for the property or the gathering will conflict with the preexisting rights of a permittee, other person who has an approval to conduct an activity on the department property or a contractor of the department or is otherwise inconsistent with conservation, public health or safety.

(3) GATHERING NOT PERMITTED. No treaty rights participant may gather forest products, including fruits, seeds, berries or plants which are listed on the department's endangered or threatened species list established under s. 29.415, Stats.

(4) GINSENG. Treaty rights participants harvesting ginseng shall comply with the provisions of s. 29.547, Stats., and ch. NR 28, except the license requirements.

(5) WILD RICE. Wild rice may be harvested on department land without a permit under this subchapter when harvested in accordance with s. NR 19.09.

History: Cr. Register, October, 1990, No. 418, eff. 11–1–90; am. (2), Register, May, 1992, No. 437, eff. 6–1–92.

NR 13.56 Safety. Treaty rights participants engaged in gathering on department land may not impair or obstruct developed recreational trails or special use areas. Any forest products subject to gathering which are cut and may impede or impair use of those trails or other special use areas shall be immediately removed by the treaty rights participant.

History: Cr. Register, October, 1990, No. 418, eff. 11–1–90.

NR 13.57 Department inspection. Any treaty rights participant engaged in gathering on department land shall present, upon request by department representatives, the permit authorizing gathering miscellaneous forest products, and his or her tribal identity card.

History: Cr. Register, October, 1990, No. 418, eff. 11–1–90; am. Register, May, 1992, No. 437, eff. 6–1–92.