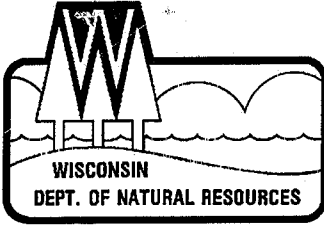


# Clearinghouse Rule 96-042



## State of Wisconsin \ DEPARTMENT OF NATURAL RESOURCES

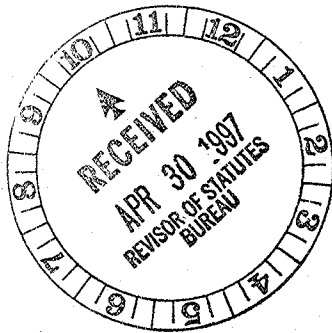
Tommy G. Thompson, Governor  
George E. Meyer, Secretary

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

STATE OF WISCONSIN )  
 ) SS  
DEPARTMENT OF NATURAL RESOURCES )

TO ALL TO WHOM THESE PRESENTS SHALL COME, GREETINGS:

I, George E. Meyer, Secretary of the Department of Natural Resources and custodian of the official records of said Department, do hereby certify that the annexed copy of Natural Resources Board Order No. FM-7-96 was duly approved and adopted by this Department on March 26, 1997. I further certify that said copy has been compared by me with the original on file in this Department and that the same is a true copy thereof, and of the whole of such original.



IN TESTIMONY WHEREOF, I have hereunto set my hand and affixed the official seal of the Department at the Natural Resources Building in the City of Madison, this 20th day of April, 1997

*George E Meyer*  
George E. Meyer, Secretary

(SEAL)

96-042

7-1-97

Quality Natural Resources Management  
Through Excellent Customer Service



ORDER OF THE STATE OF WISCONSIN  
LAKE MICHIGAN AND LAKE SUPERIOR COMMERCIAL FISHING BOARDS  
REPEALING AND RECREATING AND CREATING RULES

.....  
The Lake Michigan and Lake Superior Commercial .  
Fishing Boards adopt an order to repeal and .  
recreate NR 25.08(3)(b) and to create NR .  
25.08(3)(b)2. relating to the transfer of .  
individual licensee catch quotas upon the .  
death or incapacity of the quota holder .  
.....

FM-7-96

Analysis Prepared by Department of Natural Resources

Statutory authority: ss. 29.085, 29.174(3), 29.33(1) and (7) and 227.11(2)(a), Stats.

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

Under existing rules of the respective commercial fishing boards, individual licensee catch quotas allotted annually under s. NR 25.07 for Lake Superior lake trout and for Lake Michigan chubs, yellow perch, menominee, whitefish and smelt may be transferred (reallocated) by the fishing boards at the request of the licensee who originally received the quota allocation to another person who meets all criteria for receiving such a quota.

General criteria for receiving a quota transfer, found in ss. NR 25.07 and 25.08, include the following:

- The person must have a Great Lakes commercial fishing license for the lake to which the quota applies unless the quota transfer accompanies a license transfer, in which case the person must not already have a license,
- The person must not have a commercial fishing license under suspension or revocation, and
- The person must not be charged with a violation that could result in license revocation or suspension.

A licensee may designate on the annual quota application form a person to whom the licensee wishes that quota to be transferred in the event of the licensee's death or incapacity. In the absence of such a designation, or a qualified transferee, or a transferee capable of accepting the transfer, members of the licensee's immediate family who meet the eligibility requirements are offered the quota in the following order:

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

If no immediate family members are eligible, the individual allocated quota expires and the share of the harvest limit it represents is permanently redistributed by the department under s. NR 25.07(1), (2) (am) or (7) to other quota holders so that 100% of each allowable annual harvest is allocated every year.

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

These rule revisions adopt a more liberal rule for quota transfers upon the death or disability of a commercial fisher. (This order is a companion to proposed Natural Resources Board Order No. FM-11-96, which adopts similar, more liberal rule for license transfers upon the death or disability of a commercial fisher.) If a designated quota transferee or immediate family member fails to meet one or more of the eligibility criteria (for example, the person is not licensed or the person is only 17 years old), this revision will allow the department to hold the quota in abeyance for up to 2 years, giving the person time to qualify for the quota transfer. In cases where it is apparent to the department that the person cannot possibly qualify within 2 years (for example, if the person is only 14 years old or if the person is permanently incapacitated), the department would be able to offer the quota to the next person in line without waiting for the 2-year qualification period to end.

These rule revisions makes it less likely that a deceased or incapacitated fisher's quotas will be redistributed to other quota holders because of the lack at the time of the fisher's death or incapacitation of a qualified designated transferee or immediate family member.

SECTION 1. sets out the revision for Lake Superior, while SECTION 2. pertains to Lake Michigan.

---

SECTION 1. NR 25.08(3)(b) is repealed and recreated to read:

NR 25.08(3)(b)1. If a prospective transferee under this

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

SECTION 2. NR 25.08(3)(b)2. is created to read:

NR 25.08(3)(b)2. If a prospective transferee under this subsection is not eligible under the criteria of s. 29.33, Stats., and this chapter to receive a Lake Michigan quota at the time it is offered, but he or she could become eligible within 2 years, the department shall offer the quota to the person. If the person accepts the quota within 30 days of the offer, the person shall have until 2 years from the date of acceptance to show that he or she meets the eligibility requirements of s. 29.33, Stats., and this chapter, during which time the quota

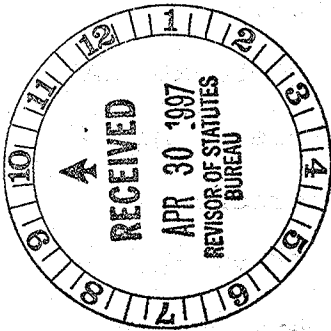
shall be held in abeyance by the department. However, if it becomes apparent to the department that the person cannot become eligible within 2 years from the date of acceptance; if the person fails to become eligible within the 2 year period; or if the person does not accept the offer within 30 days, the department shall offer the quota to the next prospective transferee under this subsection, if any exist.

SECTION 1. of the foregoing rules was approved and adopted by the State of Wisconsin Lake Superior Commercial Fishing Board on July 31, 1996 and SECTION 2. was approved and adopted by the State of Wisconsin Lake Michigan Commercial Fishing Board on July 25, 1996, with germane modifications made by the State of Wisconsin Lake Michigan Commercial Fishing Board on March 24, 1997.

SECTION 1. of the foregoing rules was ratified by the State of Wisconsin Natural Resources Board on December 4, 1996. SECTION 2. of the foregoing rules was ratified by the State of Wisconsin Natural Resources Board on March 26, 1997.

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

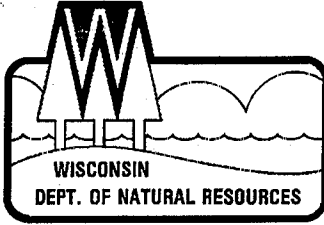
Dated at Madison, Wisconsin April 23, 1997



STATE OF WISCONSIN  
 LAKE MICHIGAN COMMERCIAL FISHING BOARD,  
 LAKE SUPERIOR COMMERCIAL FISHING BOARD  
 and STATE OF WISCONSIN DEPARTMENT OF  
 NATURAL RESOURCES

By George E. Meyer  
 George E. Meyer, Secretary  
 Department of Natural Resources

(SEAL)



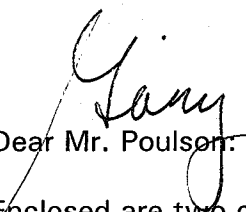
State of Wisconsin \ DEPARTMENT OF NATURAL RESOURCES

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

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

April 22, 1997


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

  
Dear Mr. Poulson:

Enclosed are two copies, including one certified copy, of State of Wisconsin Natural Resources Board Order No. FM-7-96. These rules were reviewed by the Assembly Committee on Natural Resources and the Senate Committee on Agriculture and Environmental Resources pursuant to s. 227.19, Stats. Summaries of the final regulatory flexibility analysis and comments of the legislative review committees are also enclosed.

You will note that this order takes effect following publication. Kindly publish it in the Administrative Code accordingly.

Sincerely,

  
George E. Meyer  
Secretary

Enc.

