

**Wisconsin Department of Natural Resources  
Natural Resources Board Agenda Item**

**SUBJECT:**

Request that the Board approve the statement of scope for emergency Board Order FH-27-13(E), proposed rules affecting a new administrative code chapter related to the creation of a competitive grant program for municipal, tribal, and private fish hatcheries to increase their capacity to raise walleye for stocking in Wisconsin waters.

**FOR: September 2013 Board meeting**

**PRESENTER'S NAME AND TITLE:** Mike Staggs, Fisheries Management Bureau Director

**SUMMARY:**

2013 Wisconsin Act 20 directed the Department to establish a grant program to award grants on a competitive basis to cities, villages, towns, and counties; to federally recognized Indian tribes or bands located in this state; and to fish farms for the purpose of increasing their capacity to raise walleye for stocking in the waters of the state. The grants may be used to build, improve, or repair any of the following:

- (a) Buildings and structures used as fish hatcheries or for fish rearing.
- (b) Fish rearing ponds.
- (c) Wells or water recirculation systems.
- (d) Biosecurity systems to ensure fish health.
- (e) Holding facilities and equipment used for fish brood stock.
- (f) Equipment used for the distribution of fish or for the collection of fish spawn.

A contract awarding a grant shall state the number of extended growth (6" or greater) walleye fingerlings that will be reared as a result of the increased capacity and the purchase price the grantee shall charge for the fingerlings when the construction, improvement, or repair is completed.

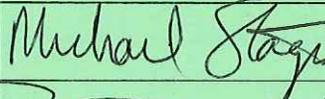
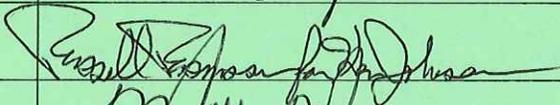
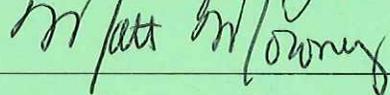
In addition, the department may enter into contracts with local governmental units, federally recognized Indian tribes or bands located in this state, and fish farms for the purpose of increasing the amount of walleye available for stocking in the waters of the state.

The proposals in this rule would support the efforts of the new "Wisconsin Walleye Initiative," which is intended for state, municipal, tribal, and private fish hatchery operations to increase the production of large walleye fingerlings for stocking in Wisconsin waters.

**RECOMMENDATION:** That the Board approve the statement of scope for emergency Board Order FH-27-13(E).

**LIST OF ATTACHED MATERIALS (check all that are applicable):**

- |                                                                                  |                                                                             |
|----------------------------------------------------------------------------------|-----------------------------------------------------------------------------|
| <input type="checkbox"/> memo to the Board (for scope statement approval)        | <input type="checkbox"/> Attachments to background memo                     |
| <input checked="" type="checkbox"/> Statement of scope                           | <input checked="" type="checkbox"/> Governor approval of statement of scope |
| <input type="checkbox"/> Fiscal estimate and economic impact analysis (EIA) form | <input type="checkbox"/> Environmental assessment or impact statement       |
| <input type="checkbox"/> Response summary                                        | <input type="checkbox"/> Board order/rule                                   |

Approved by	Signature	Date
Mike Staggs, Bureau Director		8/12/2013
Ken Johnson, Administrator		8/12/2013
Cathy Stepp, Secretary		9/03/13

cc: Board Liaison - AD/8

Program attorney - LS/8

Department rule coordinator - LS/8

# STATEMENT OF SCOPE

## Department of Natural Resources

Rule No.: FH-27-13(E)

Relating to: Creating a competitive grant program for municipal fish hatcheries and private fish farms in order to increase the capacity to raise walleye for stocking in Wisconsin waters

Rule Type: Emergency

### 1. Finding/nature of emergency (Emergency Rule only):

2013 Wisconsin Act 20, the 2013-15 state budget, included the following: notwithstanding section 227.24 (1) (c) and (2) of the statutes, emergency rules promulgated for walleye population maintenance and enhancement grants remain in effect until June 30, 2016, or the date on which permanent rules take effect, whichever is sooner. In addition, notwithstanding section 227.24 (1) (a) and (3) of the statutes, the department is not required to provide evidence that promulgating this rule as an emergency rule is necessary for the preservation of the public peace, health, safety, or welfare and is not required to provide a finding of emergency for a rule promulgated under this subsection.

### 2. Detailed description of the objective of the proposed rule:

2013 Wisconsin Act 20 directed the department to establish a grant program to award grants on a competitive basis to cities, villages, towns, and counties; to federally recognized Indian tribes or bands located in this state; and to fish farms for the purpose of increasing their capacity to raise walleye for stocking in the waters of the state. The grants may be used to build, improve, or repair any of the following:

- (a) Buildings and structures used as fish hatcheries or for fish rearing.
- (b) Fish rearing ponds.
- (c) Wells or water recirculation systems.
- (d) Biosecurity systems to ensure fish health.
- (e) Holding facilities and equipment used for fish brood stock.
- (f) Equipment used for the distribution of fish or for the collection of fish spawn.

For a fish farm to be eligible for a grant under this section, the fish farm must be registered with the Department of Agriculture, Trade and Consumer Protection under s. 95.60, Stats., and be in compliance with all applicable state and federal environmental laws and all applicable state and federal laws related to fish health.

A contract awarding a grant under this section shall state the number of walleye fingerlings that will be reared as a result of the increased capacity and the purchase price the grantee shall charge for the fingerlings when the construction, improvement, or repair is completed.

In addition, the department may enter into contracts with local governmental units, federally recognized Indian tribes or bands located in this state, and fish farms for the purpose of increasing the amount of walleye available for stocking in the waters of the state.

The terms of a contract, which shall not exceed five years, may include all of the following:

- (a) Authorization for the department to furnish fish eggs and fish for free or at cost to a local governmental unit, tribe, band, or fish farm that is a party to the contract.

(b) Authorization for the department to purchase fish from a local governmental unit, tribe, band, or fish farm that is a party to the contract.

Additional rule changes may be pursued which are reasonably related to those discussed here.

**3. Description of the existing policies relevant to the rule, new policies proposed to be included in the rule, and an analysis of policy alternatives:**

The proposals in this rule would support the efforts of the new "Wisconsin Walleye Initiative," which is intended for state, municipal, tribal, and private fish hatchery operations to increase the production of large walleye fingerlings for stocking in Wisconsin waters. The Fisheries Management Bureau does not currently manage a grant program for that purpose, but the department has extensive experience with managing grant programs to private and municipal entities that can serve as examples for this program.

The department is statutorily required to create the grant program through administrative rule using policy listed in statute.

**4. Detailed explanation of statutory authority for the rule (including the statutory citation and language):**

Section 29.014(1), Stats., directs the department to establish and maintain conditions governing the taking of fish that will conserve the fish supply and ensure the citizens of this state continued opportunities for good fishing.

Section 29.041, Stats., provides that the department may regulate fishing on and in all interstate boundary waters and outlying waters.

Section 29.709, Stats., provides that the department may operate state fish hatcheries, including receiving fish eggs or fish donated to the state or purchased, and procure, receive, exchange, distribute, and dispose of fish eggs and fish.

Section 29.739, Stats., directs the department to establish a grant program to award grants on a competitive basis to cities, villages, towns, and counties; to federally recognized Indian tribes or bands located in this state; and to fish farms.

Section 29.740, Stats., provides that the department may enter into contracts with local governmental units, federally recognized Indian tribes or bands located in this state, and fish farms for the purpose of increasing the amount of walleye available for stocking in the waters of the state.

**5. Estimate of amount of time that state employees will spend developing the rule and of other resources necessary to develop the rule:**

200 hours

**6. List with description of all entities that may be affected by the proposed rule:**

- Municipal fish hatcheries: fish hatcheries that are owned or operated by a city, village, town, county, or a federally recognized Indian tribe or band located in Wisconsin
- Private fish farms: farms registered with the Department of Agriculture, Trade and Consumer Protection under s. 95.60, Stats.
- Tribal and non-tribal fishers: sustenance and recreational fishers will likely benefit from additional walleye stocking opportunities

**7. Summary and preliminary comparison with any existing or proposed federal regulation that is intended to address the activities to be regulated by the proposed rule:**

There is no federal authority over the proposed actions. None of the rule proposals violate or conflict with federal regulations.

**8. Anticipated economic impact of implementing the rule (note if the rule is likely to have a significant economic impact on small businesses):**

Minimal to no negative economic impact (Level 3)

The rule is not expected to have an adverse effect on the economy, a sector of the economy, productivity, jobs, or the overall economic competitiveness of the State. It will have a positive impact by providing \$1 million annually in the 2013-15 biennium to municipal fish hatcheries and private fish farms through a competitive grant program. Grants will be used for building and improving hatchery buildings, rearing ponds, equipment and other facilities. In addition, \$500,000 will be available annually starting in fiscal year 2014-15 for the department to contract with municipal fish hatcheries and private fish farms to purchase fish for the purpose of raising walleye for stocking with Wisconsin waters.

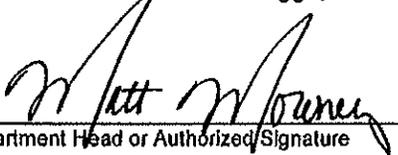
The rule will not allow for the potential to establish a reduced fine for small businesses, nor will it establish "alternative enforcement mechanisms" for "minor violations" of administrative rules made by small businesses.

**9. Anticipated number, month and locations of public hearings:**

The Department anticipates holding one public hearing in the month of January 2014. Hearing cities will be: Madison, WI.

The Department will hold this hearing in this location to gather input on the implementation of walleye population maintenance and enhancement grants that are required by the 2013-15 state budget.

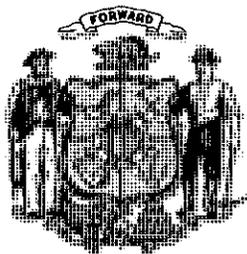
**Contact Person:** Mike Staggs, Fisheries Management Bureau Director, 608-267-0796



Department Head or Authorized Signature

7/29/13

Date Submitted



**SCOTT WALKER**  
**OFFICE OF THE GOVERNOR**  
**STATE OF WISCONSIN**

P.O. BOX 7863  
MADISON, WI 53707

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August 12, 2013

Cathy Stepp  
Secretary  
Wisconsin Department of Natural Resources  
101 South Webster St.  
P.O. Box 7921  
Madison, WI 53707-7921

**RE: Scope Statement for FH-27-13 Emergency Rule relating to creation of a competitive grant program for municipal fish hatcheries and private fish farms in order to increase the capacity to raise walleye for stocking in Wisconsin waters**

Dear Secretary Stepp,

I hereby approve the statement of scope submitted on July 31, 2013, pursuant to Wisconsin Statutes § 227.135, in regards to an emergency rule FH-27-13. You may send the scope statement to the Legislative Reference Bureau for publication pursuant to Wisconsin Statutes § 227.24(1)(e)1d.

Sincerely,

Scott Walker  
Governor