

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

SUBJECT:

Request that the Board approve the statement of scope for Board Order FH-14-14 and conditionally approve the public hearing notice and notice of submittal of proposed rules to the Legislative Council Rules Clearinghouse for proposed rules affecting chapters NR 20, 21, 22, 23, and 26 related to fishing regulations on inland, outlying, and boundary waters that will be proposed at the 2015 Fish and Wildlife Spring Hearings.

FOR: December 2014 Board meeting

PRESENTER'S NAME AND TITLE: Kate Strom Hiorns, Fisheries Policy Specialist

SUMMARY:

With this rule, the department will make changes to fish size limits, bag limits, seasons, and other regulations related to fishing in inland, outlying, and boundary waters. The regulation proposals included in this rule are based on surveys and analyses conducted by fish biologists and input from local stakeholders and the Wisconsin Conservation Congress. All proposals were peer-reviewed for justification, enforceability, and completeness by department Bureaus of Fisheries Management, Law Enforcement, and Legal Services.

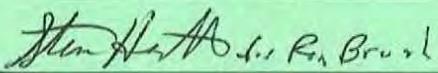
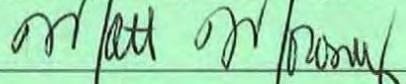
The general policy behind fishing regulations is to protect and enhance fish populations while providing diverse fishing opportunities throughout the State. That policy will be continued and enhanced by these rule changes.

It is not expected that there will be any economic impact or change directly related to these rule changes. The proposed rule will primarily affect sport anglers. Regulations are already in place and this rule is intended to continue protection and enhancement of the State's fish resources. (Minimal to no economic impact. Level 3)

RECOMMENDATION: That the Board approve the statement of scope and conditionally approve the public hearing notice for FH-14-14 and notice of submittal of proposed rules to the Legislative Council Rules Clearinghouse.

LIST OF ATTACHED MATERIALS:

- Statement of scope
- Governor approval of statement of scope

Approved by	Signature	Date
Ron Bruch, Bureau Director		11/3/14
Russ Rasmussen, Division Administrator		11/7/14
Cathy Stepp, Secretary		11/10/14

cc: Board Liaison - AD/8

Program attorney - LS/8

Department rule officer - LS/8

STATEMENT OF SCOPE

Department of Natural Resources

Rule No.: FH-14-14

Relating to: Fishing regulations on inland, outlying, and boundary waters that will be proposed at the 2015 Fish and Wildlife Spring Hearings (NR 20, 21, 22, 23, 26)

Rule Type: Permanent

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

The rule will be proposed as a permanent rule.

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

With this rule, the department will make changes to fish size limits, bag limits, seasons, and other regulations related to fishing in inland, outlying, and boundary waters. Fishing regulations are in place to help meet management goals and objectives for waters and their fish species, such as providing a trophy walleye fishery or a bass fishery that maximizes predation on smaller fishes. New regulations are proposed when management goals have changed or the department must address a critical need, such as a major fish population decline.

The regulation proposals included in this rule are based on surveys and analyses conducted by fish biologists and input from local stakeholders and the Wisconsin Conservation Congress. All proposals were peer-reviewed for justification, enforceability, and completeness by department Bureaus of Fisheries Management, Law Enforcement, and Legal Services. In addition to the list of proposed regulation changes below, other rule changes may be pursued which are reasonably related to those discussed here that would address size limits, bag limits, season, and other fishing regulations.

Returning special regulations to the general species statewide regulation:

SPECIES	NEW REGULATION GOAL	WATER	COUNTY
Bass	Sustain densities of largemouth bass while allowing harvest	Crooked Lake, Lund Lake	Bayfield
Bass	Revoke current regulation that does not work to help panfish size structure	Windfall Lake	Forest
Bass	Maximize bass harvest opportunities for anglers and possibly increase bass growth rates (county-wide species regulation)	Shell Lake	Washburn
Walleye	Re-establish an abundant walleye population	Franklin Lake	Forest
Walleye	Provide moderate to high density of walleyes	Cedar Lake, Catherine Lake, Spider Lake, Little Oxbow Lake, Oxbow Lake, Echo Lake, and the Turtle River	Iron

Walleye	Increase walleye abundance in an effort to improve natural reproduction	Spread Eagle Chain of Lakes & Sea Lion Lake	Florence
Walleye	Increase adult density, provide a memorable fishing opportunity, and improve natural reproduction	Archibald Lake, Bass Lake, Boot Lake, Maiden Lake, and Wheeler Lake	Oconto
Walleye	Provide walleye population of quality size fish	Shawano Lake, Washington Lake, Shawano Lake Outlet Channel, Wolf River Pond, Wolf River to Balsam Row Dam	Shawano
Walleye	Maintain a larger size range for quality walleye angling and panfish control	Deerskin Lake	Vilas
Walleye	Increase adult walleye abundance	Nagawicka Lake, Pine Lake, Pewaukee Lake	Waukesha
Walleye	Maximize predation on panfish and forage species	Lac LaBelle	Waukesha
Walleye	Increase density of larger walleye	Big Cedar Lake, Gilbert Lake	Washington
Northern Pike	Manage as a trophy pike lake	Lake Ellwood	Florence
Northern Pike	Provide good density of quality size fish	Caroline Pond	Shawano
Northern Pike	Maximize predation on panfish and forage species	Lac LaBelle, Pewaukee Lake, Eagle Spring Lake, Lulu Lake and connecting portions of the Mukwonago River	Waukesha, Walworth
Northern Pike	Restore a naturally reproducing pike population; remove sunset date of current regulation	Marion Millpond	Waupaca
Northern Pike	Allow harvest of small pike to help improve growth rates for a lower density population of pike	Waushara: Alpine Lake; Marquette: Sharon Lake	Waushara, Marquette
Musky and Walleye	Make regulations consistent with the connected Namekagon Lake, improve walleye size structure, provide trophy musky fishery	Garden, Jackson lakes	Bayfield
Musky	Consistency of regulations with Minnesota on boundary waters	St. Louis, St. Croix and Mississippi rivers	WI-MN boundary waters

Musky	Provide high density muskellunge populations that support high angler catch rates	Spider Lake Chain, Tiger Cat Chain, Mud/Callahan lakes, North Fork Chief River (from Tiger Cat dam downstream to Mud Lake)	Sawyer
Sturgeon	Provide additional angling opportunities and promote angler awareness; Consistency with MN regulations	St. Croix, Mississippi, and St. Louis rivers	WI-MN boundary waters
Panfish	Control panfish harvest and maintain a quality fishery	Hodge Lake	Chippewa
Panfish	Increase the size structure of panfish	Halsey Lake, Sea Lion Lake, and the Spread Eagle Chain of Lakes	Florence
Panfish	Improve panfish size structure on a subset of lakes to determine which regulations are most effective and socially acceptable	Approximately 110 lakes statewide	
Trout	Expand season opportunities, reduce categories of regulations, and create uniform regulations on streams	Trout streams and ponds statewide	

Multi-species and law enforcement proposals:

PROPOSAL	NEW REGULATION GOAL	WATER	COUNTY
Urban Pond	Provide designated youth and disabled persons fishing opportunities	Wiedenbach Park Pond	Washington
Refuges	Update list of fish refuges to match current management needs – remove or modify approximately 50 refuges	Statewide	
Season Opener	Adjust general fishing season opener date so it would not coincide with Mother's Day weekend	Statewide	
Asian carp transport	Require that Asian carp are dead and unrevivable before transporting in or through WI	Statewide	

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 general policy behind fishing regulations is to protect and enhance fish populations while providing diverse fishing opportunities throughout the State. That policy will be continued and enhanced by these

rule changes. Based on the management goals for individual waters and species, the department strives to provide:

- consumptive opportunities where anglers can fish for a meal from a self-sustained, slow-growing fish population;
- quality and memorable opportunities where anglers can catch large fish and the density of adult fish in the populations are sustained or increased; and
- trophy opportunities where anglers can catch large trophy-size fish and the survival of older and larger fish is increased.

Not making the proposed rule changes would result in less than optimal management of fish populations in the waterbodies and reduced fishing opportunities for resident and visiting anglers. However, existing regulations would remain in place to provide some level of continued protection of fish resources.

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

Section 23.09 (2) (c), Stats., provides that the department may designate fish refuges to secure the perpetuation and adequate supply of any species of fish and provide safe retreats in which fish may breed and replenish adjacent fishing waters.

Section 23.22 (2), Stats., directs the department to establish a statewide program to control invasive species, which are nonindigenous species whose introduction causes or is likely to cause economic or environmental harm or harm to human health. The department created ch. NR 40, Wis. Adm. Code, that lists several species of Asian carp as prohibited invasive species.

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 29.053 (2), Stats., provides that the department may establish conditions governing the taking of fish for the state as a whole, for counties or parts of counties, or for waterbodies or parts of waterbodies. It also allows the department to establish a fishing season on specified bodies of water in certain urban areas to allow fishing only by persons who are under 16 years old or who are disabled, as specified in s. 29.193 (3) (a), (b), or (c), Stats.

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

Approximately 250 hours

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

The proposed rule will primarily affect sport anglers. As with any change in regulations, there will be a requirement for anglers to learn the new rules. The department works to notify the public of new regulations via press releases, the internet, and fishing regulations pamphlets.

The proposal to require that Asian carp are dead and unrevivable before transporting in or through Wisconsin would affect fish haulers from other states and potentially commercial fishers in Wisconsin if Asian carp numbers increase. There is only a small number of Asian carp in Wisconsin waters so far and this proposal is intended to keep it that way by educating fishers and haulers on safe methods for transporting the invasive species.

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:

Authority to promulgate fishing regulations is granted to states. None of the proposed changes 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):

It is not expected that there will be any economic impact or change directly related to these rule changes. The proposed rule will primarily affect sport anglers. Regulations are already in place and this rule is intended to continue protection and enhancement of the State's fish resources. One purpose of the rule is to help maintain the general economic impact of fishing throughout Wisconsin.

The department will conduct an economic impact analysis to determine if any individuals, businesses, local governments, or other entities expect to be adversely affected economically by the rule. The proposed rule does not impose any reporting requirements on small businesses nor are any design or operational standards contained in the rule. The rule does not allow for the potential to establish a reduced fine for small businesses, nor does it establish "alternative enforcement mechanisms" for "minor violations" of administrative rules made by small businesses. Minimal to no economic impact. (Level 3)

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

The department anticipates holding 72 public hearings in the month of April 2015. The rule will be available for public review and comments at the 2015 Fish and Wildlife Spring Hearings held on the second Monday of April 2015.

The department will hold these hearings in these locations to get statewide public input on all proposals. The draft list of questions that will be on the Spring Hearings questionnaire will be provided to the Natural Resources Board in January 2015.

Contact Person: Kate Strom Hiorns, Fisheries Policy Specialist, 608-266-0828

Department Head or Authorized Signature

Date Submitted



SCOTT WALKER
OFFICE OF THE GOVERNOR
STATE OF WISCONSIN

P.O. Box 7863
MADISON, WI 53707

October 31, 2014

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

**RE: Scope Statement for NR 20, 21, 22, 23, 26 relating to fishing regulations
on inland, outlying, and boundary waters that will be proposed at the
2015 Fish and Wildlife Spring Hearings**

Dear Secretary Stepp,

I hereby approve the statement of scope submitted on September 9, 2014, pursuant to Wisconsin Statutes § 227.135, in regards to a proposed rule modifying Chapters NR 20, 21, 22, 23, 26 of the Wisconsin Administrative Code. You may send the scope statement to the Legislative Reference Bureau for publication pursuant to Wisconsin Statutes § 227.135(3).

Sincerely,

Scott Walker
Governor