

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

SUBJECT:

Request approval of the Statement of Scope for Permanent Board Order FH-02-14 and Emergency Board Order FH-03-14(E), and conditionally approve the public hearing notice and notice of submittal of proposed rules to the Legislative Council Rules Clearinghouse for FH-02-14, for proposed rules affecting chapters NR 20 and 23 relating to modifications in daily bag limit and minimum size limit in response to tribal harvest

FOR: March 19, 2014 Special Board meeting**PRESENTER'S NAME AND TITLE:** Mike Staggs**SUMMARY:**

The Department finds that an emergency rule is needed to promote the preservation and protection of public peace, health, safety, and welfare in the Ceded Territory of Wisconsin by minimizing regional social and economic disruption known to be associated with reductions in walleye bag limits on off-reservation waters. Pursuant to litigation arising from *Lac Courte Oreilles v Voigt*, 700 F. 2d 341 (7th Cir. 1983), the six Wisconsin bands of Lake Superior Ojibwe (Chippewa Bands) have the right to take walleye from off-reservation waters using efficient methods such as spearing and netting.

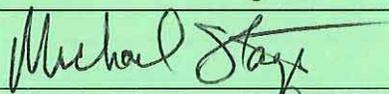
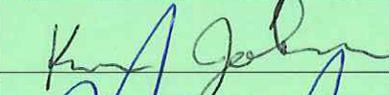
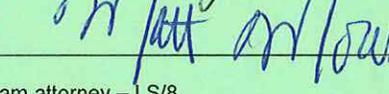
Authority to promulgate an emergency rule under this scope will provide the Department with the flexibility necessary to adjust angler regulations to potentially alleviate and minimize regional social and economic disruption known to be associated with reductions in walleye bag limits on off-reservation waters within the Ceded Territory.

The proposed rules would allow emergency and permanent changes for making adjustments to fishing regulations in the Ceded Territory to allow more flexibility in responding to tribal declarations and harvest levels. Currently these regulations are prescribed in ss. NR 20.18, NR 20.20, NR 20.36, NR 20.37, and NR 23.055, Wis. Adm. Code. In particular, the Department may consider comparable alternatives to bag limit adjustments such as size limit or season adjustments.

RECOMMENDATION: That the Board approve the statement of scope for for Permanent Board Order FH-02-14 and Emergency Board Order FH-03-14(E), and conditionally approve the public hearing notice and notice of submittal of proposed rules to the Legislative Council Rules Clearinghouse for FH-02-14

LIST OF ATTACHED MATERIALS:

Statement of scope
Governor approval of statement of scope

Approved by	Signature	Date
Mike Staggs, Bureau Director		2/25/2014
Ken Johnson, Division Administrator		2/25/2014
Cathy Stepp, Secretary		2/25/2014

cc: Board Liaison - AD/8

Program attorney - LS/8

Department rule officer - LS/8

STATEMENT OF SCOPE

Department of Natural Resources

Rule No.: FH-02-14 & FH-03-14(E)

Relating to: NR 20 and 23, Modifications in daily bag limit and minimum size limit in response to tribal harvest

Rule Type: Permanent and Emergency rules

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

The Department of Natural Resources (Department) finds that an emergency rule is needed to promote the preservation and protection of public peace, health, safety, and welfare in the Ceded Territory of Wisconsin by minimizing regional social and economic disruption known to be associated with reductions in walleye bag limits on off-reservation waters. Pursuant to litigation arising from *Lac Courte Oreilles v Voigt*, 700 F. 2d 341 (7th Cir. 1983), the six Wisconsin bands of Lake Superior Ojibwe (Chippewa Bands) have the right to take walleye from off-reservation waters using efficient methods such as spearing and netting.

Authority to promulgate an emergency rule under this scope will provide the Department with the flexibility necessary to adjust angler regulations to potentially alleviate and minimize regional social and economic disruption known to be associated with reductions in walleye bag limits on off-reservation waters within the Ceded Territory.

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

The proposed rules would allow emergency and permanent changes for making adjustments to fishing regulations in the Ceded Territory to allow more flexibility in responding to tribal declarations and harvest levels. Currently these regulations are prescribed in ss. NR 20.18, NR 20.20, NR 20.36, NR 20.37, and NR 23.055, Wis. Adm. Code. In particular, the Department may consider comparable alternatives to bag limit adjustments such as size limit or season adjustments.

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 proposed rules would make modifications to portions of chs. NR 20 and 23, Wis. Adm. Code, pertaining to sport fishing regulations on inland and border waters of Wisconsin. These changes are proposed to protect and enhance the State's fish resources.

Current administrative code requires the Department to make changes to angler bag limits for walleye in lakes named for harvest by any of the Chippewa Bands. These bag limit adjustments are designed to prevent exceeding 35% exploitation of individual walleye fisheries by joint tribal and angler harvest. Angler bag limit reductions are designed to accommodate the intended amount of tribal harvest.

Factors affecting expected tribal harvest in 2014 and beyond are currently uncertain and the Department requests approval to consider rule alternatives to angling regulations relating to tribal harvest which could better accommodate final declared, expected, or realized tribal harvest levels as they become known for each fishing season.

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.

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:

Licensed sport anglers

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:

The Department is not aware of any existing or proposed federal regulation that would govern sport fishing in Wisconsin's waters.

8. Anticipated economic impact of implementing the rule:

The proposed rule change would impact sport anglers. Changes in angling regulations enacted to accommodate declared, expected, or realized tribal harvest could potentially alleviate and minimize regional social and economic disruption known to be associated with reductions in walleye bag limits on off-reservation waters within the Ceded Territory. Exact economic impact of the rule is unknown, but likely minimal impact (less than \$50,000 per year) is expected for businesses or business associations.

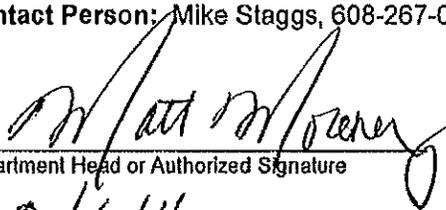
No additional compliance or reporting requirements will be imposed on small businesses as a result of these rule changes. During rule development, the proposed rule will be available for review and comment at <https://health.wisconsin.gov/admrules/public/Search>.

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

The Department anticipates holding two public hearings in the month of May 2014. Hearing cities will be: Madison and Wausau. If possible, hearings will be combined for the emergency and permanent rules.

The Department will hold these hearings in these locations to gather input from sport anglers and tribal interests.

Contact Person: Mike Staggs, 608-267-0796, mike.staggs@wisconsin.gov


Department Head or Authorized Signature

2/6/14
Date Submitted



SCOTT WALKER
OFFICE OF THE GOVERNOR
STATE OF WISCONSIN

P.O. Box 7863
MADISON, WI 53707

February 14, 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 FH-02-14 modifying Chapters NR 20 and 23 relating to modifications in daily bag limit and minimum size limit in response to tribal harvest

Dear Secretary Stepp,

I hereby approve the statement of scope submitted on February 7, 2014, pursuant to Wisconsin Statutes § 227.135, in regards to a proposed rule modifying Chapters NR 20 and 23 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



SCOTT WALKER
OFFICE OF THE GOVERNOR
STATE OF WISCONSIN

P.O. Box 7863
MADISON, WI 53707

February 14, 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 FH-03-14 Emergency Rule modifying Chapters NR 20 and 23 relating to modifications in daily bag limit and minimum size limit in response to tribal harvest

Dear Secretary Stepp,

I hereby approve the statement of scope submitted on February 7, 2014, pursuant to Wisconsin Statutes § 227.135, in regards to an emergency rule modifying Chapters NR 20 and 23 of the Wisconsin Administrative Code. 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