

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

Item No. 3.C.1.

SUBJECT:

Request that the Board approve the statement of scope for Board Order FH-12-14, and conditionally approve the public hearing notice and notice of submittal of proposed rules to the Legislative Council Rules Clearinghouse for proposed rules affecting ch. NR 20 related to minor changes to fisheries administrative code.

FOR: October 2014 Board meeting**PRESENTER'S NAME AND TITLE:** Kate Strom Hiorns, Fisheries Policy Specialist**SUMMARY:**

The proposed rule addresses minor changes to administrative code relating to the regulation of fishing. The rule is being pursued to ensure the rule language that governs fishing in inland, outlying, and boundary waters is accurate and properly reflects the desired management of Wisconsin waters. The objectives are to:

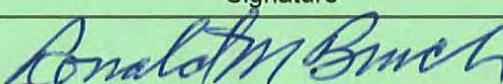
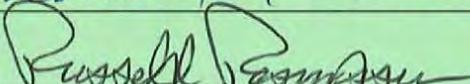
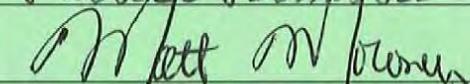
- remove sections of code that are outdated or have been replaced by other statute or code changes,
- correct errors that occurred during the drafting of rules, and
- add or repeal language to clarify intent of original rules.

It is not expected that there will be any economic impact directly related to these rule changes. The proposed rule will have minimal impact on members of the public and is not expected to be controversial.

RECOMMENDATION: That the Board approve the statement of scope and conditionally approve the public hearing notice for FH-12-14 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		08/22/14
Russ Rasmussen, Division Administrator		9/10/14
Cathy Stepp, Secretary		10/6/14

cc: Board Liaison - AD/8

Program attorney - LS/8

Department rule officer - LS/8

STATEMENT OF SCOPE

Department of Natural Resources

Rule No.: FH-12-14

Relating to: Minor changes to fisheries administrative code ("housekeeping")

Rule Type: Permanent

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

Proposed as permanent rule

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

The proposed rule addresses minor changes to administrative code relating to the regulation of fishing. The rule is being pursued to ensure the rule language that governs fishing in inland, outlying, and boundary waters is accurate and properly reflects the desired management of Wisconsin waters. The objectives are to:

- remove sections of code that are outdated or have been replaced by other statute or code changes,
- correct errors that occurred during the drafting of rules, and
- add or repeal language to clarify intent of original rules.

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 following table lists the expected changes in the proposed rule at the time that this scope statement is written. Additional rule changes that arise before the drafting of the rule may be considered that are related to the objectives above.

County	Proposal
Columbia	Remove the current harvest regulations (18" minimum length limit and 3 fish daily bag limit) for walleye on Silver Lake. The lake has not been stocked with walleye since 2000 and there is no longer a population of walleye in the lake. Therefore, the special regulation is no longer necessary and can be removed from the lake and from listing in the regulations booklet.
Columbia	Change Columbia Lake 18" minimum length limit and 3 daily bag limit on hybrid striped bass to no minimum length, no bag limit. Hybrid striped bass are considered an invasive species and therefore no longer imported and stocked in any WI waters. The department would like to continue to allow catch and harvest of the existing striped bass in Columbia Lake, therefore, a no minimum length-no bag limit regulation is proposed. If striped bass are removed from listing in administrative code, there would be no open season and none could be harvested.

Douglas	Allow night fishing on the Brule River downstream from Hwy 2 only during the <i>regular</i> open season for all species (first Saturday in May - September 30); Prohibit night fishing during the <i>early</i> open season (last Saturday in March to May 4) and <i>extended</i> open season (October 1 to November 15). The current regulation prohibits anglers from fishing at night, which reduces the overall number of harvest and catch-and-release opportunities, particularly for brown trout, which are most active during the night. The current regulation is an interpretive error that occurred when the administrative code was revised in 1992, and subsequently re-formatted and further misinterpreted in 1999. Although the unintended error was codified in 1999, it was not published as such in the Trout Regulations Guide until the 2012-2013 fishing season, causing confusion among anglers and law enforcement. Making this change will return the regulations to what is commonly understood and enforced.
LaCrosse, Vernon	Change trout stream names in code to accurately reflect common names and reduce angler confusion of where regulations begin and end. La Crosse County: change code language to say "Coon creek (Bohemian Valley Creek)" instead of Bohemian Valley Creek [20.20(32)(f)1.]; Vernon County: change code language to say "Coon creek from CTH P upstream to the confluence with Timber Coulee creek and Timber Coulee creek upstream to Olstad Road" instead of Timber Coulee Creek [20.20(63)(c)2. and 3.]
Marathon	Extend the boundary of Wisconsin River regulations (year-round open season on bass, pike, walleye) on a 100 foot stretch of the connecting Eau Claire River. The regulations currently apply from the WI River up to the first bridge on the Eau Claire River. This proposal extends the regulations another 100 feet to the Schofield Dam, which is a prominent boundary that boaters cannot travel past. This is currently how the regulations booklet lists the rules and how Law Enforcement treats the area. The bridge vs. dam boundary has historically caused confusion among anglers. This extension will also provide additional fishing opportunity to that small area of the river without any biological concerns.
Vilas/Oneida	Change the regulations boundary between the Three Lakes Chain (Oneida) and Eagle Chain (Vilas) from the county border to the Long Lake (Burnt Rollways) Dam in Oneida County. The dam has been used locally as a border and is a more obvious boundary to anglers rather than a county line.
Winnebago, etc	Clarify the boundaries around the Winnebago System that a spearer can possess an unregistered sturgeon (NR 20.10(8),(9),(10)). Updates are needed due to roadway construction and naming changes over time.
Winnebago, etc	Make set pole/bank pole/setline open seasons for catfish and rough fish the same on the stretch of water between Lake Butte des Morts and Eureka Dam. Currently all set pole/bank pole/setline regulations for rough fish and catfish in Lake Winnebago System waters are the same except for that stretch of water, where a season is open for catfish and closed for rough fish. This was a result of inadvertent wording of code language and there is no biological or management reason for applying the differing regulations for these methods of fishing.
Winnebago	Change Neenah-Menasha dam to "dams" in 20.20(71). There are two waterways and two dams that should be clarified in code.
Statewide	Remove all notations of NR 20.35 from the 20.20 table. NR 20.20 does not have a full list of waters that have size or bag limit exemptions allowed by NR 20.35 procedures. A separate list is kept by the department that is available upon request.

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 150 hours

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

The proposed rule will have minimal impact on members of the public. As with any change in regulations, there will be a requirement for anglers to learn the new rules. However, a majority of this rule change clarifies code to reflect existing policies for which anglers must already comply. The Fisheries Management Bureau works to notify the public of new regulations via press releases, the internet, and fishing regulations pamphlets.

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 directly related to these rule changes. 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. The proposed rule does not impose any compliance or reporting requirements on small businesses nor are any design or operational standards contained in the rule.

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

The Department anticipates holding one public hearing in the month of January, 2015, in Madison.

The rule includes minor changes to fishing regulations and is not expected to be controversial.

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

August 27, 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-FH-12-14
Relating to minor changes to fisheries administrative code (“housekeeping”)

Dear Secretary Stepp,

I hereby approve the statement of scope submitted on July 16, 2014, pursuant to Wisconsin Statutes § 227.135, in regards to a proposed rule modifying Chapter NR 20-FH-12-14 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