

**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-18-14 and Emergency Board Order FH-17-14(E), 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(s). NR 20 and 23 related to modifications in walleye harvest management in Ceded Territory waters.

**FOR: January 2015 Board meeting****PRESENTER'S NAME AND TITLE:** Steve Hewett, Fisheries Management and Policy Section Chief**SUMMARY:**

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 Chippewa 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.

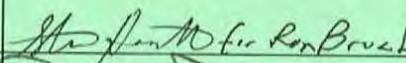
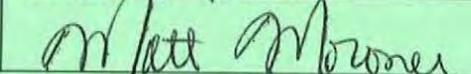
Authority to promulgate an emergency rule under this scope will provide the Department with the flexibility necessary to adjust angler regulations to potentially alleviate and minimize regional social and economic disruption associated with reductions in walleye bag limits on off-reservation waters within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

The proposed rule change would impact sport anglers. Exact economic impact of the rule is unknown, but positive impact is expected for businesses or business associations by virtue of more predictable, stable angling regulations.

**RECOMMENDATION:** That the Board approve the statement of scope and conditionally approve the public hearing notice for Board Order FH-18-14 and Emergency Board Order FH-17-14(E) 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		11-12-14
Russ Rasmussen, Division Administrator		11/18/14
Cathy Stepp, Secretary		1/8/15

cc: Board Liaison - AD/8

Program attorney - LS/8

Department rule officer - LS/8

# STATEMENT OF SCOPE

## Department of Natural Resources

**Rule No.:** FH-17-14(E) and FH-18-14

**Relating to:** NR 20 and 23, Modifications in walleye harvest management in Ceded Territory waters

**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 associated with reductions in walleye bag limits on off-reservation waters. Pursuant to treaties signed between the six Wisconsin bands of Lake Superior Ojibwe and the United States and affirmed by *Lac Courte Oreilles v Voigt*, 700 F. 2d 341 (7th Cir. 1983), the bands have the right to harvest fish from off-reservation waters using efficient methods such as spearing and netting. The current model of reducing angling bag limits in response to annual tribal declarations to ensure a sustainable walleye harvest has become increasingly unpredictable in recent fishing seasons, and angling harvest management may be better accomplished with a stable set of regulations that achieve results similar to annual bag limit adjustments.

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 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 2015 and beyond are currently uncertain and the Department requests approval to consider rule alternatives to bag limit reductions which could accomplish similar controls on angler harvest to preserve a sustainable walleye fishery

**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 positive impact is expected for businesses or business associations by virtue of more predictable, stable angling regulations.

No 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 summer 2015. Hearing cities will be: Madison and Minocqua. 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: Ron Bruch, (608) 267-0796 [Ronald.Bruch@wisconsin.gov](mailto:Ronald.Bruch@wisconsin.gov)**

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Department Head or Authorized Signature

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Date Submitted



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

P.O. Box 7863  
MADISON, WI 53707

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November 7, 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 Emergency Rule modifying FH-17-14(E) and FH-18-14 relating to NR 20 and 23, modifications in walleye harvest management in the Ceded Territory waters**

Dear Secretary Stepp,

I hereby approve the statement of scope submitted on October 28, 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