

NATURAL RESOURCES BOARD AGENDA ITEM

SUBJECT: Request approval of the statement of scope for Board Order FH-18-12, recreational fishing regulations on inland, outlying, and boundary waters

FOR: SEPTEMBER 2012 BOARD MEETING

TO BE PRESENTED BY / TITLE: Kate Strom Hiorns, Fisheries Policy Specialist

SUMMARY:

The Department requests that the Board approve the scope statement for FH-18-12 that would make modifications to portions of NR 20, 21, 22, and 23 pertaining to sport fishing regulations on inland, outlying, and boundary waters of Wisconsin. These changes are proposed to protect and enhance the State's fish resources.

All rule change proposals were submitted by fish biologists and peer-reviewed for justification and enforceability by Fisheries Management supervisors and the Bureau Director, species management teams, and the Bureaus of Law Enforcement and Legal Services. Proposals were discussed with Wisconsin Conservation Congress members and will be presented at the 2013 Fish and Wildlife Spring Hearings. Proposals that reduce regulation complexity or eliminate a special regulation in favor of a statewide one were given preference.

The existing policy behind fishing regulations is to provide diverse fishing opportunities throughout the state and that policy will be continued and enhanced by these rule changes.

RECOMMENDATION: Approve the statement of scope for Board Order FH-18-12

LIST OF ATTACHED MATERIALS:

No Fiscal Estimate Required

Yes Attached

No Environmental Assessment or Impact Statement Required

Yes Attached

No Background Memo

Yes Attached

APPROVED:

Michael Staggt
Bureau Director,

7/30/2012
Date

Ken Johnson
Administrator,

8/3/12
Date

Watt M. Powers
Secretary, Cathy Stepp

8/23/12
Date

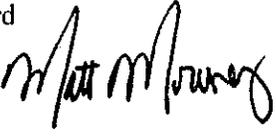
cc: NRB Liaison
DNR Rules Coordinator

Kate Strom Hiorns FH/4

CORRESPONDENCE/MEMORANDUM

DATE: July 3, 2012

TO: Natural Resources Board

FROM: Cathy Stepp, Secretary 

SUBJECT: Scope statement approval for Board Order FH-18-12 relating to recreational fishing regulations

Why is the rule being proposed?

The proposed rule would make modifications to portions of NR 20, 21, 22, and 23 pertaining to sport fishing regulations on inland, outlying, and boundary waters of Wisconsin. These changes are proposed to protect and enhance the State's fish resources.

Fishing regulations are in place to help meet management goals and objectives for waters and their fish species. New regulations are being proposed because management goals have changed or the Department must address a critical need, such as a major fish population decline.

Has the Natural Resources Board dealt with these issues before?

A package of fishing regulation changes have typically been brought before the Board annually in preparation for spring fish and wildlife hearings and to make improvements for the following general fishing season. The previous package was approved by the Board in May 2011 and rules went into effect for the 2012-13 fishing season. If approved by the Board, these proposals will go into effect prior to the 2014-15 fishing season.

Summary of the rule:

Fishing rule change proposals were submitted by fish biologists and peer-reviewed for justification and enforceability by Fisheries Management supervisors and the Bureau Director, species management teams, and the Bureaus of Law Enforcement and Legal Services. Proposals were discussed with Wisconsin Conservation Congress members and will be presented at the 2013 Fish and Wildlife Spring Hearings. Proposals that reduce regulation complexity or eliminate a special regulation in favor of a statewide one were given preference. The following table describes the proposed changes:

BASS	COUNTY	OBJECTIVES
Half Moon Lake	Eau Claire	Decrease number of bass while increasing size and weight
Bass Lake	St. Croix	Decrease number of bass while increasing size and faster growth
Trump Lake	Forest	Decrease number of bass while increasing size
Balsam Lake	Polk	Improve growth and size of bass
WALLEYE	COUNTY	OBJECTIVES
Minong Flowage	Douglas, Washburn	Decrease number of walleye while increasing size and faster growth

Lake Nebagamon	Douglas	Increase size and number of walleye
Patten Lake	Florence	Increase the number and recruitment of walleye
Sandy Beach Lake	Iron	Increase the number and recruitment of walleye
Silver Lake	Barron	Increase size and number of walleye
Wisconsin and Yellow Rivers	several	Remove sunset; provide walleye harvest, catch-and-release, and trophy opportunities
Beaver Dam Lake, Fox Lake	Dodge	Remove sunset; provide larger walleye harvest opportunities, predation on carp & bullheads
NORTHERN PIKE	COUNTY	OBJECTIVES
Lake Six	Iron	Increase pike harvest opportunities, size and competition
Diamond Lake	Bayfield	Restore pike population and a quality fishery
MUSKELLUNGE	COUNTY	OBJECTIVES
Lake Michigan waters north of Waldo Blvd.	many	Support self-reproducing musky population; sustain sport fishery
CATFISH	COUNTY	OBJECTIVES
Yellowstone Lake	Lafayette	Simplify and use general inland catfish regulations
PANFISH	COUNTY	OBJECTIVES
Thompson Lake	Pepin	Simplify and use general inland panfish regulations
STURGEON	COUNTY	OBJECTIVES
Lakes Winnebago, Butte des Morts, Winneconne, and Poygan	Winnebago/ Waushara	Address spearing season safety concerns
URBAN PONDS	COUNTY	OBJECTIVES
Token Creek, Syene, Lapham Peak, and Lions Park ponds	Dane, Rock, Waukesha	Add youth and disabled persons fishing opportunities
LEAD TACKLE	COUNTY	OBJECTIVES
Escanaba, Nebish, Palette lakes	Vilas	Reduce lead deposited into lakes, improve wildlife health
TROLLING	COUNTY	OBJECTIVES
Inland waters	all	Simplify trolling and position fishing rules
EXPERIMENTAL LAKES	COUNTY	OBJECTIVES
Nebish, Palette, Mystery, Spruce, Escanaba lakes	Vilas	Adapt regulations rapidly on these lakes in response to research needs
NORTHERN BASS ZONE	COUNTY	OBJECTIVES
Northern Bass Zone	many	Provide a variety of bass fishing opportunities through adjustments to northern bass zone regulations

ROUGH FISH	COUNTY	OBJECTIVES
Inland waters	all	Expand fishing opportunities near dams and simplify spearing season dates
ICE SHELTERS	COUNTY	OBJECTIVES
Boundary waters	many	Make ice shelter labeling requirements consistent with inland waters
LAKES RESTORATION	COUNTY	OBJECTIVES
Lake Tomah, Park Lake, Sparkling Lake	Monroe, Columbia, Vilas	Protect large fish populations to create a balanced fishery and help restore and improve water conditions
BAG LIMIT READJUSTMENTS	COUNTY	OBJECTIVES
Ceded territory	Many	Allow timing flexibility for bag limit adjustments each year after tribal spearing has ended

In addition to the regulation changes listed above, the rule would also amend s. NR 20.35 in order to allow fish biologists to adjust fish harvest bag and size limits under certain conditions. Procedures already exist in s. NR 20.35 to allow the Department to apply alternative size limits, bag limits, or both for identified fish species to provide for better use and management of the fishery resources of the water. These alternative limits apply temporary regulations to fish species in a waterbody. After distributing a notice and conducting a public information meeting if requested, the Department posts signs at the water's public access sites noting that an alternate limit applies. Currently, s. NR 20.35 allows the Department to apply no size limit to walleye, largemouth bass, or smallmouth bass if it has been found that the fish population has very slow growth in the water or if there are high contamination levels of mercury or other toxins. Under this rule proposal, alternate size or bag limits may be applied to walleye, largemouth bass, smallmouth bass, northern pike, or panfish if, for the particular species in a particular water, the department finds that at least one of the following conditions exist:

- a) A lake restoration project is in place to reduce detrimental fish species that includes bio-manipulation of a waterbody through increasing the abundance and biomass of predator game fish.
- b) Fish have been removed or destroyed as a result of a rehabilitation program to reestablish a good supply of game fish.
- c) An inland water has been documented to contain detrimental species, species nonindigenous to the waters of the state, or rough fish. In order to control the population of detrimental, nonindigenous, or rough fish species and protect the native fish populations, the department shall apply alternate limits.
- d) The department is collaborating with an established university research project in a particular waterbody. The department shall apply alternate size or bag limits for particular species as determined in collaboration with university researchers that shall remain in full force and effect until the research project has ended and the size or bag limits return to those previously in place.
- e) The department finds that an evaluation of a size or bag limit could not be completed before a sunset date listed in s. NR 20.20. The department may extend the limits and they shall remain the same for 7 years from the date specified in s. NR 20.20 or until a permanent rule change is in place, whichever occurs first. The determination to extend a size limit sunset date shall be made within two years prior to the sunset date listed in s. NR 20.20.

Wisconsin Conservation Congress Proposals

Each year the Wisconsin Conservation Congress proposes advisory questions to the general public at the Fish and Wildlife Spring Hearings. Those questions are not reviewed by the Department until after they are supported by a majority vote at the hearings and approved by the Congress at its annual meeting. The Fisheries Management Bureau will expedite review of the approved fisheries-related advisory questions from the April 2012 hearings and include in this rule those proposed regulations for which available data warrant immediate attention. The Bureau will consult further with Congress committees and its species teams on the other proposed regulations that require additional data and review.

How does this proposal affect existing policy?

The existing policy behind fishing regulations is to provide diverse fishing opportunities throughout the state and that policy will be continued and enhanced by these rule changes. Based on the management goals for individual waters and species, the Fisheries Management Bureau 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.

Public hearing

Public hearings will be held in every county of the state in April 2013.

Who will be impacted by the proposed rule? How will they be impacted?

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 Fisheries Management Bureau works to notify the public of new regulations via press releases, the internet, and fishing regulations pamphlets.

Environmental assessment

This is a Type III action under Chapter NR 150, Wis. Admin. Code. No environmental assessment is required.

Small business analysis; Initial regulatory flexibility analysis

Minimal to no economic impact is expected (Level 3). 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 intention of the rule is to maintain the general economic impact of fishing throughout Wisconsin.

No negative impact 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/Home>.

STATEMENT OF SCOPE

Department of Natural Resources

Rule No.: FH-18-12

Relating to: Fishing regulations on inland, outlying, and boundary waters that will be proposed at the 2013 Spring Fish and Wildlife Hearings

Rule Type: Permanent

1. Finding/nature of emergency (Emergency Rule only): Not applicable

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, as described in the table below. 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. They are based on input solicited from stakeholders when the proposals were developed as well as a plan for evaluating the regulation after it is in place.

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Ceded territory	Many	Allow timing flexibility for bag limit adjustments each year after tribal spearing has ended

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- a) A lake restoration project is in place to reduce detrimental fish species that includes bio-manipulation of a waterbody through increasing the abundance and biomass of predator game fish.
- b) Fish have been removed or destroyed as a result of a rehabilitation program to reestablish a good supply of game fish.
- c) An inland water has been documented to contain detrimental species, species nonindigenous to the waters of the state, or rough fish. In order to control the population of detrimental, nonindigenous, or rough fish species and protect the native fish populations, the department shall apply alternate limits.
- d) The department is collaborating with an established university research project in a particular waterbody. The department shall apply alternate size or bag limits for particular species as determined in collaboration with university researchers that shall remain in full force and effect until the research project has ended and the size or bag limits return to those previously in place.
- e) The department finds that an evaluation of a size or bag limit could not be completed before a sunset date listed in s. NR 20.20. The department may extend the limits and they shall remain the same for 7 years from the date specified in s. NR 20.20 or until a permanent rule change is in place, whichever occurs first. The determination to extend a size limit sunset date shall be made within two years prior to the sunset date listed in s. NR 20.20.

Wisconsin Conservation Congress Proposals

Each year the Wisconsin Conservation Congress proposes advisory questions to the general public at the Fish and Wildlife Spring Hearings. Those questions are not reviewed by the Department until after they are supported by a majority vote at the hearings and approved by the Congress at its annual meeting. The Fisheries Management Bureau will expedite review of the approved fisheries-related advisory questions from the April 2012 hearings and include in this rule those proposed non-controversial regulations for which available data warrant immediate attention. The Bureau will consult further with Congress committees and its species teams on the other proposed regulations that require additional data and review.

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 rule would make modifications to portions of NR 20, 21, 22, and 23 pertaining to sport fishing regulations on inland, outlying, and boundary waters of Wisconsin. These changes are proposed to protect and enhance the State's fish resources.

All rule change proposals were submitted by fish biologists and peer-reviewed for justification and enforceability by Fisheries Management supervisors and the Bureau Director, species management teams, and the Bureaus of Law Enforcement and Legal Services. Proposals were discussed with Wisconsin Conservation Congress members and will be presented at the 2013 Fish and Wildlife Spring

Hearings. Proposals that reduce regulation complexity or eliminate a special regulation in favor of a statewide one were given preference.

The existing policy behind fishing regulations is to provide diverse fishing opportunities throughout the state and that policy will be continued and enhanced by these rule changes. Based on the management goals for individual waters and species, the Fisheries Management Program 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.

It is not expected that rule changes as a result of comments from the 2013 Fish and Wildlife Spring Hearings would affect the scope or economic impact of the rule proposal. For example, the Department may make changes in response to hearing comments that would remove a proposal to implement an 18-inch minimum size limit and daily bag limit of 3 fish for walleye, sauger, and hybrids in one or more counties. Without implementing the proposed size and bag limits, existing regulations remain in place to ensure continued protection of fish resources. Similarly, if comments from public hearings result in additional elements to a proposal, it is not expected that it would affect the scope or economic impact of the rule proposal. For example, a proposal to require the use of quick-strike rigs when fishing with a 10-inch or longer minnow as bait was changed after a hearing in order to allow the use of circle hooks or quick-strike rigs when fishing with an 8-inch or longer minnow as bait. These changes still met the intent and objectives of the original rule proposal.

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 227.11(2)(a), Stats., expressly confers rulemaking authority on the department to promulgate rules interpreting any statute enforced or administered by it, if the agency considers it necessary to effectuate the purpose of the statute.

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

Approximately 300 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 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.

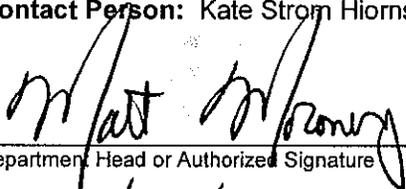
8. Anticipated economic impact of implementing the rule:

Minimal to no economic impact. (Level 3)

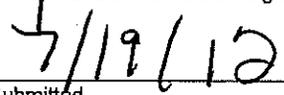
It is not expected that there will be any economic impact directly related to these rule changes. The proposed rule will primarily affect sport anglers. Regulations are already in place and this rule is intended to continue protection and enhancement of the State's fish resources. One intention of the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

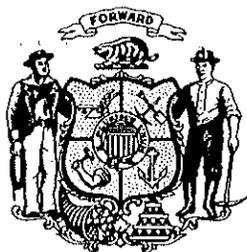
Contact Person: Kate Strom Hiorns, (608) 266-0828 kathryn.stromhiorns@wisconsin.gov



Department Head or Authorized Signature



Date Submitted



SCOTT WALKER
OFFICE OF THE GOVERNOR
STATE OF WISCONSIN

P.O. Box 7863
MADISON, WI 53707

July 25, 2012

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-18-12 relating to fishing regulations on inland outlying and boundary waters that will be proposed at the 2013 Spring Fish and Wildlife Hearings

Dear Secretary Stepp,

I hereby approve the statement of scope submitted on June 18, 2012, pursuant to Wisconsin Statutes § 227.135, in regards to a proposed rule FH-18-12. You may send the scope statement to the Legislative Reference Bureau for publication pursuant to Wisconsin Statutes § 227.135(3).

Sincerely,

Scott Walker
Governor