Form 1100-001P (Rev. 11/12)

Wisconsin Department of Natural Resources
Natural Resources Board Agenda Item

Item No. 3.B.3.

SUBJECT:
Request that the Board authorize public hearing for Board Order FH-01-12, proposed rules affecting NR 20 related to fishing tournaments.

FOR: September 2013 Board meeting

PRESENTER'S NAME AND TITLE: Mike Staggs, Fisheries Management Bureau Director

SUMMARY:
The Department is proposing more efficient and effective tournament rules. New policies will include:

- defining "culling"
- determining certain permit exceptions and participant limits
- streamlining tournament permit application procedures
- specifying boat and live well requirements
- clarifying rules on border waters
- clarifying conditions for catch-hold-release tournaments
- clarifying use of bag limit reduction during warm water periods for bass and walleye tournaments
- specifying boundaries for catch-hold-release bass and walleye tournaments on Green Bay

Proposed changes are in response to 2011 Wisconsin Act 24, which allowed culling during permitted bass fishing tournaments, and efforts to improve customer service and staff efficiencies.

The Department anticipates that the proposed rule will have minimal or no economic impact locally or statewide (Level 3).

RECOMMENDATION: That the Board authorize public hearing for Board Order FH-01-12.

LIST OF ATTACHED MATERIALS (check all that are applicable):

- ☒ background memo
- ☐ Statement of scope
- ☒ Fiscal estimate and economic impact analysis (EIA) form
- ☐ Response summary
- ☐ Attachments to background memo
- ☐ Governor approval of statement of scope
- ☐ Environmental assessment or impact statement
- ☒ Board order/rule

Approved by	Signature	Date
Mike Staggs, Bureau Director	for Mike Staggs	9/13/12
Ken Johnson, Administrator		9/13/12
Cathy Stepp, Secretary		9/13/13

cc: Board Liaison - AD/8 Program attorney – LS/8 Department rule coordinator – LS/8

CORRESPONDENCE/MEMORANDUM

State of Wisconsin

DATE: September 6, 2013

TO: All Members of the Natural Resources Board

FROM: Cathy Stepp, Secretary

SUBJECT: Background memo on Board Order FH-01-12, relating to authorization of public hearings.

Why is the rule being proposed?
The current fishing tournament rule has been in effect for over three years and the Fisheries Bureau has taken a critical look at the rule to identify areas for improvement. This rule is being proposed to simplify and create more effective fishing tournament rules that should increase user satisfaction and address concerns about crowding, tournament associated fish mortality, and the spread of invasive species.

Proposed changes are in response to 2011 Wisconsin Act 24, which allowed culling during permitted bass fishing tournaments, and efforts to improve customer service and staff efficiencies.

The Tournament Rule Review Task Force - which includes DNR Fisheries Management and Law Enforcement staff, a WI Conservation Congress representative, and public tournament organizers from Wisconsin BASS and the Midwest Walleye Series - have been developing suggestions for fishing tournament rule changes.

Summary of rule.
Current fishing tournament rules establish a maximum amount of tournament fishing pressure that can occur on individual waterbodies, a process for applying for tournament permits, established fees to recover the costs associated with processing and issuing tournament permits, and outline conditions that may be added to the fishing tournament permit by the department to reduce unwanted mortality and prevent the spread of aquatic invasive species. These conditions are explicitly stated at the time of permit issuance.

After several years of issuing tournament permits and evaluating both angler and program management needs, the department is proposing more efficient and effective tournament rules:

A) Current policy: 2011 Wisconsin Act 24 allows anglers to cull in department authorized bass tournaments, but did not provide a definition of "culling."

Proposed change: Define "Cull" or "Culling" as the practice of releasing a live fish that was held in an angler's possession and replacing it with another fish. Live fish that are released and capable of swimming away under their own power are not considered part of the angler's daily bag limit provided the total number of fish possessed at any one time does not exceed the angler's daily bag limit.

B) Current policy: A tournament permit is required if various criteria are met, including the identification of tournament participants and if the event is limited to certain waters. These criteria are meant to address crowding issues, however, they do not determine whether participants are fishing during a short period of time. Moreover, permitted tournaments may not last longer than four days.

Proposed change: Create permit exception for season-long tournaments. Many resorts and bars have season-long events for which participants must pay to enter, however, the associated fishing pressure is

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minimal because it is dispersed over many weeks. Creating a permit exception would allow Wisconsin resorts and bars to continue to hold season-long tournaments without applying for a permit and with little chance of adding to typical tournament related crowding or fish mortality.

C) Current policy: Tournament permit applicants must pay an application fee based on prize values.

Proposed change: Adjust lower bounds of prize values used to determine the permit application fee. Tournament permit applicants tend to estimate the maximum prize values on their application at a level that results in an unnecessarily high application fee. This change would add $1 to the lower bounds of the prize value structure in order to reduce application fees for some applicants from $50 to $25 and from $200 to $50. The department would expect minor revenue losses (~$1,600).

D) Current policy: The department accepts permit applications during an open period from April 1st through June 30th for fishing tournaments to be held in the following calendar year. If the number of tournament applications during that period exceeds the maximum number of tournaments allowed on a waterbody, applicants are subject to a drawing.

Proposed change: Remove the open period from the permit application process and allow applicants to apply starting on January 1st of the preceding year for traditional tournaments (a fishing tournament that was issued permits 4 out of 5 years from 2004 to 2008 for the same water and time period) and April 1st of the preceding year for non-traditional tournaments. The current permitting process has been in effect for two years and the department has received roughly 16% of the total annual applications during the open period in each year. A drawing was not necessary in either year and there have generally been few instances of multiple proposed tournaments collectively approaching the participation limits. Moreover, the complicated nature of the open period has been confusing for tournament organizers and logistically challenging for the department. Removing the open period and potential for a drawing will simplify the rule, streamline the permitting process, and reduce workload for department staff.

E) Current policy: In lakes less than 100 acres, ice fishing tournaments are limited to 50 participants per day. However, a tournament permit is not needed unless there are 100 or more participants. In lakes 100 to 449 acres, the maximum daily number of participants is 150.

Proposed change: Increase the maximum daily number of participants allowed for permitted ice fishing events in small lakes: 150 daily participants would be allowed on lakes less than 100 acres and 250 daily participants would be allowed on lakes between 100-449 acres. Numerous community-oriented fundraising events with ice fishing tournaments are limited by the current participation limits. These events are more focused on the social aspects of the event rather than the competition of the tournament and organizers generally are unable to determine how many participants are actually fishing. An increase in participation limits will reduce the likelihood that these community-oriented events would potentially be in violation of the law. While increasing the participation limit does result in a potential increase in crowding, the department does not believe increases will be perceptible given the vague distinction between tournament participants and non-tournament participants.

F) Current policy: The size and number of permitted fishing tournaments allowed on a water body may not exceed limits in administrative code based on lake acreage and the numbers of boats, fishing days, and participants.

Proposed change: Exclude small permitted tournaments from calculations to determine the total number of tournaments allowed on individual waters. 2011 Wisconsin Act 24 allowed culling in department-authorized bass tournaments, and as a result bass tournaments with fewer than 20 boats that formerly did

not need permits are now applying for them in order to cull fish. The increase in permit applications could create a shortage of permits on certain waterbodies, potentially preventing large tournaments in need of a permit from receiving one. Prior to Act 24, these tournaments would already occur without a permit and not be counted toward the tournament permit limit because the small number of participants would not cause crowding on the water. To avoid this unintended consequence of Act 24, small tournaments (<20 boats) that apply for a permit only so participants can cull fish would not be counted toward any participation limits (maximum daily number of boats, maximum monthly boat days, maximum daily concurrent tournaments).

G) Current policy: Catch-hold-release tournaments are subject to provisions intended to set standards for the care of fish meant to be released. Current language requires participants to have a boat with a functioning live well however does not differentiate this requirement for open water versus ice fishing events.

Proposed change: Add language to specify that boat and live well requirements only apply to open water tournaments and that any fish transported to or from the weigh-in site in a catch-hold-release ice fishing tournament must be held in water if the fish will be released.

H) Current policy: The fishing tournament permitting program administered by the Minnesota DNR that authorizes tournament activity on WI-MN boundary waters of the Mississippi River is very similar to that of WDNR. Accordingly, the states have recognized tournament permits and allowed tournament activity in their waters under the other states' permit. The number of permits available per river pool was set to reflect this agreement. No administrative code language currently exists that explicitly states this agreement.

Proposed change: Add language to explicitly state the authority to recognize neighboring states' tournament permits on border waters.

I) Current policy: Catch-hold-release tournaments targeting bass or walleye are subject to tournament specific conditions that the department may use to minimize post-release fish mortality when environmental conditions are not conducive to post-release survival. The department has internal guidance that is somewhat ambiguous regarding two specific conditions: 1) the reduction of bag limits during warm water periods and 2) restrictions on the distance tournament anglers may travel on large waterbodies. Specifically, for 1), the department currently reduces the daily bag limit during the time period specified in administrative code unless a local fisheries biologist has data that suggest water temperatures will not be over 70 degrees (F) for walleye and 80 degrees for black bass. Specifically, for 2), the department has developed guidance that places boundaries on bass and walleye tournaments on Green Bay (the only water where distance restrictions are warranted) based on studies published from other states, fish tagging data, and precedence. Both of these tournament specific conditions have at different times generated substantial controversy and, because of mutual miscommunication, been received with some element of surprise.

Proposed change: The department proposes adding specific language to administrative code that clarifies the use of these tournament specific conditions that is agreeable to tournament organizers and the department believes sufficiently addresses social and biological concerns. The department worked with tournament anglers in developing a standard approach to implementing these conditions. The proposed changes explicitly state when and where bag limits will be reduced as well as provide exceptions for high profile tournaments. The proposed changes also state exactly where anglers will be allowed to fish on Green Bay based on the species they are targeting and the location of a tournament's weigh-in site. Finally, the department is adding language that clarifies the reasoning for the condition: whether the

conditions are to be used to address issues associated with waste from post-release mortality or whether the conditions are meant to address potential detrimental effects on the fish population.

J) Current policy: The permit provisions for fish transport, measurement, and release have always been included on permits for catch-hold-release muskellunge tournaments.

Proposed change: The provisions will now be codified rather than only included on permit forms.

How does this affect existing policy?

(Noted in Summary above)

Has the Board dealt with these issues before?

In January 2008, the Natural Resources Board passed order FH-22-06 pertaining to the regulation of fishing tournaments. There were four general components included in the proposed rules. First, the rules established a maximum amount of tournament fishing pressure that can occur on individual waterbodies. The determination of the maximum amount of fishing pressure was based on providing reasonable access to Wisconsin's fisheries and aquatic resources as outlined in NR 1.91 (5) (b). Second, the rules outlined a process for applying for tournament permits. This process included a provision to hold a lottery if tournament applications received during the open application period (April 1st-June 30th in the year prior to the event) exceed the maximum allowable amount of fishing pressure. "Traditional fishing tournaments" were given preference and are generally not subject to the lottery. Traditional fishing tournaments would receive their permit unless the number of traditional fishing tournaments exceeds the maximum. Third, the rules established fees, which range from $25-$200, to recover the costs associated with processing and issuing tournament permits with lower fees associated with tournaments that are likely to have a small impact on fisheries resources. Finally, the rules outlined conditions that may be added to the fishing tournament permit by the department to reduce unwanted mortality and prevent the spread of aquatic invasive species. These conditions are explicitly stated at the time of permit issuance.

On May 1, 2008, the Assembly Committee on Natural Resources took testimony from the DNR and the public related to the rules passed by the NRB. In response to the testimony and the concerns of Committee, the Committee voted unanimously to request that the Department of Natural Resources consider modification to Clearinghouse Rule 06-108, including but not limited to the issue of law enforcement probable cause. In addition, a number of people testified that the fees were still too high for smaller tournaments and were concerned that the rules would adversely affect youth participation. The Department addressed these concerns as well as some smaller issues of interest to the DNR.

Who will be impacted by the proposed rule? How?

The proposed rule change would impact fishing tournament organizers and sport anglers who participate in fishing tournaments. Changes are expected to make the tournament permitting process simpler and to clarify rules for anglers. No negative impact is expected for businesses, business associations, public utility rate payers, or local governmental units.

Information on environmental analysis, if needed?

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

Small Business Analysis.

The proposed rule change would impact fishing tournament organizers and sport anglers who participate in fishing tournaments. 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 language will be available for viewing and to make comments at https://health.wisconsin.gov/admrules/public/Home.

Based on one comment received during the economic impact comment period, the rule would have a beneficial impact for some businesses, such as bait and tackle shops located near popular tournament areas. Minimal economic impact is expected overall for businesses, business associations, public utility rate payers, or local governmental units. The proposed rule would not adversely affect in a material way the economy, a sector of the economy, productivity, jobs, or the overall economic competitiveness of the State.

STATE OF WISCONSIN
DEPARTMENT OF ADMINISTRATION
DOA-2049 (R03/2012)

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ADMINISTRATIVE RULES
Fiscal Estimate & Economic Impact Analysis

1. Type of Estimate and Analysis
☐ Original ☒ Updated ☐ Corrected

2. Administrative Rule Chapter, Title and Number
Chapter NR 20, Fishing: Inland Waters; Outlying Waters

3. Subject
Fishing Tournament Rule Changes, FH-01-12

4. Fund Sources Affected
☐ GPR ☐ FED ☐ PRO ☐ PRS ☐ SEG ☐ SEG-S

5. Chapter 20, Stats. Appropriations Affected

6. Fiscal Effect of Implementing the Rule
☒ No Fiscal Effect ☐ Increase Existing Revenues ☐ Increase Costs
☐ Indeterminate ☐ Decrease Existing Revenues ☐ Could Absorb Within Agency's Budget
☐ Decrease Cost

7. The Rule Will Impact the Following (Check All That Apply)
☐ State's Economy ☒ Specific Businesses/Sectors
☐ Local Government Units ☐ Public Utility Rate Payers
☐ Small Businesses **(if checked, complete Attachment A)**

8. Would Implementation and Compliance Costs Be Greater Than $20 million?
☐ Yes ☒ No

9. Policy Problem Addressed by the Rule
The rule is intended to simplify and create more effective fishing tournament rules that increase user satisfaction while addressing concerns about crowding, tournament associated fish mortality, and the spread of invasive species.

10. Summary of the businesses, business sectors, associations representing business, local governmental units, and individuals that may be affected by the proposed rule that were contacted for comments.
For comments on the economic impact of the rule, the department contacted current and former fishing tournament permit holders, local governments where tournaments often occur, the Wisconsin Conservation Congress, the Wisconsin Wildlife Federation, the Great Lakes Indian Fish and Wildlife Commission, Wisconsin Association of Lakes, WI Federation of Great Lakes Sport Fishing Clubs, WI Council of Sport Fishing Organizations, Musky Clubs Alliance of Wisconsin, Inc., Salmon Unlimited, Sturgeon for Tomorrow, Trout Unlimited - WI Council, Walleyes for Tomorrow, WI Bass Federation, Izaak Walton League-Wisconsin Division, Lake Michigan Fisheries Forum, WI Commercial Fisheries Association, American Fisheries Society-Wisconsin Chapter, Natural Resources Foundation of WI, Gathering Waters, River Alliance of Wisconsin, UW Sea Grant, League of WI Municipalities, WI Towns Association, WI Counties Association, NE WI Great Lakes Sport Fishermen, Great Lakes Sport Fishermen of Milwaukee, and the Lake Michigan and Lake Superior Commercial Fishing Boards.

The Department received five comments during the August 22 to September 5 open comment period, including:

--Ron Lappin, Tournament Director for FLW Outdoors: We are a compliant company and we have no issue with the proposed rule. We applaud efforts to help us help our customers have a great experience fishing in your states waters.

--Fred Iantorno, President of Blackhawk Bassmasters: Thank you for the opportunity to review the proposed changes. And thank you for the changes. Blackhawk Bassmasters is a small fishing club that has obtained permits in 2013 in order to cull. We fall under the minimum requirements do to our size. There is no economic impact to us unless the fees are raised from the $25.00.
There is still one point that I believe needs to be clarified. It is the three fish rule during warmer weather. The issue is that of the temperature exceptions. How will a club such as ours be notified that the 3 fish rule (for the appropriate

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ADMINISTRATIVE RULES
Fiscal Estimate & Economic Impact Analysis

summer period) is NOT in effect. Water temperature varies all over a body of water. Without some way of know definitively in writing, the temperature rule has no effect. Not wanting to violate any law, I, for one, would have to assume that the rule is in effect. Please consider something to the effect of posting a web page with this information and making it easily available to anglers.
Thank you for the opportunity to review the documents, and for considering my reply.
(Department response to the above question is that the appropriate regulation would be listed in the permit obtained by tournament organizers.)

--Gary Swanson, WI River Lions: Thank you for asking for our input. We have held the "Early Bird Fishing Tournament" for the past 30 years. We are the Wisconsin River Lions and as a charitable organization using our April fishing tournament on the Wisconsin River as a fund raiser, lowering the permit fee would be great. We do not allow culling in our tournament, so that aspect of your proposal does not apply to us. We also have a very low mortality due to the water temperature in late April. Most of your proposal will not impact our tournament, but maybe you could waive the permit fee for charitable organizations? Thanks again for asking.

--Marc A. Schultz, Chairman La Crosse County Conservation Alliance: I quickly reviewed the information provided and did not notice any big issues however getting input from member organizations is impaired by the short comment period. I do have an issue with the short turn around on the comment time. I suspect that some fishing organizations have followed this process but most anglers have not.
Many conservation organizations meet once a month. If the organization meeting does not fall within the time period Aug 22 to Sept 5 and having not been aware of the details of the proposals before today the organization would not usually be able to comment. This economic impact process needs a minimum of 30 days for comment.
(The Department responded directly to Mr. Schultz with the following: Thanks for your comments. This rule is expected to have minimal economic impact, which put it in the 14-day comment period category. However, the rule must still be approved for public hearings by the Natural Resources Board and afterward there will be a public hearing and comment period, so there will be ample opportunity for anyone we've missed to still comment. If anyone has specific economic impact comments at a later time, we can update the analysis as needed. Mr. Schultz then responded: OK. I do not expect any real issues and it is good to know the details of the process. Thanks.)

--Scott Gartner, Bob's Bait and Tackle in LaCrosse, WI: The new rules I just read, and believe to understand, would be a great benefit to my small bait and tackle company in La Crosse, WI. We are right on the Mississippi River and tournaments are a catalyst for a considerable amount of our yearly revenue. These loosened rules will be great for our business and I believe are more appropriate for such a wonderful and large tournament body of water. The areas that are very small may have some crowding issues with fewer permits needed, but I can't speak for them.

11. Identify the local governmental units that participated in the development of this EIA.
No local governments requested to participate in the development of the EIA.

12. Summary of Rule's Economic and Fiscal Impact on Specific Businesses, Business Sectors, Public Utility Rate Payers, Local Governmental Units and the State's Economy as a Whole (Include Implementation and Compliance Costs Expected to be Incurred)
Based on one comment received during the economic impact comment period, the rule may have a beneficial impact for some businesses, such as bait and tackle shops located near popular tounament areas. Minimal economic impact is expected overall for businesses, business associations, public utility rate payers, or local governmental units. The proposed rule would not adversely affect in a material way the economy, a sector of the economy, productivity, jobs, or the overall economic competitiveness of the State.

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ADMINISTRATIVE RULES
Fiscal Estimate & Economic Impact Analysis

Illinois
A permit is needed from the DNR if prizes are offered for tagged fish, the event is more than 5 days, or if special exemptions are requested. There are no set limits to tournament activity nor a permit fee. Permit applications are reviewed and issued or denied based on various criteria. There is no set application process except that applications must be received at least 60 days in advance.

Michigan
Fishing tournament permits are obtained through the Michigan Recreational Boating Information Center for the use of the waterbody access site.

17. Contact Name	18. Contact Phone Number
Jonathan Hansen, Tournament Program Manager	608-266-6883

This document can be made available in alternate formats to individuals with disabilities upon request.

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ADMINISTRATIVE RULES
Fiscal Estimate & Economic Impact Analysis

The proposed rule change would impact fishing tournament organizers and sport anglers who participate in fishing tournaments. No additional compliance or reporting requirements will be imposed on small businesses as a result of these rule changes.

13. Benefits of Implementing the Rule and Alternative(s) to Implementing the Rule

The proposed rule change would positively impact fishing tournament organizers and sport anglers who participate in fishing tournaments. The Tournament Rule Review Task Force - which includes DNR Fisheries Management and Law Enforcement staff, a WI Conservation Congress representative, and public tournament organizers from Wisconsin BASS and the Midwest Walleye Series - developed these fishing tournament rule changes.

There would be no implementation costs for the Department and no expected costs or impacts on small businesses. Programming changes would be made to the Department's online permitting system in order to simplify and quicken the application process for tournament organizers and potentially reduce workload for staff.

The alternative would be to not implement the rule, which would reduce the benefits expected for fishing tournament organizers and Department staff. All parties will benefit from clarification of existing rules as well as ensuring administrative code reflects the statutory changes made in 2011 Wisconsin Act 24.

14. Long Range Implications of Implementing the Rule

Changes are expected to make the tournament permitting process simpler and to clarify rules for anglers. No negative impact is expected for businesses, business associations, public utility rate payers, or local governmental units.

15. Compare With Approaches Being Used by Federal Government

The Department is not aware of any existing or proposed federal regulation that would govern fishing tournaments.

16. Compare With Approaches Being Used by Neighboring States (Illinois, Iowa, Michigan and Minnesota)

Iowa

A tournament permit is required from the DNR for all organized fishing events with 6 or more boats or 12 or more participants (except for the Mississippi River where it is 20 or more boats or 40 or more participants) where an entry fee is required or prize values awarded. Tournament permits must be applied for online and cost $25. Tournament activity is limited based on waterbody size and permit applications can be denied at the discretion of the reviewing biologist. The DNR may impose special conditions for any fishing tournament if deemed necessary to protect the resource or to assure public safety, including but not limited to:

- fish measured to length and released from a boat
- designated release areas
- multiple weigh-ins when water temperatures exceed 70 degrees Fahrenheit
- scheduled weigh-in no later than 1:00 PM in the months of June, July, and August
- no weigh-in tournaments allowed for walleye, northern pike, and muskellunge in the months of June, July and August

Minnesota

Fishing tournaments are regulated very similarly to Wisconsin. Tournament permits are available based on waterbody size and a lottery exists if limits are reached. Permit application fees are more substantial than Wisconsin. Additionally, the DNR may include the following restrictions as part of a fishing contest permit:

- Restrictions on live-release or off-site weigh-ins, or denial of live-release or off-site weigh-ins to prevent undue loss of fish;
- Restrictions on hours that a fishing contest is conducted including specified start and stop times;
- Limits on pre-fishing and proof that such limits were communicated to contest participants and enforced; and
- Limits on the use of parking spaces at state-owned public water access sites and proof that such limits were communicated to the participants and enforced.

ORDER OF THE STATE OF WISCONSIN NATURAL RESOURCES BOARD AMENDING, REPEALING AND RECREATING, AND CREATING RULES

Wisconsin Natural Resources Board proposes an order to amend NR 20.40(3), (3m), (4), (7)(intro.), (7)(a), (10)(g)3., (10)(g)4., and (10)(g)7., to repeal and recreate NR 20.40(5), and to create NR 20.40(2)(dm) and (Note), (7)(f)2m and (Note), (10)(g)3m., (10)(g)8., (10)(g)9., and (10)(gm) relating to fishing tournaments on inland, outlying, and boundary waters of Wisconsin.

FH-01-12

Analysis Prepared by Department of Natural Resources

1. Statutes interpreted. Sections 29.014(1), 29.041, and 29.403, Stats., have been interpreted as giving the department the authority to make changes to fishing regulations on waters of Wisconsin and to write fishing tournament rules that help to ensure good fishing opportunities.

2. Statutory authority. Sections 29.014(1), 29.041, 29.403(1g), and 29.403(2), Stats.

3. Explanation of agency authority to promulgate the proposed rules under the statutory authority. 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 29.403 (1g), Stats., authorizes the department to promulgate rules to establish a program to authorize and regulate fishing tournaments and establish the scope and applicability of the program.

Section 29.403 (2), Stats., provides that the department may require a permit to conduct a fishing tournament and may impose terms and conditions that apply to a specific permit.

4. Related statutes or rules.
Section 23.095 (1g), Stats., Protection of natural resources: No person may damage or attempt to damage any natural resource within the state. "Damage" means to commit a physical act that unreasonably destroys, molests, defaces, removes or wastes.

5. Plain language analysis of the proposed rule. This rule is being proposed to simplify and create more effective fishing tournament rules that should increase user satisfaction and address concerns about crowding, tournament associated fish mortality, and the spread of invasive species.

SECTIONS 1 and 2 define culling and require bass fishing tournaments of any size that intend to cull to obtain a permit. "Cull" or "Culling" is the practice of releasing a live fish that was held in an angler's possession and replacing it with another fish. Live fish that are released and capable of swimming away under their own power are not considered part of the angler's daily bag limit provided the total number of fish possessed at any one time does not exceed the angler's daily bag limit. Section 29.403(1m), Stats., allows culling only during largemouth and smallmouth bass fishing tournaments authorized by the department.

SECTION 3 creates a permit exception for season-long tournaments. Many resorts and bars have season-long events for which participants must pay to enter, however, the associated fishing pressure is minimal because it is dispersed over many weeks. Creating a permit exception would allow Wisconsin resorts and bars to continue to hold season-long tournaments without applying for a permit and with little chance of adding to typical tournament related crowding or fish mortality.

SECTION 4 adjusts the lower bounds of prize values used to determine the permit application fee. Tournament permit applicants must pay an application fee based on prize values. Tournament permit applicants tend to estimate the maximum prize values on their application at a level that results in an unnecessarily high application fee. This change would add $1 to the lower bounds of the prize value structure in order to reduce application fees for some applicants from $50 to $25 and from $200 to $50.

SECTION 5 removes the open period and lottery process from the permit application process and allows applicants to apply starting on January 1 of the preceding year for traditional tournaments (a fishing tournament that was issued permits 4 out of 5 years from 2004 to 2008 for the same water and time period) and April 1 of the preceding year for non-traditional tournaments. All permits would be issued on a first come first served basis. Language was also included that allows the department to process late applications provided the applicant pays a late fee. This is necessary in order for department staff to expedite reviews and give incentive for applicants to apply earlier.

SECTION 6 excludes small permitted bass tournaments from calculations to determine the total number of tournaments allowed on individual waters. The size and number of permitted fishing tournaments allowed on a water body may not exceed limits in administrative code based on lake acreage and the numbers of boats, fishing days, and participants. 2011 Wisconsin Act 24 allowed culling in department-authorized bass tournaments, and as a result bass tournaments with fewer than 20 boats that formerly did not need permits are now applying for them in order to cull fish. The increase in permit applications could create a shortage of permits on certain waterbodies, potentially preventing large tournaments in need of a permit from receiving one. Prior to Act 24, these tournaments would already occur without a permit and not be counted toward the tournament permit limit because the small number of participants would not cause crowding on the water. Small bass tournaments (<20 boats) that apply for a permit only so participants can cull fish would not be counted toward any participation limits (maximum daily number of boats, maximum monthly boat days, maximum daily concurrent tournaments).

SECTION 7 increases the maximum daily number of participants allowed for permitted ice fishing events in small lakes: 150 daily participants would be allowed on lakes less than 100 acres and 250 daily participants would be allowed on lakes between 100-449 acres. Numerous community-oriented fundraising events with ice fishing tournaments are limited by the current participation limits.

SECTION 8 explicitly recognizes Minnesota's tournament permits on border waters. The fishing tournament permitting program administered by the Minnesota Department of Natural Resources that authorizes tournament activity on WI-MN boundary waters of the Mississippi River is very similar to that of Wisconsin. Accordingly, the states have recognized tournament permits and allowed tournament activity in their waters under the other states' permits. The number of permits available per river pool was set to reflect this agreement.

SECTIONS 9 and 10 specify that boat and live well requirements only apply to open water tournaments and that any fish transported to or from the weigh-in site in a catch-hold-release ice fishing tournament must be held in water if the fish will be released.

SECTIONS 11 and 15 include standard conditions associated with catch-hold-release muskellunge tournaments. The permit provisions for fish transport, measurement, and release have always been

included on permits for catch-hold-release muskellunge tournaments. The provisions will now be codified rather than only included on permit forms.

SECTIONS 12, 13, and 14 clarify the use of tournament specific conditions for catch-hold-release bass and walleye tournaments. The department currently places tournament-specific conditions on catch-hold-release bass and walleye tournaments to address issues related to post-release mortality. Specifically, the department may reduce the daily bag limit when water temperatures are typically elevated and restrict the areas anglers are allowed to fish on large waterbodies to reduce the distance fish are transported. Both of these tournament specific conditions have at different times generated substantial controversy and, because of mutual miscommunication, been received with some element of surprise. The department worked with tournament anglers in developing a standard approach to implementing these conditions. The proposed changes explicitly state when and where bag limits will be reduced as well as provide exceptions for high profile tournaments. The proposed changes also state exactly where anglers will be allowed to fish on Green Bay based on the species they are targeting and the location of a tournament's weigh-in site. Finally, the department is adding language that clarifies the reasoning for the condition: whether the conditions are to be used to address issues associated with waste from post-release mortality or whether the conditions are meant to address potential detrimental effects on the fish population.

6. Summary of and comparison with existing or proposed federal statutes and regulations. The department is not aware of any existing or proposed federal regulation that would govern tournament fishing in Wisconsin's inland, outlying, or boundary waters.

7. Comparison with rules in adjacent states.

Iowa
A tournament permit is required from the DNR for all organized fishing events with 6 or more boats or 12 or more participants (except for the Mississippi River where it is 20 or more boats or 40 or more participants) where an entry fee is required or prize values awarded. Tournament permits must be applied for online and cost $25. Tournament activity is limited based on waterbody size and permit applications can be denied at the discretion of the reviewing biologist. The DNR may impose special conditions for any fishing tournament if deemed necessary to protect the resource or to assure public safety, including but not limited to:

- fish measured to length and released from a boat
- designated release areas
- multiple weigh-ins when water temperatures exceed 70 degrees Fahrenheit
- scheduled weigh-in no later than 1:00 PM in the months of June, July, and August
- no weigh-in tournaments allowed for walleye, northern pike, and muskellunge in the months of June, July and August

Minnesota
Fishing tournaments are regulated very similarly to Wisconsin. Tournament permits are available based on waterbody size and a lottery exists if limits are reached. Permit application fees are more substantial than Wisconsin. Additionally, the DNR may include the following restrictions as part of a fishing contest permit:

- Restrictions on live-release or off-site weigh-ins, or denial of live-release or off-site weigh-ins to prevent undue loss of fish;
- Restrictions on hours that a fishing contest is conducted including specified start and stop times;
- Limits on pre-fishing and proof that such limits were communicated to contest participants and enforced; and

- Limits on the use of parking spaces at state-owned public water access sites and proof that such limits were communicated to the participants and enforced.

Illinois
A permit is needed from the DNR if prizes are offered for tagged fish, the event is more than 5 days, or if special exemptions are requested. There are no set limits to tournament activity nor a permit fee. Permit applications are reviewed and issued or denied based on various criteria. There is no set application process except that applications must be received at least 60 days in advance.

Michigan
Fishing tournament permits are obtained through the Michigan Recreational Boating Information Center for the use of the waterbody access site.

8. Summary of factual data and analytical methodologies.
This rule is intended to simplify and create more effective fishing tournament rules that increase user satisfaction while still addressing concerns about crowding, tournament associated fish mortality, and the spread of invasive species. The Tournament Rule Review Task Force, which includes DNR Fisheries Management and Law Enforcement staff and public tournament organizers from the Wisconsin Bass Federation Nation, Wisconsin Bass Federation, Wisconsin Conservation Congress, and the Midwest Walleye Series, developed the fishing tournament rule changes. Letters soliciting input on the suggested changes will be sent to Wisconsin Federation of Great Lakes Sportfishing Clubs, the Wisconsin Conservation Congress, the Wisconsin Association of Lakes, the Wisconsin Wildlife Federation, and the Musky Clubs Alliance of Wisconsin, among others.

9. Analysis and supporting documents used to determine effect on small business or in preparation of an economic impact analysis. There would be no implementation costs for the department and no expected costs or impacts on small businesses. Programming changes would be made to the department's online permitting system in order to simplify and quicken the application process for tournament organizers and reduce workload for staff.

10. Effects on small business. The rule would directly affect sport anglers who engage in tournament fishing. It is not expected to have an effect on small businesses. Resorts or taverns that choose to organize season-long fishing tournaments would have permit exemptions to do so. Local businesses that cater to tournament anglers and spectators may be indirectly affected by this rule.

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. The department will conduct an economic impact analysis prior to rule implementation.

11. Rules proposed by the Department of Veterans Affairs. No information

12. Agency contact person.
Jonathan Hansen
Department of Natural Resources
P.O. Box 7921
Madison, WI 53707-7921
Telephone: (608) 266-6883
Email: Jonathan.Hansen@wisconsin.gov

13. Place where comments are to be submitted and deadline for submission. Comments on this proposed rule may be submitted to the agency contact person listed above. The deadline for written comments is to be determined.

SECTION 1. NR 20.40(2)(dm) and (Note) are created to read:

NR 20.40(2)(dm) "Cull" or "Culling" means the practice of releasing a live fish that was held in an angler's possession and replacing it with another fish. Live fish that are released and capable of swimming away under their own power are not considered part of the angler's daily bag limit provided the total number of fish possessed at any one time does not exceed the angler's daily bag limit.

Note: Section 29.403(1m), Stats., allows culling only during largemouth and smallmouth bass fishing tournaments authorized by the department. An angler must release the fish to be culled without unnecessary delay when keeping a new fish that would otherwise put them over their daily bag limit, and may not resume fishing or other activities until the fish to be culled is first released.

SECTION 2. NR 20.40(3) is amended to read:

NR 20.40(3) PERMIT REQUIRED. No person may carry out a fishing tournament that meets any of the criteria in pars. (a) to (~~d~~ e), without a permit. A person shall obtain a permit from the department to organize a fishing tournament when the waters to be fished are identified by name by the ~~sponsor~~ organizer and one or more of the following apply:

(a) The fishing tournament involves 20 or more boats, or 100 or more participants.

(b) The fishing tournament includes any trout species on waters classified as trout streams under s. NR 1.02 (7).

(c) The fishing tournament is a catch-hold-release tournament with an off-site weigh-in.

(d) The total prize value is $10,000 or greater.

(e) Tournament participants are allowed to cull largemouth and smallmouth bass.

SECTION 3. NR 20.40(3m) is amended to read:

NR 20.40(3m) PERMIT EXCEPTIONS. Organizers do not need a permit under this section to organize and conduct any of the following:

(a) Fishing tournaments that are statewide or regional in nature ~~do not require a permit~~ where the specific waters to be fished or landings that must be used are not identified by name.

(b) Fishing tournaments that do not require identification or registration of participants prior to engaging in the tournament ~~do not require a permit~~.

(c) Fishing tournaments that continue for more than 4 days, do not require participants to fish at the same time, allow participants to register at any time during the tournament, and do not specify a weigh-in time.

SECTION 4. NR 20.40(4) is amended to read:

NR 20.40(4) APPLICATION. A person who wishes to organize a fishing tournament requiring a permit from the department shall apply on forms available from the department.

(a) Permit applications shall specify an individual who is responsible for supervising the tournament to ensure compliance with all tournament permit conditions and regulations.

(b) Applicants for a fishing tournament permit shall pay a $25.00 non-refundable permit application fee upon submission of the application when the following conditions apply:

1. The tournament format is immediate-release; or

2. Total prizes provided to tournament participants are valued at less than ~~$1,000~~ $1,001; or

3. The tournament targets salmon or trout species on Lake Michigan, Green Bay, or Lake Superior; or

4. The tournament targets rough fish as defined in s. 29.001 (74), Stats.

(c) Applicants for a fishing tournament permit shall pay a $50.00 non-refundable permit application fee upon submission of the application when the following conditions apply:

1. The tournament format is catch-hold-release or catch and kill; and

2. Total prizes provided to tournament participants are valued at ~~$1,000~~ $1,001 or greater and less than ~~$10,000~~ $10,001.

(d) Applicants for a fishing tournament permit shall pay a $200.00 non-refundable permit application fee upon submission of the application when the following conditions apply:

1. The tournament format is catch-hold-release or catch and kill; and

2. Total prizes provided to tournament participants are valued at ~~$10,000~~ $10,001 or greater.

(e) There is no fee for a fishing tournament permit where 50% or more of the participants are younger than 18 years of age or are developmentally disabled as defined under s. 51.01 (5) (a), Stats., or physically disabled and eligible for a license under s. 29.193 (3) or (3m), Stats.

Note: Application forms may be obtained at no charge from department service centers and regional offices or by visiting the department website at http://dnr.wi.gov/topic/fishing/tournaments/.

SECTION 5. NR 20.40(5) is repealed and recreated to read:

NR 20.40(5) PERMIT APPLICATION PROCESS.

(a) The department shall accept permit applications for traditional fishing tournaments beginning on January 1 of the year preceding the tournament.

(b) The department shall accept permit applications for non-traditional fishing tournaments beginning on April 1 of the year preceding the tournament.

(c) All permit applications and application fees must be received by the department at least 30 days prior to the start of the tournament. The department may review permit applications received within 30 days of the tournament start date if the applicant pays a late fee in addition to the application fee which shall be equal to the application fee specified under sub. (4). If the department is unable to review a late application, the application fee will be returned to the applicant.

(d) The department shall approve or deny permit applications on a first come first served basis in compliance with the limits in subs. (7) and (8).

SECTION 6. NR 20.40(7)(intro.) is amended to read:

NR 20.40 (7) LIMITS ON SIZE AND NUMBER OF FISHING TOURNAMENTS. The size and number of permitted fishing tournaments allowed on a water body may not exceed the following limits except in Lake Michigan, Green Bay, Lake Superior and Lake Winnebago where there are no limits on the size and number of permitted fishing tournaments. Traditional fishing tournaments may be permitted to exceed the limits established in this subsection up to the maximum level of participation or boat days associated with that tournament in the past 5 years. Bass fishing tournaments with fewer than 20 boats will not be included in the maximum daily number of boats allowed on open water, the maximum monthly number of permitted fishing tournament boat days, the maximum daily number of concurrent permitted fishing tournaments, or the maximum number of permitted fishing tournaments per month on rivers.

SECTION 7. NR 20.40(7)(a) is amended to read:

NR 20.40(7)(a) The following monthly limits on permitted fishing tournament size, number, and total boat days based on lake acreage are outlined in the table below.

LAKE OR LAKE CHAIN SIZE (ACRES)	MAXIMUM DAILY NUMBER OF BOATS ALLOWED FOR PERMITTED OPEN WATER FISHING TOURNAMENTS	MAXIMUM MONTHLY NUMBER OF PERMITTED FISHING TOURNAMENT BOAT DAYS	MAXIMUM DAILY NUMBER OF PARTICIPANTS ALLOWED FOR PERMITTED ICE FISHING TOURNAMENTS	MAXIMUM DAILY NUMBER OF CONCURRENT PERMITTED FISHING TOURNAMENTS
1. Less than 100	0	0	~~50~~ 150	1 (ice fishing only)
2. 100–449	25	50	~~150~~ 250	1
3. 450–999	50	300	500	1
4. 1,000–4,999	125	1,125	1,000	2

5. 5,000–9,999	150	2,400	1,500	2
6. Larger than 10,000	Determined by actual acreage (1 boat/50 acres)	3,000	No Limit	No Limit

SECTION 8. NR 20.40(7)(f)2m. and (Note) are created to read:

NR 20.40(7)(f)2m. Fishing tournaments permitted by the Minnesota Department of Natural Resources are authorized to operate in Wisconsin portions of Wisconsin-Minnesota boundary waters under the regulations specified in the Minnesota permit.

Note: Under s. 29.403 (1m), Stats., a bass tournament permitted by the Minnesota Department of Natural Resources may cull largemouth and smallmouth bass in Wisconsin portions of Wisconsin-Minnesota boundary waters. Culling is not allowed in Minnesota waters of Wisconsin-Minnesota boundary waters at the time this rule was drafted. Tournaments authorized by the Wisconsin Department of Natural Resources may not cull in Minnesota waters unless authorized by the Minnesota Department of Natural Resources.

SECTION 9. NR 20.40(10)(g)3. is amended to read:

NR 20.40(10)(g)3. No person may participate in a catch-hold-release open water tournament unless their boat is equipped with a live well that is demonstrated to the tournament organizer as functioning properly prior to fishing in the fishing tournament.

SECTION 10. NR 20.40(10)(g)3m. is created to read:

NR 20.40(10)(g)3m. No person may participate in a catch-hold-release ice fishing tournament unless they have a container capable of holding and transporting live fish in water.

SECTION 11. NR 20.40(10)(g)4. is amended to read:

NR 20.40(10)(g)4. Except as provided in section (10)(gm)4., ~~No~~ no person may hold fish in a catch-hold-release tournament in on-shore holding tanks unless the tanks have the capacity to hold at least one gallon of water per pound of fish held and are equipped with an aeration or oxygenation system that maintains the dissolved oxygen at 5 parts per million or higher.

SECTION 12. NR 20.40(10)(g)7. is amended to read:

NR 20.40(10)(g)7. The department may include the following permit conditions related to tournament operation for permitted catch-hold-release tournaments at the point of permit issuance when it determines that environmental conditions are not conducive to survival of fish intended for release and

the release may constitute unreasonable waste of natural resources or when it determines that the transport and release of fish is detrimental to the fish population under the provisions of s. 23.095 (1g), Stats.

a. The department may restrict the area that may be fished by fishing tournament participants to reduce the time that fish are held in live wells, the distance fish are transported to a weigh-in site or both.

b. The department may require redistribution of released fish.

~~c. The department may require a reduced daily bag limit of 3 walleye for catch-hold-release tournaments on all waters with a daily bag limit of 3 walleye or greater from the second Saturday in June to the first Sunday in September. The department may also require a reduced daily bag limit of 3 bass for catch-hold-release tournaments on all waters with a daily bag limit of 3 bass or greater from the first Saturday in July to the second Sunday in August.~~

SECTION 13. NR 20.40(10)(g)8. is created to read:

NR 20.40(10)(g)8. As outlined in the following table, the department shall restrict the area that may be fished by participants in catch-hold-release fishing tournaments on Green Bay to reduce the potential for biological harm to the bass population and to reduce the potential for unreasonable waste of walleye. Notwithstanding the area restrictions in the table, the department may allow one catch-hold-release bass or walleye tournament per year on Green Bay without area restrictions provided the tournament will promote national public awareness of fishing on Green Bay and is planned to have more than 60 boats.

TARGET SPECIES	WEIGH-IN SITE (CITY)	AREA THAT MAY BE FISHED BY TOURNAMENT PARTICIPANTS
Bass	Green Bay	Fishing is allowed north of the DePere Dam (N44°26'50.9928", W-88°4'3.7050") and south of a line running from the mouth of the Peshtigo River (N44°58'25.918", W-87°39'17.2002") to the Olde Stone Quarry County Park (N44°54'15.2490, W-87°24'19.2414), including waters of Sturgeon Bay and the Peshtigo River
	Sturgeon Bay	Fishing is allowed within 5 miles of the Door County shoreline and south to a line extending due west from Chaudoir's dock (N44°44'48.2490", W-87°41'53.9988") and north to a line extending due west from Ellison Bluff (N45°15'32.8824, W-87°6'2.9334"), including the waters of Sturgeon Bay and within a half mile of Chambers Island.
	Oconto	Fishing is allowed within 5 miles of the western shore of Green Bay, and south of a line extending due east from the Menominee River north pier lighthouse (N45°5'50.1462", W-87°35'8.9910") and north of a line extending due east out from the Brown County Line (N44°40'39.6510", W-87°59'15.5004")
	Marinette	Fishing is allowed within 5 miles of the western shore of Green Bay and north of a line extending due east from the Oconto River south breakwall (N44°53'53.3825", W-87°49'20.3556").

Walleye	Green Bay	Fishing is allowed north of the DePere Dam (N44°26'50.9928", W-88°4'3.7050") and south of a line running from the mouth of the Pensaukee River (N44°49.3146, W-87°53.934) to Chaudoirs Dock (N44°44.838, W-87°41.94).
	Sturgeon Bay	Fishing is allowed south of a line extending from Gills Rock (N45°17'38.9724", W-87°1'23.0376") to the Wisconsin state line (N45°15.5652, W-87°17.553) and north of a line running from the Brown County line (N44°40'39.6510", W-87°59'15.5004") to the Kewaunee County line (N44°40'36.8898", W-87°44'11.8026").
	Oconto	Fishing is allowed south of a line running from the Menominee River north pier lighthouse (N45°5'50.1462", W-87°35'8.9910") to Egg Harbor (N45°3'41.0718", W-87°17'3.4074") and north of a line running from the Brown County line (N44°40'39.6510", W-87°59'15.5004") to the Kewaunee County line (N44°40'36.8898", W-87°44'11.8026").
	Marinette	Fishing is allowed south of a line extending from Gills Rock (N45°17'38.9724", W-87°1'23.0376") to the Wisconsin state line (N45°17'53.7432", W-87°14'32.0454") and north of a line running from the Oconto River south breakwall (N44°53'53.3826", W-87°49'20.3556") to Henderson Point (N44°51'5.5686", W-87°33'1.6956").
		Note: Anglers are not restricted from fishing in Michigan waters, however, to minimize potential for biological harm and unreasonable waste of natural resources, the department encourages tournament organizers to restrict fishing in Michigan waters to south of a line extending due east from Rochereau Point (N45°18'13.92", W-87°26'2.436") to the WI state line.

SECTION 14. NR 20.40(10)(g)9. is created to read:

NR 20.40(10)(g)9. To reduce the potential for unreasonable waste of natural resources, the department shall:

(a) Require a reduced daily bag limit of 3 walleye for catch-hold-release tournaments on all waters with a daily bag limit of 3 walleye or greater from the second Saturday in June to the first Sunday in September, unless the department determines that the temperature of the primary waterbody to be fished is expected to be less than 70 degrees Fahrenheit.

(b) Require a reduced daily bag limit of 3 bass for catch-hold-release tournaments on all waters with a daily bag limit of 3 bass or greater from the first Saturday in July to the second Sunday in August unless the department determines that the temperature of the primary waterbody to be fished is expected to be less than 75 degrees Fahrenheit for smallmouth bass or less than 80 degrees Fahrenheit for largemouth bass.

(c) Notwithstanding the bag limit requirements in par. (b), the department may allow one catch-hold-release bass tournament per year per waterbody with a 5 bag limit from the first Saturday in July to the second Sunday in August provided the tournament will promote public awareness of fishing and is planned to have 60 or more boats and the primary waterbody fished will be 2000 or more acres.

SECTION 15. NR 20.40(10)(gm) is created to read:

NR 20.40(10)(gm) In addition to the provisions in section (10)(g), the following provisions apply to participants in catch-hold-release muskellunge tournaments:

1. Participants must use boats equipped with a functioning live well or other container large enough to hold muskellunge and equipped with a pump for aerating and exchanging freshwater that is operated continuously once a fish is placed in the live well or other container.

2. Participants must immediately transport muskellunge placed in a live well or other container to the designated weigh-in site. All transported fish must meet legal length limits for the water body being fished.

3. Either multiple weigh-in sites shall be designated by the tournament organizer or the areas open to fishing limited so that muskellunge will not be transported for more than 30 minutes.

4. Tournament officials or judges must immediately register muskellunge brought to the weigh-in site. No pens, tanks or other means of confinement may be used to hold the fish at the weigh-in site.

5. Registration of muskellunge is restricted to a measurement of length. In-water measurement of the fish is recommended whenever possible.

6. Muskellunge may be retained at the weigh-in site only until capable of swimming upright under its own power and must be released from the weigh-in site.

7. Participants may not leave the weigh-in site until the fish they transported to the weigh-in site has been successfully released. If the fish cannot be released alive, final disposition of the fish is the responsibility of that participant and shall not violate s. 23.095 (1g), Stats.

8. A participant must count muskellunge transported to a weigh-in site towards the participant's daily bag limit and that person may not fish for muskellunge during the remainder of that day.

SECTION 16. EFFECTIVE DATE. This rule shall take effect on the first day of the month following publication in the Wisconsin Administrative Register, as provided in s. 227.22(2)(intro.), Stats.

SECTION 17. BOARD ADOPTION. This rule was approved and adopted by the State of Wisconsin Natural Resources Board on _____.

Dated at Madison, Wisconsin _____

STATE OF WISCONSIN
DEPARTMENT OF NATURAL RESOURCES

By _____
Cathy Stepp, Secretary

(SEAL)