

STATEMENT OF SCOPE

Department of Natural Resources

Rule No.: FH-01-22

Relating to: Changes to fishing regulations on inland, outlying and boundary waters (the 2023 Fisheries Management Spring Hearings rule);
Chs. NR 19-26

Rule Type: Permanent

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

This will be a permanent rule.

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

The proposed rule will contain the proposals that will be presented to the public through the 2023 annual spring fish and wildlife public hearing questionnaire. This rule will revise fish size limits, bag limits, seasons, and other fishing regulations related to fishing in inland, outlying, and boundary waters. Fishing regulations are implemented to help meet management goals and objectives for Wisconsin waters. The department proposes fishing regulation changes on specific waterbodies when a fish population or management goal changes.

The regulation proposals included in this rule are based on surveys and analyses conducted by fisheries biologists, along with input from local stakeholders and the Wisconsin Conservation Congress. Some of these proposals originated as citizen resolutions proposed in previous years by local residents through the Conservation Congress. Some proposals aim to simplify regulations when possible. All proposals are reviewed for justification, enforceability, and completeness by department Bureaus of Fisheries Management, Law Enforcement, and Legal Services.

After internal department review, a full list of department proposals will be provided to the Natural Resources Board for approval in January 2023 and brought to the public statewide through the spring fish and wildlife questionnaire in April 2023.

This rule may contain other minor changes that reasonably relate to these proposals for the 2023 spring hearings.

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 general policy behind fishing regulations is to protect and enhance fish populations while providing diverse fishing opportunities throughout the state. The proposed rule changes will further that policy. Based on the management goals for individual waters and species, the department strives to provide:

- consumptive opportunities where anglers can fish for a meal from a self-sustained, slow-growing fish population;
- quality and memorable opportunities with a sustained or increased density of adult fish in the population, in which anglers can catch larger fish; and
- trophy opportunities where anglers can catch large trophy-size fish with increased survival of older and larger fish.

To improve regulatory consistency and reduce the number of special regulations, the department uses a “regulation toolbox” with a standard set of consumptive, quality, memorable and trophy opportunities for each species. In the majority of cases when a regulation change is warranted, the department applies an alternate toolbox regulation to the waterbody rather than a new regulation. The proposed rule would update administrative code with regulations that reflect the most current science and local desires for the specified waterbodies and fish populations. The rule may modify length and daily bag limits, possession limits, season dates, fish refuge classifications and similar regulations.

Most recreational fishing regulation changes are updated in administrative code every two years. If the proposed rules are not put into place, the department will not be able to manage fish populations in the impacted waterbodies according to biological and social goals, and resident and visiting anglers may experience reduced fishing opportunities. However, existing regulations would remain in place to provide some level of continued protection of fish resources.

4. Detailed explanation of statutory authority for the rule (including the statutory citation and language):

Section 23.09 (2) (c), Stats., provides that the department may designate fish refuges to secure the perpetuation and adequate supply of any species of fish and provide safe retreats in which fish may breed and replenish adjacent fishing waters.

Section 29.014, Stats., “rule-making for this chapter,” grants the department the authority to establish and maintain open and closed seasons, bag limits, size limits and other conditions that will conserve fish populations and provide good fishing opportunities for the citizens of the state.

Section 29.041, Stats., provides that the department may regulate fishing on and in all interstate boundary waters and outlying waters.

Section 29.053 (2), Stats., provides that the department may establish conditions governing the taking of fish for the state as a whole, for counties or parts of counties, or for waterbodies or parts of waterbodies. It also allows the department to establish a fishing season on specified bodies of water in certain urban areas to allow fishing only by persons who are under 16 years old or who are disabled, as specified in s. 29.193 (3) (a), (b), or (c), Stats.

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

Approximately 300 hours of staff time will be required to develop these rules.

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

The proposed rule will primarily affect recreational anglers, who will need to adapt to the new regulations. The department 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:

No federal regulations apply. States possess inherent authority to manage the fishery and wildlife resources within their boundaries, except insofar as preempted by federal treaties and laws, including regulations established in the Federal Register.

8. Anticipated economic impact of implementing the rule (note if the rule is likely to have an economic impact on small businesses):

Economic impacts directly related to these rule changes are expected to be minimal (less than \$50,000). This rule simply modifies existing regulations and primarily affects recreational anglers. This rule will not require any expenditures from anglers or local businesses in order to comply with the regulation changes. One purpose of the rule is to help maintain the general economic impact of fishing throughout Wisconsin.

The proposed rule would not impose any reporting requirements on small businesses, nor would any design or operational standards be contained in the rule. The rule would not allow for the potential to establish a reduced fine for small businesses, nor would it establish “alternative enforcement mechanisms” for “minor violations” of administrative rules made by small businesses.

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

The department anticipates holding one to 72 public hearing in the month of April 2023. If hearings are held in person, one will be held in each county of Wisconsin on the second Monday in April. If the COVID-19 public health emergency is still a concern, one hearing will be held virtually. In all cases, extensive public input will be collected through the annual online spring fish and wildlife hearings questionnaire.

The department will hold these hearings in these locations to collect public input on the full list of 2023 spring fish and wildlife hearing rule proposals.

Contact Person: Meredith Penthorn, 608-316-0080