

SUBJECT: Request approval of FH-21-11 scope statement and authorization to proceed with drafting a modification to ch. NR 19 relating to sport trolling on the Great Lakes

FOR: SEPTEMBER 2011 BOARD MEETING

TO BE PRESENTED BY / TITLE: Bill Horns, Great Lakes Fisheries Coordinator

SUMMARY:

Pursuant to recommendations of the Natural Resources Board, the proposed rule making would require sport trollers on the Great Lakes to carry wire cutters for emergency release from entanglement with trap nets.

Trap nets are fixed structures on the lake bottom that can pose a risk to sport trollers whose lures and downriggers can become entangled in the trap net ropes. This has been the subject of controversy and rule making over the past three decades. Department policy reflects Legislative intent in attempting to accommodate both sport and commercial fishing in the Great Lakes. The proposed rule, currently an emergency rule, requires sport trollers to have wire cutters readily accessible so they can disentangle themselves from trap nets.

The pink sheet and scope statement are attached. After scope statement approval and rule writing authorization from the Natural Resources Board, the Department will write the rule and present the rule language, fiscal estimate, and background memo at a future Board meeting.

RECOMMENDATION: Approve scope statement and authorize rule drafting

LIST OF ATTACHED MATERIALS:

- | | | | |
|--|---|------------------------------|----------|
| No <input checked="" type="checkbox"/> | Fiscal Estimate Required | Yes <input type="checkbox"/> | Attached |
| No <input checked="" type="checkbox"/> | Environmental Assessment or Impact Statement Required | Yes <input type="checkbox"/> | Attached |
| No <input checked="" type="checkbox"/> | Background Memo | Yes <input type="checkbox"/> | Attached |

APPROVED:

Mike Stange SWH
Bureau Director,

9/13/11
Date

Ken Johnson
Administrator,

9/13/11
Date

Matt Moroney
Secretary, Cathy Stepp

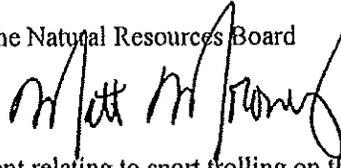
9/14/11
Date

cc: NRB Liaison
DNR Rules Coordinator

CORRESPONDENCE/MEMORANDUM

DATE: July 14, 2011

TO: Members of the Natural Resources Board

FROM: Cathy Stepp 

SUBJECT: Scope statement relating to sport trolling on the Great Lakes

Subject/Objective of the proposed rules

This rulemaking pertains to sport trolling with down riggers in Wisconsin waters of the Great Lakes. It attempts to address safety concerns regarding trap nets.

Description of policy issues/analysis of policy alternatives

The proposed rule making would require sport trollers on the Great Lakes to carry wire cutters for emergency release from entanglement with trap nets. This rule making is pursuant to recommendations of the Natural Resources Board.

Statutory authority

ss. 29.014(1), 30.74(2)(a), and 23.11(1), Wis. Stats.

Estimate of time needed to develop the rules

One month

Summary and preliminary comparison with existing or proposed regulations

Trap nets are fixed structures on the lake bottom that can pose a risk to sport trollers whose lures and downriggers can become entangled in the trap net ropes. This has been the subject of controversy and rule making over the past three decades. Current Department policy reflects Legislative intent to accommodate both sport and commercial fishing in the Great Lakes. In April 2011 the Natural Resources Board (NRB) approved permanent rule changes related to the marking and placement of trap nets. The NRB also implemented these rules on an emergency basis so they would be in effect for the 2011 fishing season. As part of the emergency rule, there was also a requirement that sport anglers carry wire cutters sufficient to cut themselves free should a downrigger cable become snagged in a trap net or other obstruction. That requirement was not included in the permanent rules because it was outside of the scope of the original public hearings. This proposal is intended to address that deficiency.

Description of all entities affected by the rules

The rules would directly affect sport anglers who engage in trolling with downriggers on the Great Lakes.

Economic Impact

Level 3 – Little to no economic impact expected. There would be no implementation costs for the Department. Compliance costs would be minimal for individual sport anglers who need to purchase wire cutters. A quick online search for the cost of wire cutters showed prices ranging from \$3 to \$56.

Name, address, phone, and e-mail of agency contact

William Horns
Wisconsin Department of Natural Resources
101 South Webster St.
Madison, WI 53707-7921
608-266-8782 william.horns@wisconsin.gov

Natural Resources Board Order Number (If Applicable) FH-21-11	Bureau Fisheries Management
<input checked="" type="checkbox"/> Original <input type="checkbox"/> Amended	Date 07/14/2011

1. Subject of the administrative code action/nature of board action.

Proposed modifications to ch. NR 19, Miscellaneous Fur, Fish, Game and Outdoor Recreation, relating to sport trolling on the Great Lakes

2. Description of policy issues to be resolved, include groups likely to be impacted or interested in the issue.

Pursuant to recommendations of the Natural Resources Board, the proposed rule making would require sport trollers on the Great Lakes to carry wire cutters for emergency release from entanglement with trap nets.

Economic Impact

Level 3 - Little to no economic impact expected. There would be no implementation costs for the Department. Compliance costs would be minimal for individual sport anglers who need to purchase wire cutters. A quick online search for the cost of wire cutters showed prices ranging from \$3 to \$56.

3. Does rule/board action represent a change from past policy? Yes No Explain the facts that necessitate the proposed change.

Trap nets are fixed structures on the lake bottom that can pose a risk to sport trollers whose lures and downriggers can become entangled in the trap net ropes. This has been the subject of controversy and rule making over the past three decades. Department policy reflects Legislative intent in attempting to accommodate both sport and commercial fishing in the Great Lakes. The proposed rule, currently an emergency rule, requires sport trollers to have wire cutters readily accessible so they can disentangle themselves from trap nets.

4. Does rule/board action represent an opportunity for pollution prevention and/or waste minimization?

- Yes
- Unsure. Will consult with the Bureau's pollution prevention expert(s) and/or the Bureau of Cooperative Environmental Assistance.
- No. Adoption of federal requirements that do not include or allow for pollution prevention.
- No. Other reason (explain):

The proposed rule is unrelated to pollution prevention or waste minimization.

5. Who will participate in board action/rule development, and what is the anticipated time commitment?

	Name of Person Responsible	Time Before Hearing	Time After Hearing	Acknowledgement
a. Drafting bureau	William Horns and Kate Strom Hiorns	10 hours	10 hours	<i>KSH</i>
b. Legal Services	Kathleen Strasbaugh	5 hours	5 hours	<i>KSH</i>
c. Env. Analysis/Liaison (SS)				
d. Management & Budget				
e. Other Department staff	Chris Groth - LE			
f. Recommended Public Participation	One public hearing in Sheboygan			

Rule Agenda/Board Action Checklist

Form 1000-6 (R 9/00)

Page 2 of 2

6. Which federal statute, regulation, state statute or judicial decision is the authority for the proposed rule/board action?

ss. 23.11(1), 29.014(1), and 30.74(2)(a), Wis. Stats.

- a. The proposed rule/board action conforms to and does not exceed requirements of a federal or state statute or controlling judicial decision.
- b. The proposed rule/board action exceeds the minimum requirements of a federal or state statute or controlling judicial decision.
- c. The proposed rule/board action is based on general authorization that requires rule making, but contains no specific standards.
- d. The proposed rule/board action is based on a general authorization, with no specific direction that rules must be developed.

M.S.
Bureau of Legal Services

Kathleen Strassburg

7. Proposed schedule (Fill in blanks applicable)

a. Month of green sheet for requesting authorization for hearing or briefing on proposed board action: December 2011

b. Hearing(s) - Number: one

Date(s): February 2012

Location(s): Sheboygan vicinity

c. Rule adoption or action by Board: March/April 2012

Anticipated timing of Legislative review - Start: Unsure at this time; may be spring 2012 or January 2013

End: _____

Anticipated effective date: Intend to have effective date in 2012, but may be delayed by legislative review

Initials of Bureau Director: *MS*

FOR DIVISION ADMINISTRATOR'S USE

- 8a. Recommendation to Secretary Approved Approved as amended Disapproved
- b. Other Board actions Approved Approved as amended Disapproved

Division Administrator's Signature

[Signature]

Date Signed

7/25/2011

FOR SECRETARY'S USE

9. Secretary's approval required before drafting begins.

Drafting may may not proceed on rule or action.

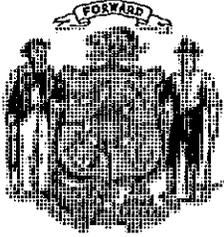
Secretary's Approval

[Signature]

Date Approved

7/26/2011

Completed original to be filed with the Bureau of Legal Services.



SCOTT WALKER
OFFICE OF THE GOVERNOR
STATE OF WISCONSIN

P.O. Box 7863
MADISON, WI 53707

August 15, 2011

Cathy Stepp
Secretary
Wisconsin Department of Natural Resources
101 South Webster St.
P.O. Box 7921
Madison, WI 53707-7921

RE: Statement of Scope for Modifications to Chapter NR 19

Dear Secretary Stepp,

I hereby approve the Statement of Scope submitted on August 3, 2011, pursuant to Wisconsin Statutes § 227.135, in regards to modifications to Chapter NR 19 of the Wisconsin Administrative Code. You may send the Statement of Scope to the Legislative Reference Bureau for publication pursuant to Wisconsin Statutes §§ 227.135(3).

Sincerely,

A handwritten signature in black ink, appearing to be "Scott Walker", written over a horizontal line.

Scott Walker
Governor