

STATEMENT OF SCOPE

Department of Natural Resources

Rule No.: FH-15-18(E) and FH-16-18

Relating to: Taking catfish and rough fish by hand or with a bow and arrow or crossbow; Chs. NR 13, 20, 21, 22, 23 and 25

Rule Type: Permanent and Emergency

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

An emergency rule is necessary to preserve the public welfare by continuing to provide opportunities for good fishing while maintaining sustainable catfish populations.

Catfish are a valued Wisconsin gamefish and closed seasons, bag limits, and size limits have been established for fishing with hook and line and bank poles in order to ensure sustainable use. Under 2017 Act 297, taking catfish by hand is now allowed but no seasons, size or bag limits for this method of take are in place. In certain situations catfish will be very vulnerable to harvest using these new methods. Seasons, limitations on harvest, and gear restrictions are necessary to assure that populations of catfish are used sustainably while a companion permanent rule is being established.

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

These rules would regulate bow and crossbow harvest of catfish, and would also establish season parameters for fishing by hand as an allowable method for taking rough fish or catfish. Through 2017 Wisconsin Act 297, flathead and channel catfish were added alongside rough fish as species that can be harvested with a bow and arrow or crossbow. The Act also provided that the department may create rules regulating the harvest of catfish and rough fish by hand, such as through size limits, bag limits and season dates, though the department may not prohibit this method of harvest for catfish and rough fish. The proposed rules would correct inconsistencies between administrative code and Act 297. These rules would also define the bag limits, season dates, length and slot limits, refuges, and permissible equipment for harvesting catfish and rough fish through bowfishing or hand fishing in order to protect fish populations from overharvest and maintain quality size structure.

Additional rule changes that reasonably pertain to those discussed above may also be considered.

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:

Bag limits, season dates, harvest methods and size limits for catfish and rough fish in various waters throughout the state are outlined in ch. NR 20, Wis. Admin. Code. Harvesting fish with a bow and arrow or crossbow is treated as a form of spearfishing in ch. NR 20, and seasons and bag limits for spearing rough fish already exist in s. NR 20.20. Furthermore, s. NR 20.15 allows rough fish to be taken by hand in all waters of the state, except for those protected as fish refuges. Chs. NR 21 – 23 outline current catfish harvest regulations for both recreational and commercial harvesters on Wisconsin's boundary waters. Ch. NR 25 addresses the methods and size limits for commercial fishing of catfish and rough fish.

The proposed rules would establish bowfishing regulations for catfish that are similar to those currently in place for rough fish. In addition, fishing by hand would be allowed as a legal method of harvest for catfish, subject to seasons, bag limits, size limits and other similar regulations. Prior to Act 297, Wisconsin did not have any statewide rules allowing the harvest of gamefish by hand, but rough fish could be harvested by hand on some waters.

The policy alternatives under consideration are similar to existing regulations for harvesting catfish on inland and boundary waters, but recognize that reduced bag limits and season lengths and limitations on equipment are necessary to protect catfish during spawning and overwintering seasons. Regulations for rough fish would not likely change significantly from their current description in administrative code.

Not pursuing these rule changes would result in inadequate regulation of catfish harvest due to inconsistencies between Administrative Code and the most current state statutes. Inappropriate harvest methods or excessive harvest with these methods could be detrimental to catfish populations during vulnerable times of the year.

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

Section 29.014, Wis. 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, Wis. Stats provides that the department may regulate fishing on and in all interstate boundary waters and outlying waters.

Requirements for weapon type, hours of harvest and possession when taking rough fish and catfish with a bow and arrow or crossbow are outlined in s. 29.405, Wis. Stats. This section also allows the department to establish bag or length limits, season dates, zones and other regulations for bowfishing. Section 29.406 grants the department the authority to establish bag or length limits, season dates, zones and other regulations for taking catfish and rough fish by hand.

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

An estimated 120 hours of staff time will be required to develop these rules and hold public hearings.

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

These rules will primarily affect recreational anglers, and commercial fishers to a lesser extent, by opening new opportunities to harvest catfish. Rules applicable to the harvest of rough fish are not expected to substantially change with these rules.

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 are expected to be minimal. The regulations proposed in this rule are not expected to present additional costs to anglers or commercial fishers; rather, they will allow alternative methods of harvest for catfish and rough fish. These rules are mainly applicable to individual anglers and impose no compliance or reporting requirements for small business, nor are any design or operational standards contained in the rule.

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

The department anticipates holding three public hearings in fall 2018 at locations to be determined. Additional hearings may be held if public interest in this rule warrants additional opportunities for public comment.

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