

STATEMENT OF SCOPE

Department of Natural Resources

Rule No.: FH-24-19(E) and FH-25-19

Relating to: Minocqua Chain walleye harvest regulations

Rule Type: Both Permanent and Emergency

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

The department finds that an emergency rule is necessary to protect the welfare of state and tribal fishers by adequately protecting walleye from harvest through the establishment of appropriate harvest regulations. Pursuant to treaties signed between the six Wisconsin bands of Lake Superior Ojibwe and the United States and affirmed by *Lac Courte Oreilles v Voigt*, 700 F. 2d 341 (7th Cir. 1983), the bands have the right to harvest fish from off-reservation waters, including the Minocqua Chain of Lakes in Oneida County, using efficient methods such as spearing and netting. However, state and tribal fishers have agreed to several years of no-harvest walleye regulations for the Minocqua chain to help rehabilitate the walleye population. An emergency rule is necessary to extend the harvest prohibition for an additional year, giving the department time to meet with state and tribal fishers and arrive at a suitable set of walleye regulations for the Minocqua chain.

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

These rules will extend the harvest prohibition for walleye on the Minocqua Chain of Lakes, including Kawaguesaga, Minocqua, Mid, Little Tomahawk and Tomahawk lakes, until May 2021. The current regulation is slated to sunset in April 2020. Extending this regulation for walleye by one additional year will allow walleye stocked into these waters to continue to replenish populations on the Minocqua Chain of Lakes. The department anticipates that by 2021, adult walleye numbers will reach established goals and natural reproduction will occur.

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:

A 'catch and immediate release' walleye regulation was established for the Minocqua Chain in 2015. Stocking efforts and periodic monitoring of the fishery show that the chain is responding in a positive direction – however, natural reproduction has not returned to date and two of the three lakes are still below population goals. A local stakeholder group with representatives from DNR Fisheries Management, Great Lakes Indian Fish and Wildlife Commission, Wisconsin Valley Improvement Company, Lac du Flambeau Tribe, and Walleyes For Tomorrow have met regularly to monitor progress on this project. Extending the 'catch and immediate release' regulation for walleye by one more year is expected to allow population goals to be met.

These rules will also create new walleye regulations for the Minocqua Chain to take effect after May 2021, with the goal of perpetuating a sustainable walleye fishery on these waters. These regulations may include bag and size limits, season dates, gear restrictions or similar requirements.

These rules may also update other rules reasonably related to walleye harvest or management in part or all of the Minocqua Chain, including rules that will ensure the sustainability of the walleye population.

Alternatives to these rules include establishing regulations as part of another rule-making process or taking no action. Both alternatives would be detrimental to the biological goals for the walleye population on these lakes, because opening the lakes to walleye harvest too soon could reduce the number of reproductive adults available to help restore the population. The proposed emergency rule will grant walleyes an additional year of protection. Additionally, the proposed permanent rule will allow for in-depth discussions on regulation options among the department, partners and key stakeholders.

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.

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.

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 250 hours will be required to draft the rules, hold meetings to discuss the rules and hold public hearings.

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

State anglers will be the primary entities impacted by these rules, but these rules may also affect local businesses and guide services associated with fishing on the Minocqua Chain. While retaining a catch-and-release-only season for walleye will preclude anglers from keeping their catch, they will still be able to take advantage of the good fishing experience on these lakes, as well as enhanced fishing in the future under suitable regulations.

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, if any. The rule is mainly applicable to individual anglers and imposes 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 two public hearings in the months of February and September 2020. Hearing city for both will be: Minocqua, WI.

The department will hold these hearings in these locations to gauge local stakeholder support for the proposed walleye regulations.

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