

# STATEMENT OF SCOPE

## Department of Natural Resources

**Rule No.:** FH-07-23 (E), FH-08-23 (E)

**Relating to:** Minocqua Chain walleye harvest regulations (ch. NR 20)

**Rule Type:** Emergency

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

The department finds that an emergency rule is necessary to preserve the general public welfare and peace by allowing state anglers to fully participate in the shared walleye fishery on the Minocqua Chain of Lakes in Oneida County. 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, using efficient methods such as spearing and netting. The Lac du Flambeau Band of the Lake Superior Ojibwe has declared its intent to permit members to harvest walleyes on the Minocqua Chain in 2023. In the event that Tribal take occurs, allowing a limited state harvest as well will promote fair and equitable use of the walleye resource during the 2023 fishing season.

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

In the event that Tribal harvest of walleye occurs on the Minocqua Chain in 2023 pursuant to the declaration, this rule would allow limited harvest of walleyes on the Minocqua Chain by state fishers during the 2023 fishing season. The walleye regulation is currently catch-and-release-only for state fishers.

### **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:**

Under current rule, anglers are limited to catch-and-release fishing for walleye on the Minocqua Chain until April 1, 2025, at which point, the season would open to limited harvest. Walleye fishing on the Minocqua Chain has been limited to catch-and-release fishing since 2015 to restore adult walleye population densities to 3 per acre on Minocqua and Kawaguesaga lakes and 2 per acre on Tomahawk Lake; these goals were achieved in 2021, but a partner group consisting of local fishing and conservation organizations, the department, the Great Lakes Indian Fish and Wildlife Commission, and the Lac du Flambeau Band recommended extending the catch-and-release period to allow additional time for the walleye population to grow further. In the event that Tribal harvest of walleye occurs on the Minocqua Chain in 2023 pursuant to the declaration, this rule would implement a limited harvest regulation for state participants to allow all parties to benefit from the shared walleye fishery while continuing to maintain walleye abundance goals. In the absence of this rule, state fishers would remain limited to catch-and-release walleye fishing.

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

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 29.053 (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 :**

The department estimates that approximately 100 hours will be needed to develop this rule, including holding public meetings and 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.

**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):**

Any impacts from implementing this rule will be positive, as this rule will allow for limited angler harvest of walleye rather than anglers remaining limited to catch-and-release fishing for walleye. Small businesses that guide anglers in fishing for walleye may benefit for similar reasons.

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

The department anticipates holding one public hearing, the timing of which is to be determined.

The department will hold the hearing virtually to allow for as many people to attend as possible. Comments may be provided by mail, phone and email as well as in-person.

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