

The statement of scope for this rule, SS 029-24 was approved by the Governor on March 8, 2024, published in Register No. 819A2 on March 11, 2024, and approved by the Natural Resources Board on April 10, 2024. This rule was approved by the Governor on May 2, 2024.

ORDER OF THE STATE OF WISCONSIN NATURAL RESOURCES BOARD
AMENDING RULES

The Wisconsin Natural Resources Board proposes an order to **repeal** NR 20.20 (44) (g) 6. and to **amend** NR 20.20 (44) (g) 3. relating to Minocqua Chain walleye harvest regulations.

FH-03-24 (E)

Analysis Prepared by the Department of Natural Resources

- 1. Statute Interpreted:** The department has interpreted ss. 29.014, and 29.053 (2), Stats., as authorizing this rule.
- 2. Statutory Authority:** The department has interpreted ss. 29.014, and 29.053 (2), Stats., as authorizing this rule.
- 3. Explanation of Agency Authority:** Section 29.014, Stats., “rulemaking 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.

- 4. Related Statutes or Rules:** The department produced a scope statement for similar rules, SS 26-23, in 2023. A preliminary hearing was held and the board approved the scope statement at its June, 2023 meeting. Tribal harvest using high efficiency gear did not occur that year and rules were not adopted.

5. Plain Language Analysis:

SECTION 1 repeals the prohibition of harvesting walleyes on the Minocqua chain of lakes in Oneida County. Clear and Katherine lakes, which currently have the same season and bag limit for walleyes, are combined in this sub. paren. to maintain consistent arrangement of administrative code provisions.

SECTION 2 repeals special regulations for Clear and Katherine lakes in Oneida County because they have been re-established elsewhere in this section.

6. Summary of, and Comparison with, Existing or Proposed Federal Statutes and Regulations:

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

7. If Held, Summary of Comments Received During Preliminary Comment Period and at Public Hearing on the Statement of Scope:

The legislature's Joint Committee for Review of Administrative Rules did not require the department to hold a preliminary public hearing on this scope statement.

8. Comparison with Similar Rules in Adjacent States:

Individual state agencies are responsible for managing fisheries within their state boundaries and each jurisdiction has its own decision-making process. Wisconsin's approach to fisheries management and regulations are comparable to that of surrounding states. All of Wisconsin's adjacent states use harvest management strategies such as open-and-closed seasons, bag limits, and length limits to manage walleye fisheries.

9. Summary of Factual Data and Analytical Methodologies Used and How Any Related Findings Support the Regulatory Approach Chosen:

Under current rule, state licensed 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 for additional time to allow the walleye population to grow further. In the event that Tribal harvest of walleye occurs on the Minocqua Chain in 2024 pursuant to a 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.

10. Analysis and Supporting Documents Used to Determine the Effect on Small Business or in Preparation of an Economic Impact Report:

The department does not expect an economic impact or change directly related to implementing these rule changes (less than \$50,000, minimal to no economic impact). The proposed rule will primarily affect state licensed anglers and it will allow limited harvest of walleye for the first time in four years. It will not impose any costs on anglers or fishing-related businesses. It may result in additional fishing pressure in the Minocqua area and additional economic activity which will be beneficial to local businesses.

The prohibition of harvesting walleyes will sunset automatically in 2025. Because a sunset is already established in administrative code, it will not be necessary to promulgate a permanent rule or prepare an economic impact analysis.

11. Effect on Small Business (initial regulatory flexibility analysis):

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.

12. Agency Contact Person: Scott Loomans, 101 S. Webster St., P.O. Box 7921, Madison, WI 53707-7921, scott.loomans@wisconsin.gov

13. Place where comments are to be submitted and deadline for submission:

Comments may be submitted to the department contact person listed above or to DNRAAdministrativeRulesComments@wisconsin.gov until the deadline given in an upcoming notice of public hearing which will be held within 45 days of adoption of this emergency rule. The notice of public hearing and deadline for submitting comments will be published in the Wisconsin Administrative Register and on the department’s website, at <https://dnr.wi.gov/calendar/hearings/>. Comments may also be submitted through the Wisconsin Administrative Rules Website at https://docs.legis.wisconsin.gov/code/emergency_rules/active.

RULE TEXT

SECTION 1. NR 20.20 (44) (g) 3. is amended to read:

COUNTY AND SPECIES	WATERS	AUTHORIZED METHODS	OPEN SEASON (both dates inclusive)	DAILY BAG LIMIT	MINIMUM LENGTH OR OTHER SIZE RESTRICTIONS (INCHES)
(44) ONEIDA					
(g) Walleye, sauger and hybrids	3. <u>Clear lake,</u> <u>Katherine lake,</u> Minocqua chain (Jerome lake, Kawaguesaga lake, Mid lake, Minocqua lake, Mud lake, Minocqua thoroughfare, Tomahawk	a. Hook and line	First Saturday in May to the first Sunday in March	0, catch and release only, until April 1, 2025, when it becomes 1 in total	On April 1, 2025, the size limit becomes 18 except the possession of fish between from 22 and to 28 is prohibited

	thoroughfare, Little Tomahawk lake, Tomahawk lake, and connecting waters combined)				
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SECTION 2. NR 20.20 (44) (g) 6. is repealed.

SECTION 3. STATEMENT OF EMERGENCY. 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 may declare its intent to permit members to harvest walleyes on the Minocqua Chain in 2024. 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 2024 fishing season.

SECTION 4. EFFECTIVE DATE. This rule takes effect upon publication in the official state newspaper, as provided in s. 227.24(1)(c), Stats.

SECTION 5. BOARD ADOPTION. This rule was approved and adopted by the State of Wisconsin Natural Resources Board on May 2, 2024.

Dated at Madison, Wisconsin _____.

STATE OF WISCONSIN

DEPARTMENT OF NATURAL RESOURCES

BY _____

Steven Little, Deputy Secretary