

Clearinghouse Rule 15-042

Report to
Legislative Council Rules Clearinghouse
NR 20 and 23, Wis. Adm. Code
Natural Resources Board Order No. FH-18-14

Wisconsin Statutory Authority

Section 29.014 (1), Stats., directs the department to establish and maintain conditions governing the taking of fish that will conserve the fish supply and ensure the citizens of this state continued opportunities for good fishing.

Section 29.041, 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.

Federal Authority

Authority to promulgate fishing regulations is granted to states. None of the proposed changes violate or conflict with federal regulations.

Comparison of Adjacent States

Fisheries management rules are generally similar in the states surrounding Wisconsin. Each bordering state regulates fishing by the use of seasons, bag limits, and size limits. Specific seasons and bag and size limits may differ for species among the surrounding states, but the general principles are similar. Michigan, Minnesota, Iowa, and Illinois all have statewide seasons and bag and size limits for fish species, along with special or experimental regulations on individual waters.

In Minnesota, several Bands of Lake Superior Chippewa have harvested walleye and northern pike from Mille Lacs since 2000. Annual allowable total catch quotas are calculated for the lake and apportioned between tribal members and anglers. The State of Minnesota adjusts the size of fish allowed for angler harvest annually (a "harvest slot" limit), based on walleye population size and the age composition of that population.

Off-reservation spear harvest also occurs in Michigan, and the state of Michigan and the Great Lakes Indian Fish and Wildlife Commission use the same model for calculating Safe Harvest that is used in Wisconsin. Michigan has no specific response to tribal harvest in the regulations for state anglers but may consider such adjustments in the near future.

Court Decisions Directly Relevant

N/A

Analysis of the Rule - Rule Effect - Reason for the Rule

This rule is needed to create consistent walleye daily bag limits in the Ceded Territory of Wisconsin. 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 using efficient methods such as spearing and netting. The current model of reducing angling bag limits in response to annual tribal declarations to ensure a sustainable walleye harvest has become increasingly unpredictable in recent fishing seasons, and angling harvest management may be better accomplished with a stable set of regulations that achieve results similar to annual bag limit adjustments.

This rule would prevent the need to make adjustments to daily bag limits and size limits for walleye in the Wisconsin Ceded Territory. Instead, all lakes, rivers, and streams in the Ceded Territory would have a daily bag limit of 3 walleye (walleye, sauger, or hybrids) with varying size limits. The 3-fish daily bag limit and size limits would be applied to specific waters to prevent a total harvest (tribal and non-tribal) of more than 35% of the adult walleye population in those waters, which preserves a sustainable walleye fishery.

Under this rule, a “Ceded Territory walleye management zone” is being created in addition to a 3-fish daily bag limit. Walleye in most waters in the Ceded Territory would have a minimum size limit of 15 inches, except walleye between 20 and 24 inches may not be kept and only 1 walleye larger than 24 inches may be kept. Local fisheries biologists requested different regulations on a small number of waters to ensure better management of the walleye population in those waters.

Agency Procedures for Promulgation

Public hearings in Madison on 6/10/15, Hayward on 6/11/15, and Minocqua on 6/12/15; Natural Resources Board final adoption; Governor’s Office of Regulatory Compliance final approval; followed by legislative review

Description of any Forms (attach copies if available)

N/A

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