

The statement of scope for this rule, SS 115-19 was approved by the Governor on November 21, 2019, published in Register No. 768A1 on December 2, 2019, and approved by the Natural Resources Board on January 21, 2020. This rule was approved by the Governor on July 16, 2021.

ORDER OF THE STATE OF WISCONSIN NATURAL RESOURCES BOARD
AMENDING RULES

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

FH-25-19

Analysis Prepared by the Department of Natural Resources

1. Statute Interpreted: Sections 29.014 (1), 29.041, and 29.053 (2), Stats., have been interpreted as authorizing the department to make changes to Wisconsin fishing rules.

2. Statutory Authority: Sections 29.014 (1), 29.041, and 29.053 (2), Stats., authorize these rules.

3. Explanation of Agency Authority:

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 29.041, 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.

4. Related Statutes or Rules:

Emergency rule FH-24-19 (E) and proposed emergency rule FH-17-20 (E) extended the existing catch-and-release regulation for an additional year while the permanent rule is in development.

5. Plain Language Analysis:

This rule will extend the existing catch-and-release regulation for walleye through April 1, 2025 on the Minocqua Chain of Lakes (consisting of Kawaguesaga, Minocqua, Mid, Mud, Little Tomahawk and Tomahawk lakes), and then will establish a protective walleye harvest regulation to go into effect for the 2025 fishing season and beyond. A walleye rehabilitation program has taken place on the Minocqua Chain for the past six years to restore a naturally reproducing walleye population with good recruitment and size structure, which necessitated several years of no harvest. The current catch-and-release regulation has been extended through emergency rules for the 2020 and 2021 fishing seasons. While 2021 population surveys confirmed that the walleye population has reached established goals, significant natural reproduction is not yet present.

Following the end of the catch-and-release regulation, this rule establishes a harvest slot limit for walleye, where the minimum length limit is 18 inches and walleye between 22 and 28 inches may not be kept. The daily bag limit will be set at one walleye.

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

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.

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

The department was not directed to hold a preliminary public hearing on the statement of scope for this rule.

8. Comparison with Similar Rules in 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 the same. 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.

Notably, Minnesota established a catch-and-release only regulation for walleye on Mille Lacs to address walleye population decline and low walleye recruitment, and Wisconsin employed a similar strategy with the catch-and-release regulation that is currently in place for the Minocqua Chain. The catch-and-release-only season on Mille Lacs was in effect for three years before harvest was allowed again. The Minnesota DNR manages Mille Lacs jointly with the Ojibwe tribes, similar to the cooperative approach for managing the Minocqua Chain by the Wisconsin DNR and Ojibwe tribes.

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

The Minocqua Chain is comprised of 6 lakes and encompasses just over 5,880 acres of water. Gamefish species include musky, walleye, largemouth and smallmouth bass, and northern pike. Panfish species include bluegill, black crappie, yellow perch, and pumpkinseed. The chain is centered on the Town of Minocqua and receives a great deal of pleasure boat traffic and fishing pressure, due to the area being a highly regarded tourist destination.

Historically, walleye reproduced naturally on Lakes Minocqua and Kawaguesaga (Tomahawk has a long history of walleye stocking); however, recruitment failures were documented in these lakes through the mid-2000s with a commensurate decline in adult walleye numbers. A comprehensive stocking plan was initiated for Lakes Minocqua and Kawaguesaga beginning in 2012 which included stocking large fingerling walleye in odd-numbered years. In even-numbered years, Lake Tomahawk receives large fingerling walleye.

A stakeholder group has been monitoring this fishery closely over the past 5 years. This group developed a management plan with specific goals to be met by 2025. The plan defined a goal of 3 adult walleye per acre in Lakes Minocqua and Kawaguesaga lakes by 2021 and 2 adult walleye per acre in Lake Tomahawk by 2021. Additionally, the plan identified a natural reproduction benchmark of 10 – 15 young-of-year walleye captured per mile of shoreline on all lakes in the chain. A ‘catch and immediate release’ walleye regulation was established for the Minocqua Chain in 2015 to help achieve these goals. The department

has conducted surveys of walleye populations frequently during the past several years, and the catch-and-release regulation was based on fall electrofishing data collected between 2014-2019, and walleye population estimates conducted in 2009, 2015, 2019, 2020 and 2021.

Stocking efforts and periodic monitoring of the fishery show that the chain is responding in a positive direction. A local stakeholder group with representatives from DNR Fisheries Management, Great Lakes Indian Fish and Wildlife Commission (GLIFWC), Wisconsin Valley Improvement Company, Lac du Flambeau Tribe, Walleyes For Tomorrow and three lake associations have met regularly to monitor progress on this project. By recommendation of this group, the catch-and release regulation was extended for one additional year to allow the department and partners time to discuss permanent regulation options that would be best suited to building a sustainable walleye fishery with sufficient natural reproduction and recruitment. The partner group also strongly favored continuation of the catch-and-release regulation until 2025 since the walleye population had not yet achieved natural reproduction by 2021.

The fishery will be monitored closely following implementation of this rule change through spring population surveys and fall electrofishing, followed by a chain-wide angler creel survey in 2025, to ensure that harvest is not detrimental to walleye recovery efforts.

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

The department anticipates a minimal economic impact, if any, as a result of this rule. Catch-and-release fishing has been in place for the past six years, so this rule will not immediately change the types of fishing activities that anglers and local businesses can conduct. Because this rule will allow limited harvest after several years of catch-and-release-only fishing under previous rules, local anglers and businesses are not anticipated to experience any negative economic impacts, and may experience a slight economic benefit from the rehabilitated fishery.

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

This rule will mainly affect individual anglers and will not impose implementation or compliance costs on small businesses. The proposed rule is expected to have a minimal economic impact, if any, since it is not changing the existing regulations until 2025, and then will allow for some harvest of walleye, which may indirectly benefit small businesses such as bait shops, guide businesses and the hospitality industry. No expenses are imposed on businesses, business associations, public utility rate payers, or local governmental units as a result of this rule. No additional compliance or reporting requirements will be imposed on small businesses as a result of these rule changes.

12. Agency Contact Person: Todd Kalish, P.O. Box 7921, Madison, WI 53707; Todd.Kalish@wisconsin.gov; 608-225-5826 and Meredith Penthorn, P.O. Box 7921, Madison, WI 53707; Meredith.Penthorn@wisconsin.gov; 608-316-0080

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

Written comments may be submitted at the public hearings, by regular mail, fax or email to:
Meredith Penthorn
Department of Natural Resources
P.O. Box 7921
608-316-0080; Meredith.Penthorn@wisconsin.gov

Written comments may also be submitted to the Department at

DNRAdministrativeRulesComments@wisconsin.gov.

The hearing date and the comment submission deadline will occur on May 24, 2021.

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 (For species or waters not listed, see sub. (73)). | | | | | |
| (g) Walleye, sauger and hybrids | 3. Minocqua chain (Jerome lake, Kawaguesaga lake, Mid lake, Minocqua lake, Mud lake, Minocqua thoroughfare, Tomahawk thoroughfare, Little Tomahawk lake, Tomahawk lake, and connecting waters combined) | a. Hook and line | First Saturday in May to the first Sunday in March | 0, catch and release only, until April 1, 2020 2025, when it becomes 2 in total <u>1 in total</u> | On April 1, 2020 2025, the size limit becomes 18 <u>except the possession of fish between 22 and 28 is prohibited</u> |

SECTION 2. EFFECTIVE DATE. This rule takes effect on the first day of the month following publication in the Wisconsin Administrative Register as provided in s. 227.22 (2) (intro.), Stats.

SECTION 3. BOARD ADOPTION. This rule was approved and adopted by the State of Wisconsin Natural Resources Board on June 23, 2021.

Dated at Madison, Wisconsin _____.

STATE OF WISCONSIN

DEPARTMENT OF NATURAL RESOURCES

BY _____

For Preston D. Cole, Secretary