

Minnesota Department of Natural Resources

Division of Fish and Wildlife

NOTICE OF INTENT TO ADOPT EXPEDITED RULES WITHOUT A PUBLIC HEARING

Proposed Amendment to Game and Fish Rules Governing Border Waters, Fishing Contests, Designated Waters, and Aquatic Management Areas, *Minnesota Rules*, chapters 6212, 6264, and 6270; Revisor's ID Number R-04598

Introduction. The Department of Natural Resources (DNR) intends to adopt rules under the expedited rulemaking process following the rules of the Office of Administrative Hearings, *Minnesota Rules*, part 1400.2410, and the Administrative Procedure Act, *Minnesota Statutes*, section 14.389. You may submit written comments on the proposed expedited rules until March 8, 2024.

Agency Contact Person. You must submit comments or questions on the rules to Shannon Fisher at Minnesota Department of Natural Resources, 500 Lafayette Road, St. Paul, Minnesota 55155-4020, phone 651-259-5206, or shannon.fisher@state.mn.us.

Subject of the Expedited Rules and Statutory Authority. These proposed rule amendments fall into four topics of fishing regulations.

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Border Waters:

The amendments clarify the regulatory boundaries of border waters between Minnesota and Ontario. DNR fisheries and enforcement staff met with their counterparts from Canada to discuss inconsistencies about where Minnesota-Ontario border waters designations begin and end. These inconsistencies create confusion for anglers and enforcement officers, and the amendments have been agreed upon by fisheries and enforcement representatives for Minnesota and Ontario.

Fishing Contests:

Part 6212.2525 currently prohibits off-site, live-release weigh-in for bass tournaments during July/August. However, the commissioner must exempt contests on the Canadian border when specific criteria are met. This revision provides the same exemption for Chisago County contests that meet the same criteria. This will allow a Chisago County contest that predates the July/August restriction imposed in 2008 to continue without a special permit.

Designated Waters:

- The amendments to part 6264.0050, subpart 2, remove three lakes from the list of “designated trout lakes.” Trout stocking has been discontinued in these lakes because the survival of stocked trout is unacceptably low now that these lakes have established northern pike populations.
- Part 6264.0125, subpart 4. Fish population spawning behaviors and patterns change over time. This proposed revision adds three recently identified walleye spawning areas (portions of Smith Creek in Itasca County, and an unnamed creek and the Ripple River in Aitkin County) in need of protection.

The DNR would like to reduce disturbance to these areas to increase the potential for the walleye eggs to grow, hatch, and contribute to the fishery. However, anglers frequently utilize these areas targeting other fish species and the only way to keep anglers out is to close these areas for all species.

The revision also removes both Horseshoe Lake and Sand Lake in Crow Wing County from the list of designated spawning beds and fishing preserves because there is no longer a conservation need for those designations. (Note: Horseshoe Lake and Sand Lake are actually the same lake and have the same public water number.)

Aquatic Management Areas:

Part 6270.0200. The DNR is amending the aquatic management areas (AMA) language governing aircraft use to provide protections similar to those in place for wildlife management areas and anticipated protections for state parks.

The statutory authorities to adopt the rules are *Minnesota Statutes*, sections 97A.045, 97C.025, 97C.081, and 97C.395. The statutory authority to adopt the rules under the expedited rulemaking process is *Minnesota Statutes*, section 84.027, subdivision 13a (b).

A copy of the proposed rules is published in the State Register and attached to this notice as mailed. A free copy of the rules is available upon request from the agency contact person listed above. The proposed expedited rules can also be viewed on the [DNR's rulemaking webpage](http://www.dnr.state.mn.us/input/rules/rulemaking.html) at www.dnr.state.mn.us/input/rules/rulemaking.html.

Comments. You have until 4:30 p.m. on Friday, March 8, 2024, to submit written comment in support of or in opposition to the proposed expedited rules and any part or subpart of the rules. Your comment must be in writing and received by the agency contact person by the due date. The Department encourages comment. Your comment should identify the portion of the proposed expedited rules addressed and the reason for the comment. In

addition, you are encouraged to propose any change desired. You must also make any comments that you have on the legality of the proposed rules during this comment period.

Request for Hearing. In addition to submitting comments, you may also request that a hearing be held on the rules. You must make your request in writing and the agency contact person must receive it by 4:30 p.m. on March 8, 2024. Your written request must include your name and address. You must identify the portion of the proposed rules to which you object or state that you oppose the entire set of rules. Any request that does not comply with these requirements is not valid and the agency cannot count it for determining whether it must hold a public hearing. You are also encouraged to state the reason for the request and any changes you want made to the proposed rules. If the proposed expedited rules affect you in any way, the agency encourages you to participate in the rulemaking process.

Withdrawal of Requests. If 50 or more persons submit a valid written request for a hearing, a public hearing will be held unless a sufficient number withdraw their requests in writing. If enough requests for hearing are withdrawn to reduce the number below 100, the agency must give written notice of this to all persons who requested a hearing, explain the actions the agency took to produce the withdrawal, and ask for written comments on this action. If the agency is required to hold a public hearing, it will follow the procedures in *Minnesota Statutes*, section 14.131 to 14.20.

Modifications. The agency may modify the proposed expedited rules using either of two avenues: The agency may modify the rules directly so long as the modifications do not make them substantially different as defined in *Minnesota Statutes*, section 14.05, subdivision 2, paragraphs (b) and (c). Or the agency may adopt substantially different rules if it follows the procedure under *Minnesota Rules*, part 1400.2110. If the final rules are identical to the rules originally published in the State Register, the agency will publish a notice of adoption in the State Register. If the final rules are different from the rules originally published in the State Register, the agency must publish a copy of the changes in the State Register.

Alternative Format. Upon request, this information can be made available in an alternative format, such as large print, braille, or audio. To make such a request, please contact the agency contact person at the address or telephone number listed above.

Lobbyist Registration. *Minnesota Statutes*, chapter 10A, requires each lobbyist to register with the State Campaign Finance and Public Disclosure Board. You may direct questions regarding this requirement to the Campaign Finance and Public Disclosure Board at: Suite 190, Centennial Building, 658 Cedar Street, St. Paul, Minnesota 55155, telephone (651) 539-1180 or 1-800-657-3889.

Adoption and Review of Expedited Rules. If no hearing is required, the agency may adopt the rules at the end of the comment period. The agency will then submit rules and

supporting documents to the Office of Administrative Hearings for review for legality. You may ask to be notified of the date that the agency submits the rules. If you want to be so notified or want to receive a copy of the adopted rules or want to register with the agency to receive notice of future rule proceedings, submit your request to the agency contact person listed above.

/s/ SARAH STROMMEN

1/17/2024

Sarah Strommen, Commissioner
Department of Natural Resources

Date