

Minnesota Department of Natural Resources

Division of Fish and Wildlife

NOTICE OF INTENT TO ADOPT EXPEDITED RULES WITHOUT A PUBLIC HEARING

Proposed Amendment to Rules Governing Taking Fish in Minnesota-Wisconsin Boundary Waters, *Minnesota Rules*, part 6266.0500; Revisor's ID Number R-04795

Introduction. The Department of Natural Resources (Agency) 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 Friday, September 20, 2024.

Agency Contact Person. Submit comments, questions, or a request for hearing on the rules to Joel Stiras, Metro River Specialist, at Minnesota Department of Natural Resources, 1200 Warner Road, St. Paul, Minnesota 55106, telephone 651-259-5806, or email joel.stiras@state.mn.us.

Subject of the Expedited Rules. The proposed expedited rules adjust Minnesota's fishing on boundary waters shared with the state of Wisconsin to ensure consistent regulations for all anglers.

1. **Season clarification.** Inconsistencies and confusion have resulted from the use of "to" and "through" to define open fishing seasons, so the season end will be clearer as a result of this rulemaking.
2. **St. Croix River fisheries management.** It is the goal that St. Croix River fish populations are managed under a single set of regulations across the entire river system. Based on a joint Minnesota-Wisconsin evaluation of St. Croix River fisheries data, we conclude that:
 - Current Minnesota rules are appropriate for the fish community above the Taylors Falls dam. Therefore, no changes are proposed to Minnesota's regulations above the dam.
 - However, for those species below the dam in the St. Croix River, the fish community should be managed more similarly to the Minnesota-Wisconsin boundary waters of the Mississippi River and Lake Pepin to maintain sustainable populations while also maximizing fishing opportunities. That fish community includes largemouth and smallmouth bass, sauger, walleye, northern pike, crappie, flathead and channel catfish, sunfish, yellow perch, and white and yellow bass.
 - These changes would create consistent daily and possession limits for several species in the St. Croix River downstream of the dam at Taylors Falls to its mouth

(U.S. Highway 10 bridge at Prescott, Wisconsin) and through the Mississippi River and Lake Pepin along the boundary of Minnesota and Wisconsin.

- Adopting these rule changes would also align Minnesota's rules on the lower St. Croix River with revised rules that Wisconsin adopted effective April 1, 2024.

3. **St. Croix River fish refuge modification.** Game fish stack up below the Taylor's Falls dam and need additional protections from over harvest at that location. This rulemaking addresses the need for additional fish refuge from March 2 to June 15 of each year within the area from the Taylors Falls (St. Croix Falls) dam on the St. Croix River to the upstream side of the U.S. Highway 9 bridge on the St. Croix River.

Statutory Authority. The statutory authorities to adopt these rules are:

- Minnesota Statutes, section 97A.045, subd 4, which provides that the commissioner may regulate the taking, possession, and transportation of wild animals from state and international boundary waters.
- Minnesota Statutes, section 97C.401, which requires the commissioner to, by rule, prescribe the limits on the number of each species of fish that may be taken in one day and the number that may be possessed.

The statutory authority to adopt the rules under the expedited rulemaking process is Minnesota Statutes, section 84.027, subd. 13a (b). The Agency is using the expedited permanent rulemaking procedure to complete the rules changes before the opening of Minnesota's spring fishing season on March 1, 2025. In addition, it is beneficial to align border water regulations as soon as possible with Wisconsin's corresponding changes that went into effect on April 1, 2024.

Publication of proposed rules. 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 may be viewed on the [DNR rulemaking webpage](https://mndnr.gov/input/rules) at mndnr.gov/input/rules.

Comments. You have until 4:30 p.m. on Friday, September 20, 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 Agency 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. If the proposed expedited rules affect you in any way, the Agency encourages you to participate in the rulemaking process.

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 Friday, September 20, 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.

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 50, the Agency must give written notice of this to all persons who requested a hearing, explain the actions the Agency took to effect 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.

7/31/2024

/s/ SARAH STROMMEN

Sarah Strommen, Commissioner of Natural Resources