

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 Taking Fish on Minnesota-Wisconsin Boundary Waters, *Minnesota Rules*, chapter 6266; Revisor's ID Number R-04603

Introduction. The Department of Natural Resources 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 October 4, 2019.

Department 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 651-259-5239, and shannon.fisher@state.mn.us.

Subject of the Expedited Rules and Statutory Authority. The proposed expedited rules are about adjusting Minnesota's fishing on the boundary waters shared with Wisconsin to ensure consistent regulations for all anglers. The department is using the expedited permanent rulemaking procedure process instead of regular rulemaking so that we can complete the rulemaking by the opening of Minnesota's spring fishing season on March 1, 2020. Wisconsin plans to adopt a similar rule by March 1, 2020.

The rule amendments modify possession limits for taking walleye and sauger, northern pike, channel and flathead catfish, shovelnose sturgeon, crappie, sunfish, yellow perch, and white and yellow bass in the Mississippi River, including Lake Pepin. The rule amendments also modify length limits for walleye, sauger, northern pike, channel catfish, and flathead catfish.

With few exceptions, regulations on possession and size restrictions for gamefish on the Minnesota and Wisconsin border waters of the Mississippi River have been largely unchanged since the 1940s and 1950s. The most recent changes were in 1990, when minimum size limits for bass (14 inches) and walleye (15 inches) were implemented. Over the last 20 years, however, regulations for gamefish in inland waters of both states have undergone substantial changes, and regulations on the border waters are now very different than those in either state.

In addition, aquatic habitat loss in backwaters and side channels due to sedimentation, chemical and hydrologic changes due to land use practices and climate change, and increasing abundance of invasive species all have the potential to significantly impact the long term health of fish populations on the Mississippi River. The proposed changes are intended to be a proactive measure that will allow the river to sustain high quality fish populations into future decades.

The statutory authority to adopt the rules is *Minnesota Statutes*, section 97A.045, subd. 4. The statutory authority to adopt the rules under the expedited rulemaking process is *Minnesota Statutes*, sections 84.027, subd. 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 department contact person listed above. The proposed expedited rules may be viewed on the [DNR Public Input Rulemaking webpage](http://www.dnr.state.mn.us/input/rules/index.html) at www.dnr.state.mn.us/input/rules/index.html.

Comments. You have until 4:30 p.m. on Friday, October 4, 2019, 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 department contact person by the due date. Comment is encouraged.
- Your comment should identify the portion of the proposed expedited rules addressed and the reason for the comment. You are encouraged to propose any change desired.
- Any comments that you would like to make on the legality of the proposed rule must also be made during this comment period.

The department encourages you to participate in the rulemaking process if the proposed expedited rules interest you in any way.

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 department contact person must receive it by 4:30 p.m. on October 4, 2019.
- Your written request for a public hearing 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.
- You are also encouraged to state the reason for the request and any changes you want made to the proposed rules.

Any request that does not comply with these requirements is not valid and the department cannot count it for determining whether it must hold a public hearing.

If 100 or more persons submit a valid written request for a hearing, a public hearing will be held unless a sufficient number subsequently withdraw their requests in writing. If the department is required to hold a public hearing, it will follow the procedures in *Minnesota Statutes*, section 14.131 to 14.20.

Withdrawal of Requests. If enough requests for hearing are withdrawn to reduce the number below 100, the department must give written notice of this to all persons who requested a hearing, explain the action the department took to effect the withdrawal, and ask for written comments on this action.

Modifications. The department may modify the proposed expedited rules using either of two avenues:

- The department may modify the proposed 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 department 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 department 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 department 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 department 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 department may adopt the rules at the end of the comment period. The department 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 department 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 department to receive notice of future rule proceedings, submit your request to the department contact person listed above.

August 19, 2019

/s/ Sarah Strommen
Commissioner