

ADMINISTRATIVE RULES Fiscal Estimate & Economic Impact Analysis

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| 1. Type of Estimate and Analysis <input checked="" type="checkbox"/> Original <input type="checkbox"/> Updated <input type="checkbox"/> Corrected | 2. Date 08/15/2024 |
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| 3. Administrative Rule Chapter, Title and Number (and Clearinghouse Number if applicable) NR 20, Fishing: Inland Waters; Outlying Waters, NR 25, Commercial Fishing--Outlying Waters |
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| 4. Subject FH-12-23 – Lake Superior cisco and lake trout regulations |
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| 5. Fund Sources Affected <input type="checkbox"/> GPR <input type="checkbox"/> FED <input type="checkbox"/> PRO <input type="checkbox"/> PRS <input type="checkbox"/> SEG <input type="checkbox"/> SEG-S | 6. Chapter 20, Stats. Appropriations Affected |
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| 7. Fiscal Effect of Implementing the Rule <input checked="" type="checkbox"/> No Fiscal Effect <input type="checkbox"/> Increase Existing Revenues <input type="checkbox"/> Increase Costs <input type="checkbox"/> Decrease Costs <input type="checkbox"/> Indeterminate <input type="checkbox"/> Decrease Existing Revenues <input type="checkbox"/> Could Absorb Within Agency's Budget |
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| 8. The Rule Will Impact the Following (Check All That Apply) <input type="checkbox"/> State's Economy <input checked="" type="checkbox"/> Specific Businesses/Sectors <input type="checkbox"/> Local Government Units <input type="checkbox"/> Public Utility Rate Payers <input checked="" type="checkbox"/> Small Businesses (if checked, complete Attachment A) |
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| 9. Estimate of Implementation and Compliance to Businesses, Local Governmental Units and Individuals, per s. 227.137(3)(b)(1). \$0 |
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The proposed rule change will impose no additional implementation or compliance costs for businesses. A potential cost associated with this rule relates to ensuring that trap nets meet the minimum mesh size requirement for preventing catch of sublegal lake whitefish. However, all state-licensed commercial fishers already use trap nets with a mesh size in compliance with the proposed rules. Therefore, this rule would not require a major overhaul in gear used by state-licensed commercial fishers.

The tribes have agreed to enact similar requirements for the use of trap nets as ordinances enforceable against tribal members. Wisconsin's regulations are proposed in-order to fulfill an agreement that results in tribal use of the same gear.

The rule will require that commercial fishers tag all gill nets with an information and identification tag on the net's buoy staff on the portion that is above the water. Currently, only gill nets greater than 4 7/16-inch stretch measure and set shallower than 330 feet require these tags. These tags are supplied by the department at no cost to the commercial fisher and require little effort or expense to attach.

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| 10. Would Implementation and Compliance Costs Businesses, Local Governmental Units and Individuals Be \$10 Million or more Over Any 2-year Period, per s. 227.137(3)(b)(2)? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No |
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| 11. Policy Problem Addressed by the Rule |
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Lake Superior offers a diverse fishery in which lake trout, cisco, and lake whitefish are the three main commercial fish species. Recreational fishers and local charter and guide businesses also value these species as game fish, and frequently target lake trout and whitefish. Because commercial, recreational, and subsistence fishers all depend on a sustainable Lake Superior fishery, harvest regulations must be analyzed and balanced using updated biological data and public input from the different stakeholder groups.

The proposed rule will establish the parameters of the population model used to determine lake trout harvest quota recommendations for the WI-2 (east of Bark Point) waters of Lake Superior for state fishers. The lake trout statistical catch-at-age model incorporates data from independent fishery assessments, the sport fishery, the commercial fishery, and tribal fisheries to project population trends and predict the maximum sustainable harvest of lake trout. The WI-1 waters will remain at a static lake trout quota.

The overall lake trout harvest quota for state (commercial and recreational) and tribal fishers will increase through this rule for the next three years. The rule would only regulate tribal harvest at times when no Lake Superior Fishing Agreement is in effect.

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In the past, the number of lake trout that could be harvested was established by emergency and companion permanent rules. Codifying the model used to establish the number of fish to be harvested, instead of just the number of fish to be harvested, will avoid the need to promulgate emergency and permanent rules on short timelines. This will not substantively impact the number of fish that can be harvested over time although the model does recommend higher quotas for lake trout over the next two-or three-year period.

In addition, this rule modifies the cisco allocation for Lake Superior and affords more opportunity to commercial fishers related to keeping harvested cisco when caught and applying them toward their total allowable catch. Commercial fishers requested this change, and it does not substantially affect the recreational anglers or the fishery as the harvest quotas remain the same.

The rule will require that commercial fishers tag all gill nets with an information and identification tag on the net's buoy staff on the portion that is above the water. Making sure that the owners of nets can be identified by the department will improve accountability.

12. Summary of the Businesses, Business Sectors, Associations Representing Business, Local Governmental Units, and Individuals that may be Affected by the Proposed Rule that were Contacted for Comments.

Throughout development of these rules the department has been in regular contact with the Lake Superior Commercial Fishing Board which includes licensed, active commercial fishers and a representative of licensed, active wholesale fish dealers. We have interacted with fishing clubs, members of the public, and the Bad River and Red Cliff Ojibwe Bands.

13. Identify the Local Governmental Units that Participated in the Development of this EIA.

None

14. Summary of Rule's Economic and Fiscal Impact on Specific Businesses, Business Sectors, Public Utility Rate Payers, Local Governmental Units and the State's Economy as a Whole (Include Implementation and Compliance Costs Expected to be Incurred)

This rule is likely to have a minimal (less than \$50,000) total economic impact, if any, on commercial fishing businesses and sport fishing businesses. Both the lake trout quota allocation for the commercial fishery and the lake trout harvest closure trigger for angling will increase over the next three years in this rule, allowing for additional lake trout commercial harvest and more opportunities for anglers to harvest lake trout with a lower risk of an early season closure. This will benefit local businesses.

In future cycles, the quotas may increase further or could decrease. Whether established by rule or through use of a population model which is established by rule, harvest quotas have always fluctuated due to relative abundance of the species.

This rule would require that trap nets meet the minimum mesh size requirement for preventing catch of sublegal lake whitefish. However, all commercial fishers already use trap nets with a mesh size in compliance with the proposed rules. Therefore, this rule would not require a major overhaul in gear use by state-licensed commercial fishers.

The rule will require that commercial fishers tag all gill nets with an information and identification tag on the net's buoy staff on the portion that is above the water. Currently, only gill nets greater than 4 7/16 inch stretch measure and set shallower than 330 feet require these tags. These tags are supplied by the department at no cost to the commercial fisher and require little effort or expense to attach.

Over the next three years, this rule would increase the lake trout quota, state commercial and recreational fishers would most likely benefit from implementation of this rule. Dockside value of harvested lake trout is dependent on a variety of factors including market value and fishing conditions, and fuel and other expenditures have a higher economic impact for commercial fishers than quota adjustments. Assuming a dockside value of \$1.50 per pound for lake trout, the total gain to commercial fishers due to the quota increase would be about \$7,020, and this dollar value would increase when the fish are sold to consumers. It is also important to note that whitefish harvest is also limited by lake trout harvest, so an increase in the lake trout quota also allows for additional gill net effort to be used to fish for lake whitefish. Though this rule does not apply to tribal fishers, tribal commercial fishers are also included under the quota through the Lake Superior Fishing Agreement, so they are likely to see a similar pattern for lake trout and whitefish harvest.

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Sport fishing is an important contributor to local economic activity in the Lake Superior region through direct spending to hotels, restaurants, bars, and to fishing businesses such as outfitters, guide or charter services and bait and tackle stores. While the recreational lake trout harvest closure trigger may impact sport fishing activities in some years when sport fishers reach the trigger early, this rule will increase the amount of lake trout that it would take to trigger a season closure, thereby reducing the risk of an early season closure compared to other years. Also, the season has only closed early once in the past three years under a lower quota.

Related to both commercial and angler use of lake trout, harvest quotas are ideally reviewed every 2-3 years, with data collection and review occurring each year. Due to the variability of harvest quotas, there is no true baseline against which to assess changes in related economic impacts. Further, the variability leads to difficulty in estimating specific long-term economic impacts. However, this analysis surmises that continued availability of the fishery resource has overall positive impacts.

The rule does not allow for the potential to establish a reduced fine for small businesses, nor does it establish "alternative enforcement mechanisms" for "minor violations" of administrative rules made by small businesses. Public utility rate payers and local governmental units will not be affected by the rule.

15. Benefits of Implementing the Rule and Alternative(s) to Implementing the Rule

The rule imposing harvest revisions is necessary in order to ensure a sustainable lake trout fishery over the long-term and will result in economic and natural resource benefits for everyone who utilizes Lake Superior's lake trout population. Not implementing the rule would prevent commercial and sport fishers from fully benefitting from the quota adjustment.

16. Long Range Implications of Implementing the Rule

Sustainable lake trout quotas will help ensure good sport, tribal and commercial fishing opportunities into the future.

17. Compare With Approaches Being Used by Federal Government

No federal statutes or regulations apply. States possess inherent authority to manage the fishery and wildlife resources located within their boundaries, except insofar as preempted by federal treaties and laws, including regulations established in the Federal Register.

18. Compare With Approaches Being Used by Neighboring States (Illinois, Iowa, Michigan and Minnesota)

Along with Wisconsin, Michigan and Minnesota are the only adjacent states with a Lake Superior commercial fishery. In Michigan, whitefish is the focus of the commercial fishery. Minnesota regulates several commercial fisheries on Lake Superior. Both Minnesota and Michigan have established quotas, gear requirements and other restrictions for commercial fishing in Lake Superior, working in cooperation with the Chippewa tribes in those states.

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| 19. Contact Name Kari Lee-Zimmermann, Policy & Regulation Specialist | 20. Contact Phone Number 608-316-0080 |
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ATTACHMENT A

1. Summary of Rule's Economic and Fiscal Impact on Specific Businesses, Business Sectors, Public Utility Rate Payers, Local Governmental Units and the State's Economy as a Whole (Include Implementation and Compliance Costs Expected to be Incurred)

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2. Summary of the data sources used to measure the Rule's impact on Small Businesses

Commercial fishing license holders are required to record and report all elements of their fishing activity as required by s. 29.519 (5) Wis. Stats.

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3. Did the agency consider the following methods to reduce the impact of the Rule on Small Businesses?

- Less Stringent Compliance or Reporting Requirements
- Less Stringent Schedules or Deadlines for Compliance or Reporting
- Consolidation or Simplification of Reporting Requirements
- Establishment of performance standards in lieu of Design or Operational Standards
- Exemption of Small Businesses from some or all requirements
- Other, describe:

4. Describe the methods incorporated into the Rule that will reduce its impact on Small Businesses

We estimate that there will not be additional costs associated with implementation or compliance for businesses. A potential cost associated with this rule relates to ensuring that trap nets meet the minimum mesh size requirement for preventing catch of sublegal lake whitefish. However, all state-licensed commercial fishers already use trap nets with a mesh size in compliance with the proposed rules. Therefore, this rule would not require a major overhaul in gear used by state-licensed commercial fishers.

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5. Describe the Rule's Enforcement Provisions

The rule will be enforced by department conservation wardens under the authority of chapter 29, Stats., through routine patrols, record audits of wholesale fish dealers and state-licensed commercial fishers, and follow up investigations of citizen complaints.

6. Did the Agency prepare a Cost Benefit Analysis (if Yes, attach to form)

- Yes No
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