

## ADMINISTRATIVE RULES Fiscal Estimate & Economic Impact Analysis

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1. Type of Estimate and Analysis

Original  Updated  Corrected

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2. Administrative Rule Chapter, Title and Number

Chs. NR 20, Fishing-Inland Waters Outlying Waters, and NR 25, Commercial Fishing-Outlying Waters

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3. Subject

Amending Lake Superior lake trout harvest limits as required by revisions to the State-Tribal Lake Superior Agreement: The rule would reduce the annual commercial fishing harvest limit for lake trout on Lake Superior and list potential limitations on recreational fishing limits.

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4. Fund Sources Affected

GPR  FED  PRO  PRS  SEG  SEG-S

5. Chapter 20, Stats. Appropriations Affected

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6. Fiscal Effect of Implementing the Rule

No Fiscal Effect  Increase Existing Revenues  Increase Costs  
 Indeterminate  Decrease Existing Revenues  Could Absorb Within Agency's Budget  
 Decrease Cost

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7. The Rule Will Impact the Following (Check All That Apply)

State's Economy  Specific Businesses/Sectors  
 Local Government Units  Public Utility Rate Payers  
 Small Businesses (if checked, complete Attachment A)

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8. Would Implementation and Compliance Costs Be Greater Than \$20 million?

Yes  No

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9. Policy Problem Addressed by the Rule

The rule is being submitted to address a decline in the lake trout population in the Apostle Islands vicinity of Lake Superior that threatens harvest capability of state-licensed commercial fishers, tribal commercial fishers, and recreational anglers.

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10. 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.

For comments on the economic impact of the rule, the department contacted the Wisconsin Conservation Congress, the Wisconsin Wildlife Federation, the Great Lakes Indian Fish and Wildlife Commission, Wisconsin Association of Lakes, WI Federation of Great Lakes Sport Fishing Clubs, WI Council of Sport Fishing Organizations, Musky Clubs Alliance of Wisconsin, Inc., Salmon Unlimited, Sturgeon for Tomorrow, Trout Unlimited - WI Council, Walleyes for Tomorrow, WI Bass Federation, Izaak Walton League-Wisconsin Division, Lake Michigan Fisheries Forum, WI Commercial Fisheries Association, American Fisheries Society-Wisconsin Chapter, Natural Resources Foundation of WI, Gathering Waters, River Alliance of Wisconsin, UW Sea Grant, League of WI Municipalities, WI Towns Association, WI Counties Association, NE WI Great Lakes Sport Fishermen, Great Lakes Sport Fishermen of Milwaukee, and the Lake Michigan and Lake Superior Commercial Fishing Boards.

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11. Identify the local governmental units that participated in the development of this EIA.

The EIA comment period was conducted from October 25 to November 8, 2013. No local governments indicated that they would like to participate in the development of the final EIA.

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12. 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)

The proposed rule does not impose any compliance or reporting requirements on small businesses nor are any design or operational standards contained in the rule. 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.

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## **ADMINISTRATIVE RULES**

### **Fiscal Estimate & Economic Impact Analysis**

Based on data available to the Department, minimal impact is expected for businesses or business associations. The rule may limit the commercial harvest of lake trout and other species by state-licensed and tribal commercial fishers. The total dockside value of the reported state commercial lake trout harvest in 2012 was approximately \$20,000. Harvest is not expected to be reduced by more than 25% and therefore the lost value of lake trout is not expected to exceed \$5,000. However, the result of this rule may also limit the amount of gill net effort commercial fishers can use to target whitefish because lake trout are frequently caught in the same nets. Reductions in gill net effort therefore have the potential to cause commercial fishers additional income reductions. The total dockside value of whitefish harvested by state commercial fishers in gill nets was approximately \$145,000 in 2012. Harvest is expected to be reduced by no more than 25% putting the total loss at no more than \$36,250 and likely less because fishers can shift to using trap nets that are not subject to the same effort restrictions governing gill nets. Moreover, commercial fishers can continue current efforts to adjust the location, time, and manner in which they set gill nets targeting whitefish so as to reduce harvest of non-target lake trout. The exact amount of economic impact is unknown, but is not expected to exceed \$50,000.

The Department received two comments during the EIA comment period that suggested the impact would be greater than estimated. The comments are summarized below:

Halvorson Fisheries, LLC, (Bayfield, WI):

- In the years prior to 2013 we had received 1075 lake trout tags per license. In March of 2013, that number was reduced to 800 tags and footage was reduced by 26,442 feet of net. Based on this new proposal, each license would see cuts of an additional 300 tags and the loss of 20,000 feet more of gill net effort. The impact of this new proposal would almost certainly force us to lay off or let go employees, potentially lose clients to whom we supply fish and absolutely result in money loss in fish sales.
- The estimated dockside value of lake trout in the draft EIA is based on the fish prices in 2011, which were considerably lower than they are at present, or at any time in the past year. Furthermore, these estimates of the lake trout dockside value are not valid to our business, as we fillet all of our lake trout. Lake trout fillets, or fillets of any other type of fish, are far more profitable than the whole, dressed fish. Our business estimates a loss of \$15,000 based on the sale of lake trout fillets in 2013. This figure is just for our business with five licenses, and still is three times higher a loss than the numbers in the draft EIA for all ten state licenses! The proposed decrease in gill net footage would only amplify our business' profit loss. I calculate that a reduction of about 20,000 feet of gill net footage per license would result in a loss of 5000 pounds of whitefish and a current dockside value of \$10,000. Considering the five licenses within our business, we stand to lose around \$50,000 from the sale of whitefish. This figure is just a rough estimate based on an average of the prior years' catch, and is subject to how much fish is caught and the market value.
- Halvorson Fisheries would also be affected by cuts to tribal quotas. Numerous local restaurants depend on our business to supply them with Lake Superior lake trout and whitefish. In order to meet the demand for trout fillets from our restaurant trade and retail store, we must purchase lake trout from Native American fisherman. A reduction to tribal quota has the potential to decrease the amount of available lake trout to purchase by our business, making it impossible for us to meet the demands of restaurant orders and consumer requests. Again, our business would experience monetary loss, but so too would Native American fishermen who supply us with lake trout, and potentially the local restaurants that serve our products.
- The rule would not only result in profit loss for our business, but for other local businesses, persons employed in the fishing industry and quite possibly persons who rely on local tourism to make a living.

Red Cliff Band of Lake Superior Chippewa:

- The Fiscal Estimate provided by the State is narrowly focused and largely underestimates the economic impact to
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## **ADMINISTRATIVE RULES**

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Bayfield and Ashland Counties.

- When developing the fiscal estimate, only state harvest was considered, and even those calculations seem low. State fishermen harvested 170,770 lbs. of whitefish with gillnets in 2011. Whitefish wholesale averaged \$1.60/lb. through most of 2013, and the economic impact needs to consider current price structure. This would put the value of the 170,770 pound catch for whitefish caught in state gillnets at \$273,232, and this does not include the harvest from the trap net fishery by state license holders.
- The economic impact does not even attempt to address the impact to the tribal commercial fishery. In 2013, 100% of the tribal fishery in Wisconsin was by gillnet harvest. Because of the effort restrictions on gillnets that are based on the lake trout quota, a lake trout quota reduction will lead to severe reduction in tribal whitefish harvest. In 2011, Red Cliff harvested 377,407 pounds of whitefish and 74,536 pounds of lake trout. Bad River harvested 264,906 pounds of whitefish and 83,007 pounds of lake trout that same year.
- A true economic impact analysis cannot simply multiply pounds harvested by wholesale price per pound. The fishing industry circulates dollars throughout the counties through employment, dock fees, equipment purchases, fuel and maintenance costs, direct sales to restaurants, etc. The State's estimate that, "the exact estimate of economic impact is unknown, but is not expected to exceed \$50,000" is almost comical in its inaccuracy. Especially since the EIA doesn't even consider the loss of tourism dollars that would occur if the recreational fishery faced emergency closure.
- Estimating the direct economic costs should be undertaken through a focus group consisting of tribal fishermen, state fishermen, fish processors, retailers and biologists.

Response from the Department:

The Department thanks both Halvorson Fisheries, LLC, and the Red Cliff Band of Lake Superior Chippewa for their comments. The Department will work with both groups as it moves through the rule making process.

Comments received from these state and tribal commercial fishers assume the economic impact of the permanent rule is greater than the Department's estimate. The economic impact was estimated by the Department using available reported data from 2012 dockside values of lake trout and whitefish sales, as well as commercial fishing harvest reports submitted to the Department. Commercial fishers and tribes are not required to submit any additional economic information to the Department, therefore the estimate of minimal economic impact was the best analysis based on available data.

If the rule is not put in place, the estimate of negative economic impact would be much greater. Allowing harvest at current quota limits is not biologically sustainable. If no action is taken, the continued decline and potential collapse of the lake trout fishery in Lake Superior would result in greater income losses to both state and tribal commercial fishers, as well as businesses that support recreational lake trout fishing.

In addition, lake trout harvest limits were negotiated in October 2013 among the Department and the Red Cliff and Bad River Bands of Lake Superior Chippewa and those changes are reflected in this rule. This State-Tribal Agreement amendment was agreed to by all parties. While negotiations do not preclude the Red Cliff Band from providing EIA comments, it was assumed that they were aware of the economic effects of the harvest limit when the Agreement amendment was made.

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

A predicted continued decline in lake trout population abundances necessitates the current reductions in harvest numbers to support a sustainable lake trout fishery over the long-term. Allowing harvest at current quota limits - an alternative to implementing the rule - is not biologically sustainable and could create negative economic impacts for commercial fishers.

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#### 14. Long Range Implications of Implementing the Rule

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Reducing quota limits for commercial fishers, authorizing harvest limits on recreational fishers, and monitoring lake trout populations will support a sustainable lake trout fishery over the long-term.

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15. Compare With Approaches Being Used by Federal Government

Authority to promulgate fishing regulations is granted to states. None of the proposed changes violate or conflict with federal regulations.

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

Of the four states, only Minnesota and Michigan have lake trout fisheries on the Great Lakes. The commercial harvest of lake trout from Minnesota waters of Lake Superior is limited to a population assessment fishery. In Michigan waters of Lake Superior there is no state-licensed commercial fishery, but there is a tribal harvest guided by the same modeling approach as Wisconsin.

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17. Contact Name

Peter Stevens, Lake Superior Fisheries Supervisor

18. Contact Phone Number

715-779-4035 ext. 12

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This document can be made available in alternate formats to individuals with disabilities upon request.

## ADMINISTRATIVE RULES Fiscal Estimate & Economic Impact Analysis

### ATTACHMENT A

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1. Summary of Rule's Economic and Fiscal Impact on Small Businesses (Separately for each Small Business Sector, Include Implementation and Compliance Costs Expected to be Incurred)

Based on data available to the Department, minimal impact is expected for businesses or business associations. The rule may limit the commercial harvest of lake trout and other species by state-licensed and tribal commercial fishers. The total dockside value of the reported state commercial lake trout harvest in 2012 was approximately \$20,000. Harvest is not expected to be reduced by more than 25% and therefore the lost value of lake trout is not expected to exceed \$5,000. The result of this rule may also limit the amount of gill net effort commercial fishers can use to target whitefish because lake trout are frequently caught in the same nets. Reductions in gill net effort therefore have the potential to cause commercial fishers additional income reductions. The total dockside value of whitefish harvested by state commercial fishers in gill nets was approximately \$145,000 in 2012. Harvest is expected to be reduced by no more than 25% putting the total loss at no more than \$36,250 and likely less because fishers can shift to using trap nets that are not subject to the same effort restrictions governing gill nets. Moreover, commercial fishers can continue current efforts to adjust the location, time, and manner in which they set gill nets targeting whitefish so as to reduce harvest of non-target lake trout.

Economic impact comments were provided during the comment period suggesting the impact to small businesses would be greater than the Department's estimate. However, if the rule is not put in place, the negative economic impact would be much greater. Allowing harvest at current quota limits is not biologically sustainable. If no action is taken, the continued decline and potential collapse of the lake trout fishery in Lake Superior would result in greater income losses to both state and tribal commercial fishers, as well as businesses that support recreational lake trout fishing.

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2. Summary of the data sources used to measure the Rule's impact on Small Businesses  
Dockside values of fish; commercial fishing harvest reports

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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:

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

No additional compliance or reporting requirements will be imposed on small businesses as a result of these rule changes.

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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 commercial fishers, and follow up investigations of citizen complaints.

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

- Yes     No
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