

Report From Agency

REPORT TO LEGISLATURE

NR 20 Wis. Adm. Code

Related to lake trout harvest limits in Lake Superior and affecting small business.

Board Order No. FH-19-16

Clearinghouse Rule No. 17-071

Basis and Purpose of the Proposed Rule

Angling

The rule revises the lake trout size and bag limit east of the line running north-south from Bark Point (46° 53.21', -91° 11.16') on the south shore of Lake Superior, an area also known as "WI-2." The daily bag limit would be 2 lake trout and they must be at least 15 inches in length but only one lake trout can be longer than 25 inches.

For 2018, if the recreational lake trout harvest in the WI-2 waters east of Bark Point reaches 75% of the total allowable recreational lake trout harvest of 15,700 fish ($15,700 \times 0.75 = 11,775$) the lake trout bag limit in the WI-2 waters will be reduced to 0 with no harvest or fishing for lake trout. This quota is lower than in future years in order to account overage that was harvested in 2017. Beginning with the 2019 season, if recreational harvest reaches 75% of the total allowable recreational harvest of 16,133 fish ($16,133 \times 0.75 = 12,100$) the lake trout season will be closed.

The regulations for lake trout harvested by sport fishers in waters west of the line running north-south from Bark Point (the area known as "WI-1") will remain unchanged: a 3-fish daily bag limit and a 15-inch minimum size limit, only 1 lake trout may be over 25 inches. Closing the lake trout season early is not an alternative in WI-1.

In both WI-1 and WI-2, this proposal separates the lake trout bag limit from the current 5-trout total daily bag limit for Lake Superior. Anglers would be able to take up to 3 lake trout per day in addition to up to 5 other trout per day.

The lake trout season for anglers runs from December 1, 2017 through September 30, 2018.

Commercial fishing

The rule also increases the annual state-licensed and Chippewa-licensed commercial fishing harvest quota for lake trout in waters east of Bark Point on the south shore of Lake Superior. Harvest by state licensed commercial fishers would be 8,060 lake trout and, for tribal fishers, 48,800. Commercial fishers are issued tags that must be attached to harvested lake trout. The tags issued to state-licensed commercial fishers for the 2017-18 season have unique serial numbers that are designated for use in either WI-1 or WI-2 waters only.

The commercial fishing season is open November 28, 2017, through September 30, 2018 and is not changed by these rules.

Refuges

The rule prohibits commercial fishing that had previously been allowed in the Gull Island Refuge area. The Gull Island Refuge, wherein the lake bottom lies at a depth of 35 fathoms (210 feet) or more, has been open to limited commercial fishing in prior years. In order to limit the placement

of fishing nets in the water and reduce potential for lake trout bycatch, it will be closed to commercial fishing. However, because of agreements among the parties to the Lake Superior Fishing Agreement, the rule also opens the Hagen’s Beach Restricted Fishing area, which is normally closed to commercial fishing June 1 through August 31.

Please Note: Although not included in this rule for reasons discussed below, the Department and the Red Cliff and Bad River Tribes have also agreed to the following prohibitions of commercial fishing within Lake Superior refuge areas:

- Not allowed in 2016-2017: For Menominee, employing bottom nets within 7 fathoms of water adjoining Michigan Island, from November 5 through December 5. Float nets in this area for lake herring from November 1 to December 15 out to a bottom depth of 25 fathoms.
- Not allowed in 2016-2017: For herring, employing nets south of a line running northwesterly from the northern tip of Devils Island, from November 15 through December 15.

These prohibitions are intended to limit the placement of fishing nets in the water and reduce potential for lake trout bycatch.

Summary of Public Comments

The legal rules hearing was held at Wisconsin Indianhead Technical College in Ashland on November 8. There was one person in attendance who was supportive of the rule. Limited interest in this hearing is not surprising considering additional opportunities for public input that were available in October.

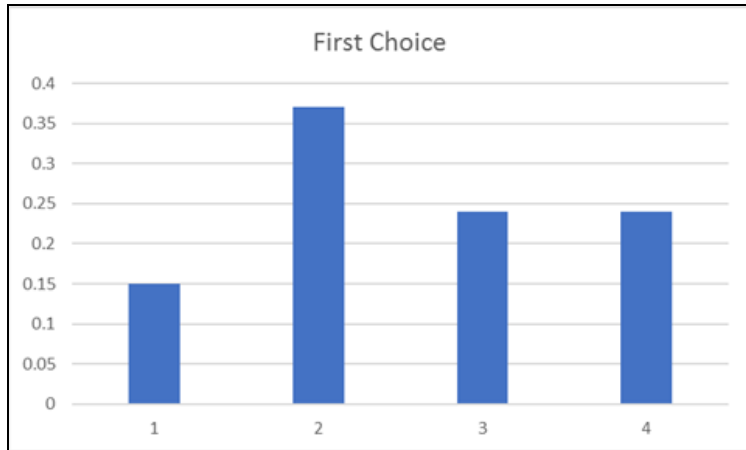
Public meetings were also held in Ashland on October 25 and Saxon on October 26, 2017. Attendees were asked to consider the four alternatives described in Table 1., and the anticipated likelihood that an early season closure would be needed.

Table 1.

Option	Description	Risk
#1	Harvest = 15" Minimum (1 Bag)	20.5% Chance of Closure
#2	Harvest = 15" Minimum One over 25" (2 Bag)	33.9% Chance of Closure
#3	Harvest = 15" Minimum One over 25" (3 Bag)	39.8% Chance of Closure
#4	Harvest = 15" Minimum One over 25" (2 Bag with reduction to 1 before closer)	29.5% Chance of Closure

There were twenty people in attendance at Ashland and ten at Saxon. Additionally, 200 people took an online survey that was available during October. The two-fish daily bag limit proposed in these rules was the favored alternative in all forums and support is described in Figure 2.

Figure 2.



Public involvement in management of lake trout has been ongoing. In 2016 the department also had an online survey open from October 25 to November 15 and held two public meetings in October to gather input on regulation options. Season options and the level of risk associated with meeting or exceeding the recreational fishing quota before the season ends were presented. In both 2016 and 2017 regulation options were affected by public concern about hooking mortality of released lake trout. Recent research suggests that post-release mortality could be as high as 38%. To account for release mortality, these rules lower the minimum length limit to 15 which allows most fish to be harvested and utilized if it appears they will not survive being released.

Modifications Following Hearings and Response to Legislative Council Rules Clearinghouse Report

For all groups, lake trout harvest opportunities will be increased in response to the most recent population information, described in Figure 3. The new quota information was available by the time public hearings were held and was a subject of those meetings.

Figure 3.

- Abundance of Lake Trout in Apostle Islands

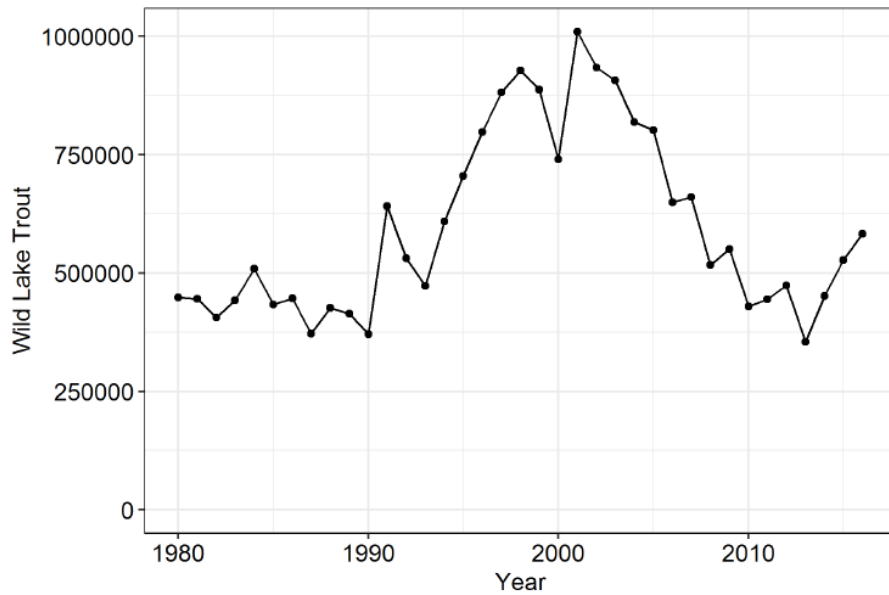


Table 2. provides a comparison of the proposed quotas and quotas that have been in place in the past.

Table 2.

	Proposed new quotas for WI-2	2016-2017 quota by emergency rule for WI-2	Current permanent rule
Angling	15,700 in 2018 16,133 in 2019 and beyond	9,800	25,529 – note that, in current rule, the angling quota for WI-1 and WI-2 are combined.
State commercial	8,060	4,900	5,300
Tribal commercial and home use	48,800	39,300	44,800

The Legislative Council Rules Clearinghouse reviewed the rule and did not have any comments

Changes to Rule Analysis and Fiscal Estimate

The rule analysis was modified to reflect the changes described in the section above related to modifications following hearings and response to Legislative Council Rules Clearinghouse Report. The modifications will not result in any state fiscal impact and that analysis was not modified.

Final Regulatory Flexibility Analysis

The rule will allow additional harvest of lake trout and other species by state-licensed commercial fishers, Chippewa-licensed fishers, and recreational fishers but is not expected to have a significant impact. All groups that fish in Lake Superior would have a moderate increase in overall harvest limits, resulting in some additional opportunity for commercial fishers. However, impact on commercial fishing businesses may be minimal because fishers may have had ample opportunities under current rules. Even when quotas were lower, impacts were buffered by the ability to transfer individual license catch quotas – through lake trout tags designated for use in WI-1 and WI-2 – between state-licensed commercial fishers. Quota transfers are a common practice that is approved and documented by the department, as authorized by s. NR 25.08.

The rule does not impose new compliance or reporting requirements nor would any design or operational standards be contained in the rule.

Response to Small Business Regulatory Review Board Report

The Small Business Regulatory Review Board did not prepare a report on this rule proposal.