

## ADMINISTRATIVE RULES Fiscal Estimate & Economic Impact Analysis

<b>1. Type of Estimate and Analysis</b> <input type="checkbox"/> Original <input checked="" type="checkbox"/> Updated <input type="checkbox"/> Corrected	<b>2. Date</b> 05/29/19
<b>3. Administrative Rule Chapter, Title and Number (and Clearinghouse Number if applicable)</b> NR 25 (Commercial Fishing - Outlying Waters)	
<b>4. Subject</b> FH-01-18 (E) and companion permanent rule FH-02-18, harvest management regulations in the Lake Superior fishery	
<b>5. Fund Sources Affected</b> <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	<b>6. Chapter 20, Stats. Appropriations Affected</b>
<b>7. Fiscal Effect of Implementing the Rule</b> <input type="checkbox"/> No Fiscal Effect <input type="checkbox"/> Increase Existing Revenues <input type="checkbox"/> Increase Costs <input type="checkbox"/> Decrease Costs <input checked="" type="checkbox"/> Indeterminate <input type="checkbox"/> Decrease Existing Revenues <input type="checkbox"/> Could Absorb Within Agency's Budget	
<b>8. The Rule Will Impact the Following (Check All That Apply)</b> <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 <b>(if checked, complete Attachment A)</b>	
<b>9. Estimate of Implementation and Compliance to Businesses, Local Governmental Units and Individuals, per s. 227.137(3)(b)(1).</b> \$Less than \$50,000 (Level 3 economic impact)	
<b>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)?</b> <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	
<b>11. Policy Problem Addressed by the Rule</b> This rule updates commercial fishing regulations for Lake Superior, including harvest allocations, reporting requirements, restricted areas, equipment regulations, data sharing and other similar provisions. These updates aim to maintain healthy target and non-target fish populations while balancing the needs of resource users, including state and tribal commercial fishers, tribal home use fishers and state recreational anglers.  The 2018 – 2028 Lake Superior Fishing Agreement serves as the foundation for this rule. The Lake Superior Fishing Agreement reflects a commitment between the state and the Bad River and Red Cliff Bands of the Lake Superior Chippewa to cooperatively manage the shared Lake Superior fishery through agreed-upon harvest limits, allocations and other management tools. The agreement provides tribal, commercial and recreational harvest opportunities while protecting the Lake Superior fishery. According to the agreement, the goal of all parties is to maintain a healthy Lake Superior ecosystem that supports fish populations and fisheries and is managed through sound science. This is accomplished through regulations enacted by each party participating in the agreement.  On March 18, 2019, a companion emergency rule, FH-01-18(E) went into effect to implement new fishing regulations for the 2018-19 commercial fishing season. In recognition of public feedback and the Board's action to amend the emergency rule, these permanent rules do not include an allowance for state commercial fishers to harvest whitefish in October.	
<b>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.</b> State commercial fishing operations, Chippewa tribal commercial fishers, recreational anglers, and local businesses will have an opportunity to provide comments on the permanent rule. One or more hearings will be held during development of the rule.  In addition, stakeholders have been offered opportunities to get involved in Lake Superior fisheries management through	

## **ADMINISTRATIVE RULES**

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

participation in the Lake Superior Management Plan drafting process, biannual meetings to discuss Lake Superior issues and periodic meetings and hearings relating to development of lake trout and cisco rules. Additional meetings continue to occur following adoption of the 2018 - 2028 Lake Superior Fishing Agreement. The department held a meeting in January 2019 to discuss the Lake Superior Fishing Agreement and emergency rule, and also held an emergency rule hearing. The department also directly contacted representatives from the main commercial and sport fishing associations in the area.

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

Local governments in the vicinity of Lake Superior with an interest in this rule will be contacted. However, no local governments are anticipated to be impacted by this rule.

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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)

The department believes that the rule as a whole will improve the Lake Superior fisheries in Wisconsin and therefore may benefit the local economy. A more equitable allocation of allowable harvest between management zones WI-1 and WI-2 will provide additional opportunities for harvest of lake trout by state commercial and recreational fishers. Additionally, while the rule does allow limited commercial harvest in certain areas otherwise restricted to sport fishing, the rule has no impact on over 300 square miles of Wisconsin waters of Lake Superior that have limited to no commercial fishing allowed, which continues to provide opportunity for recreational anglers to fish in areas with lessened interaction with commercial operations.

An estimated cost of implementation and compliance is expected to be very minimal for each commercial fishing operation, with no anticipated compliance costs to local governmental units or individuals. On the other hand, the rule will include a more equitable allocation of lake trout allowable harvest between management zones WI-1 and WI-2, potentially benefitting commercial fishers that fish in WI-2 and tribal fishers that utilize WI-1. Since most state commercial and recreational fishers use WI-2, this rule change may also prevent early closer of the lake trout season due to harvest approaching the quota. The additional time spent fishing could result in positive impacts for the local economy.

Gear use restrictions will have a very similar economic impact as rules that are currently in place. For instance, the mesh size, length, amount of fishing effort, and methods of marking commercial fishing nets are currently regulated. No significant modifications or new investments for fishing gear will be required by this rule. New regulations will not result in significant changes in the activities or harvest of fish by commercial fishers. Certain new requirements that aim to standardize regulations between state and tribal commercial fishers apply to the placement and marking of nets in waters of Lake Superior. This may require some adjustments in gear use by state commercial fishers, but costs are expected to be minimal, if any. These rules will result in continued opportunities for profitable commercial fishing and are expected to have no or minimal economic impact compared to current rules.

These rules make adjustments to areas where commercial fishing is restricted or is not allowed. These changes affect a relatively small portion of the total area of Lake Superior where commercial fishing is allowed and will not have an impact on the overall harvest or profitability of commercial fishers. In addition, the rule does not impact fish refuges, which are critically important for preventing overharvest.

When assessing the effects of the rule on state commercial fishers as a group, the changes to harvest allocations and seasons are likely to result in minimal economic impacts. The average dockside value for all species harvested by state commercial fishers from 2015 - 2017 was approximately \$1.08 million. Total allowable catch for lake trout by state commercial fishers will increase by 440 fish in WI-2 and decrease by approximately the same number in WI-1, which is

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## **ADMINISTRATIVE RULES**

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

expected to result in a similar annual total dockside value for future catches as under previous rules. The revised harvest allocations are expected to result in a more equitable distribution of allowable lake trout harvest, which may translate into an economic benefit for state commercial fishing operations, which utilize WI-2 to a greater extent than WI-1. Due to the small changes in total allowable catch for lean lake trout and no changes for whitefish and cisco (lake herring), the annual dockside value for commercially harvested fish in Lake Superior is not expected to deviate significantly from the current value as a result of these rules.

This rule may affect recreational anglers, but the exact economic impacts are difficult to predict. This rule does not directly regulate the activities of sport anglers or charters that take sport anglers fishing on Lake Superior. Recreational anglers and charter license holders utilize a diverse fishery that includes lake trout, whitefish, cisco and other salmonids such as brown trout, splake and coho salmon. This rule does not change hook and line bag limits and season dates for these species, and trolling regulations will also remain the same. Recreational anglers and charter license holders may experience a minimal economic impact relating to user conflicts in some areas of Lake Superior. The rule modifies the boundaries of some restricted areas, previously open only to recreational fishing, to additionally allow commercial and tribal fishing in a very small area totaling approximately 3 percent of the 300 square miles of restricted areas. Maintaining the majority of restricted areas is important for providing sufficient areas of quality recreational fishing where anglers are not likely to encounter commercial fishing nets. Some recreational anglers are concerned that opening this small area to commercial fishing will preclude them from fishing in the area, reduce the quality of the fishing experience and potentially lead to a loss of business for charter guides and local businesses. However, the department anticipates that the rule will overall result in continued good fishing opportunities for anglers, and comparable contributions to the economy through sport fishing activities. The department will seek further input from sport anglers through the permanent rule hearings.

The effect of this rule on tourism in the Lake Superior area is also likely to be minimal. Direct visitor spending in Bayfield County increased from \$46.5 million in 2016 to \$47.7 million in 2017, despite early closure of the recreational lake trout fishery and removal of a summer restricted area that was previously open only to recreational fishing. Direct visitor spending in Ashland County similarly increased from \$34.9 million in 2016 to \$35.1 million in 2017, and Iron County direct visitor spending increased from \$19.6 million in 2016 to \$20.5 million in 2017.

The department anticipates no fiscal impact resulting from these rules. The department annually conducts a number of activities related to managing the Lake Superior fishery including monitoring both angler and commercial harvest, establishing harvest quotas, selling licenses, providing law enforcement services, and conducting surveys and related research. The department will continue to conduct the same activities under the regulations proposed in this rule and does not anticipate any new or reduced expenditures.

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

The rule will provide certain benefits for state and tribal fishers by revising harvest allocations and seasons to be more equitable. Non-tribal fishers will benefit from an increased lake trout allocation in WI-2, while tribal fishers will experience an increased allocation in WI-1. Accordingly, commercial fishers may benefit from the increased allocation in WI-2, which receives greater usage by state commercial fishers. Recreational anglers may also benefit from this increase through a reduced potential for an early lake trout season closure. This rule will also clarify certain sections of administrative code to increase their utility to the department and members of the public, such as by standardizing certain gear requirements, matching reporting requirements with the reporting system's capabilities and adding maps or

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## ADMINISTRATIVE RULES Fiscal Estimate & Economic Impact Analysis

additional coordinates to refuges and restricted areas.

Failure to implement this rule may result in inconsistencies between administrative code rules and the new Lake Superior Fishing Agreement, and affect the ability of the department to cooperatively manage the Lake Superior fishery with its tribal partners.

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

This rule would implement the provisions of the 2018 - 2028 Lake Superior Fishing Agreement over the next 10 or more years. The long-range implications will be similar to the short-range implications in that state and tribal fishers will adhere to the same seasons, quotas, gear specifications, reporting procedures and other regulations contained in the rule in the short-term and long-term. These rules will result in continued opportunities for profitable commercial fishing and the availability of high-quality angling in the long range.

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### 17. Compare With Approaches Being Used by Federal Government

No federal 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.

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### 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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<h3>19. Contact Name</h3>	<h3>20. Contact Phone Number</h3>
Meredith Penthorn, Fisheries Management policy specialist	608-316-0080

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## **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)

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## ADMINISTRATIVE RULES Fiscal Estimate & Economic Impact Analysis

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

Commercial fishing licensees 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:

Standardization of gear requirements

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

A slight modification to the electronic reporting system for commercial harvests will remove the requirement for commercial fishers to print and sign paper copies of reports generated by the electronic system. The system collects all the required information electronically and transmits it to the department, including the commercial fisher's signature, so paper copies are not needed.

Certain requirements for fishing nets contained in the rule will apply to all nets, reducing regulatory complexity.

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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. Tribal components of the rule will be enforced by tribal wardens.

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

- Yes     No
-