

ADMINISTRATIVE RULES Fiscal Estimate & Economic Impact Analysis

1. Type of Estimate and Analysis <input type="checkbox"/> Original <input checked="" type="checkbox"/> Updated <input type="checkbox"/> Corrected	2. Date 01/19/2021
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3. Administrative Rule Chapter, Title and Number (and Clearinghouse Number if applicable)
NR 25, Commercial Fishing: Outlying Waters

4. Subject
FH-02-20, Lake Michigan whitefish management and Great Lakes commercial harvest reporting

5. Fund Sources Affected <input type="checkbox"/> GPR <input type="checkbox"/> FED <input type="checkbox"/> PRO <input type="checkbox"/> PRS <input checked="" 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 type="checkbox"/> No Fiscal Effect	<input type="checkbox"/> Increase Existing Revenues	<input checked="" type="checkbox"/> Increase Costs	<input type="checkbox"/> Decrease Costs
<input type="checkbox"/> Indeterminate	<input type="checkbox"/> Decrease Existing Revenues	<input checked="" type="checkbox"/> Could Absorb Within Agency's Budget	

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)

9. Estimate of Implementation and Compliance to Businesses, Local Governmental Units and Individuals, per s. 227.137(3)(b)(1).
\$960

Implementation and compliance costs to commercial fishers due to this rule will mainly stem from the electronic reporting requirement. Individual Zone 2 commercial whitefish fishers may experience an economic impact if the revised total allowable commercial harvest impacts their actual harvest of whitefish (which is not expected), but the impact to commercial fishers overall is expected to be minimal.

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)?

Yes No

11. Policy Problem Addressed by the Rule

This rule establishes that two lake whitefish population models will be used to calculate the total allowable commercial harvest (TAC) for whitefish in Green Bay and Lake Michigan, describes the model inputs, and provides a framework for allocating the TACs between the three management zones of Lake Michigan. Using the two models and this framework, this rule also updates the total allowable commercial harvest of lake whitefish for all three zones of Lake Michigan for the 2022 and 2023 license years. Updates are necessary to respond to the changing distribution and population dynamics of lake whitefish, as revealed through recent lake whitefish population modeling in Lake Michigan, including Green Bay. If the lake whitefish population is not managed appropriately, the sustainability of the shared commercial and recreational whitefish fishery may be compromised. The rule also implements provisions to monitor and collect data on bycatch and whitefish from Green Bay whitefish trap netting operations. Minimizing bycatch is important because Lake Michigan also supports a sport fishery, with lake trout a key species in Lake Michigan proper and walleye, yellow perch, northern pike, smallmouth bass, lake whitefish and muskellunge occupying Green Bay. The rule requires whitefish fishers in Lake Michigan and Green Bay to report the name and location of trap nets to gain better data on the use of trap nets for whitefish fishing. This rule also requires electronic reporting for all Great Lakes commercial fishers, which provides quicker, more accurate access to harvest data than biweekly paper reporting. Electronic reporting has been a priority for managing commercial fisheries for at least a decade, but to date, only a subset of fishers have utilized the electronic reporting system.

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.

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Commercial fishing businesses, fish markets and businesses that use fish products, and individual commercial fishers may be impacted by this rule, and have provided some input during the preliminary public hearing and public meetings for this rule, as well as during the economic impact comment period for this rule. Sport fishers and fishing guide businesses may be indirectly impacted by the rule due to redistribution of commercial fishing effort in Lake Michigan and Green Bay. Impacted groups had an opportunity to comment on this economic impact analysis through a posting on the department's website from October 13 to November 11, 2021.

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

Local governments in the vicinity of Lake Superior, Lake Michigan and Green Bay were contacted for input on this EIA.

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)

Lake Michigan/Green Bay whitefish management

During the EIA comment period for this rule, 34 commenters provided comments in support of the Zone 1 allowable harvest increase and the commercial fishery, with the majority (29) expressing the importance of local, sustainable fish for area residents, restaurants, and the tourism industry. Of these, 8 expressed concern that without an adequate supply of whitefish, businesses that sell whitefish, local organizations, and the economy would be negatively affected (however, the amount of such an impact is not quantifiable at this time). It is important to note that while this rule proposes an increase in the Zone 1 whitefish allowable harvest, the actualized level of commercial harvest following rule implementation, and thus the amount of whitefish available for local markets, may differ from the Zone 1 allowable commercial harvest limit in the rule.

This rule is anticipated to positively impact commercial fishing businesses that fish for whitefish in Green Bay, as well as local businesses (restaurants, bars, taverns, fish markets, food processors, smoke houses, etc.) that purchase whitefish from commercial fishing businesses to sell to consumers. The exact amount of economic benefit that each commercial fisher may gain due to the increased allowable harvest in Zone 1 waters of Green Bay is unknown, as is the economic impact to associated businesses as a result of increased whitefish harvest. Currently, nine commercial fishing licensees and their employees actively fish for whitefish in Green Bay and have access rights to Zone 1, and additional commercial fishers may be able to purchase quota in Green Bay to fish there, thereby benefitting from this increase. Assuming a dockside value of \$2 per pound for whitefish based on average dockside values over the past five years, a whitefish allowable harvest increase in Zone 1 of 207,603 pounds to a total of 569,788 pounds could convey up to a \$415,206 dockside value benefit to the commercial fishing industry, which would translate into additional income for commercial fishers and their employees, as well as benefits to associated businesses (restaurants, fish markets, taverns, grocers, fish boils, etc.), non-profit organizations that utilize whitefish, and the local economy once the fish are sold at wholesale and retail prices. Four fish suppliers and restaurant managers commented that they have observed an increasing demand for fresh whitefish to supply markets both locally in Wisconsin, as well as in other states. The Door County Economic Development Corporation indicated that the commercial fishing industry supports the local economy and provides jobs with above-average wages, which contribute to spending in the local economy. However, the exact amount of benefit to businesses and the local economy is unknown at this time. Commercial fishers that fish in Zone 2, which falls across northern Green Bay and Lake Michigan, may experience a negative economic impact from this rule only if they are unable to harvest as much whitefish as in the past due to limits on Green Bay and Lake Michigan whitefish harvest in Zone 2. Over the past 10 years, total harvest in Zone 2 has not approached the current Zone 2 allowable harvest limit, and over the past 8 years and with the 5-year average commercial harvest, the Zone 2 actual harvest has remained below the proposed Zone 2 allowable harvest, so this rule and its adjustments to the Zone 2 may not impact the amount of whitefish commercial fishers are able to harvest and therefore may not have an economic impact. Additionally, this rule would continue to allow commercial fishers with Zone 2 individual licensee catch quota allocations to fish anywhere in Zone 2 (including the Green Bay portion, with a higher concentration of whitefish), until the harvest limits for Zone 2 are reached. In Zone 3, the allowable harvest will not change, so no negative impact from this rule is expected for Zone 3

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commercial whitefish fishers due to harvest limits. Therefore, this rule is expected to have a minimal economic impact on Zone 2 fishers and Zone 3 fishers.

Great Lakes electronic harvest reporting

This rule would require harvest reports to be entered electronically. EFHRS will require the commercial fisher or crew member to have access to a smartphone or computer to enter the electronic reports, and those that do not have a phone or computer would have to purchase such a device. According to the Pew Research Center (1), an estimated 85 percent of American adults owns a smartphone. With 46 licensed commercial fishers operating in Green Bay and Lake Michigan and 8 in Lake Superior, therefore, an estimated 7 commercial fishers in Lake Michigan and 1 in Lake Superior may not have a smartphone for entering reports electronically. However, some of these commercial fishers may have a computer for entering the reports, and crew members of licensees may also have an electronic device to enter the reports for the licensee's commercial fishing operations. With this information, and estimating that a low-cost smartphone and basic data plan can be obtained for about \$120 per year, the impact to each commercial fishing licensee and the industry overall is likely to be very minimal, about \$960 per year in total at maximum.

During the EIA comment period, 2 commenters indicated support for commercial electronic harvest reporting.

1. Demographics of mobile device ownership and adoption in the United States. (2021, April 07). Retrieved June 28, 2021, from <https://www.pewresearch.org/internet/fact-sheet/mobile/>

Impacts to the Sport Fishing Community

During the EIA comment period, 5 commenters expressed opposition to the rule. Of these, one commenter expressed concern that additional funding from sport fishing license fees would be used for the DNR to manage the commercial fishery (however, the implementation of electronic reporting may offset additional staff time, if any, used to monitor commercial activities, as EFHRS is more efficient and requires less staff time than managing biweekly paper reports). Three commenters spoke on the economic importance of sport fishing in Green Bay to the local economy.

While this rule will not impose any additional regulations on sport fishers or related fishing businesses, nor will it directly contribute to user conflicts with sport fishers, sport fishers, fishing guides and associated businesses may be impacted indirectly if the increased Zone 1 allowable harvest limit in this rule leads to additional commercial fishing activities in Green Bay. Sport fishing attracts many anglers to the area each year and contributes \$264.3 million in direct and indirect impacts to the Green Bay-area economy annually through fishing expenditures (bait shops, outfitters, guide services, etc.) and related spending (travel, hotels, restaurants, taverns, etc.) (2), and the ice fishery and walleye fishery are increasing in popularity among sport fishers. This rule may result in changes to commercial fishing activity in Lake Michigan and Green Bay that members of the sport fishing community are concerned could influence the activities and expenditures of sport fishers and associated businesses. Of note, sport fishers are concerned about the impacts of additional commercial fishing on bycatch of walleye, pike, perch and other game fish species, as well as the effects on whitefish, especially in Green Bay. Because this rule will not inherently increase commercial fishing activity, and because both the commercial and sport fisheries are subject to a variety of influencing factors (weather, ice conditions, prey availability, fish distribution, etc.), economic impacts on the sport fishery and related businesses due to commercial fishing activity are unquantifiable at this time and are indirectly related to implementation of and compliance with this rule. However, this rule does include measures to maintain the shared fishery and balance user conflicts between sport and commercial fishers. Requiring electronic harvest reporting for commercial fishers will allow the department to

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obtain expeditious access to catch data for proper management of the fishery. This rule also creates provisions for trap nets in southern Green Bay to help the department monitor the fishery, collect better data on impacts to bycatch and sublegal whitefish, and reduce the potential for user conflicts..

2. Winden, Matthew, John Stoll, Kara Bennett and Russ Kashian. "The Economic and Fiscal Impact of Green Bay Recreational Fishing." University of Wisconsin-Whitewater, 2018. <https://widnr.widen.net/s/czhsxf17dp/gb-economic-report>.

Overall, during the comment period for the EIA, those associated with the commercial fishing industry or sport fishing community commented on the benefits of commercial and sport fishing, respectively, to the Green Bay-area economy.

This rule may have a minimal fiscal impact on the department for fully implementing the electronic fish harvest reporting system for all Great Lakes commercial fishers. However, these expenses can be absorbed in the agency's budget, and the benefits of timelier, more accurate commercial fishing reports for monitoring and managing commercially important fisheries will offset short-term expenses.

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

This rule will benefit the Lake Michigan whitefish fishery, which is shared between the commercial and sport fishers, to ensure that a harvestable population remains for both commercial and sport fishers well into the future. Some of the key provisions in the rule align the zone-specific allowable harvest with the current distribution of whitefish in Lake Michigan (including Green Bay), to allow commercial fishers to fish where the whitefish population has grown while limiting fishing in areas that have shown signs of whitefish population decline. This rule utilizes a model approach to setting total allowable commercial harvest (TACs) for Green Bay and Lake Michigan, and allowable harvest for each of the three zones, so that these numbers can be adjusted along data analysis timelines without requiring rulemaking each time. Currently, there is no alternative to rule-making in order to adjust the total allowable commercial harvest or how the TACs are divided between the zones. However, the department will continue to inform and work with the Lake Michigan Commercial Fishing Board and other stakeholders when the population models are run and the TACs change.

By fully implementing electronic harvest reporting, this rule will greatly benefit fisheries management in both Lake Michigan and Green Bay through timelier and more accurate datasets gained from all commercial fishers. If this rule is not implemented, commercial fishers could continue to report electronically, but only on a voluntary basis. This would perpetuate issues the department has experienced in using harvest data to properly manage the fishery, and would also require the department to maintain two reporting systems for commercial fishers, at additional expense to the department due to the time required to enter all of the paper reports into an electronic format for data analysis.

16. Long Range Implications of Implementing the Rule

The long range implications include maintaining a harvestable lake whitefish population in Lake Michigan, allowing commercial fishers to make better use of Green Bay whitefish stocks while managing user conflicts between sport fishers and commercial fishers in Green Bay, and gaining better harvest reporting data from Great Lakes commercial fishers. Electronic harvest reporting will help cultivate a more accurate long-term harvest dataset for managing all Great Lakes commercial fisheries.

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 Illinois are the only adjacent states with a Lake Michigan commercial fishery. In Michigan, lake whitefish is the focus of the commercial fishery. In addition to the large commercial gill and trap net fishery, a small trawling fishery that focuses on smelt and lake whitefish has operated in Michigan waters of Green Bay

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since the 1960s. Illinois has a very limited commercial fishery on Lake Michigan. Both states have established quotas, gear requirements and other restrictions for commercial fishing in Lake Michigan.

19. Contact Name Meredith Penthorn	20. Contact Phone Number 608-316-0080
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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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Overall, during the comment period for the EIA, those associated with the commercial fishing industry or sport fishing community commented on the benefits of commercial and sport fishing, respectively, to the Green Bay-area economy.

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

The department receives information on commercial fishing from the Lake Michigan Commercial Fishing Board, and gathers some information from sport fishing through creel surveys and contacts from local businesses and sport fishing organizations.

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

By requiring electronic harvest reporting instead of allowing both paper and electronic harvest reporting, this rule standardizes reporting methods for commercial fishers. However, this rule does allow commercial fishers some flexibility in the methods for submitting electronic harvest reports, allowing them to first record the information on a paper form before entering the information electronically by the end of the day.

5. Describe the Rule's Enforcement Provisions

DNR law enforcement, including specialized marine teams, routinely conducts checks of Great Lakes commercial fishers on the water and at the dock to inspect fish catches, which will continue under this rule.

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

- Yes No
-