

ADMINISTRATIVE RULES Fiscal Estimate & Economic Impact Analysis

1. Type of Estimate and Analysis <input checked="" type="checkbox"/> Original <input type="checkbox"/> Updated <input type="checkbox"/> Corrected	2. Date 08/19/2021
3. Administrative Rule Chapter, Title and Number (and Clearinghouse Number if applicable) NR 25, Commercial Fishing - Outlying Waters	
4. Subject FH-10-21 (E), Lake Michigan whitefish management	
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
7. Fiscal Effect of Implementing the Rule <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 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). \$Approximately \$720 or less.	
Two licensees that fish for whitefish in Green Bay and do not currently report electronically may or may not have an electronic device such as a computer or smartphone to report electronically, and four licensees transfer whitefish quota to other fishers, so the recipients of the quota may or may not have an electronic device. Assuming \$120 per year in the cost for an inexpensive smartphone with data, the estimated total cost to commercial fishers without electronic devices is \$720 or less.	
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	
11. Policy Problem Addressed by the Rule Green Bay is home to a harvestable surplus of lake whitefish due to the increase in the Green Bay whitefish population over the past several years. Commercial fishers would like to harvest some of this surplus to help aid their economic recovery in light of the COVID-19 public health emergency. However, the whitefish sport fishery in Green Bay is also valued by anglers, sport fishing businesses and the local hospitality industry, so finding balance between user groups is necessary to ensure fair use of the whitefish fishery for all. Therefore, in combination with the previous emergency rule (FH-28-20 (E)), this rule accomplishes the following: -Allocates 207,603 additional pounds of whitefish to commercial fishing Zone 1 (Green Bay) to provide additional harvest opportunity to commercial fishers to help aid their economic recovery; -Establishes a large mesh gill net effort cap for whitefish fishers in Green Bay in the event of elevated bycatch levels (10 percent or above or two lake sturgeon on average by June 30, 2022), as measured by at least 12 onboard monitoring activities, to take a protective approach to the shared fishery. Large mesh gill nets pose a greater risk of mortality to bycatch, such as walleyes, which are a key component of the sport fishery, so an upper cap on effort only if these bycatch levels are reached under the increased Zone 1 quota will allow commercial fishers to use gill nets as a method for utilizing the increased quota while minimizing the risk to populations of game fish that are susceptible to becoming bycatch. This cap is based on the 5-year average of gill net usage in Green Bay, plus an additional allotment to account for the increased Zone 1 quota and an adjustment to count day sets as fractions of the total day's footage (for example, if 5,000 feet of large mesh gill net are set for 12 hours, that would constitute 2,500 feet for the purpose of the total footage	

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cap). The continued gill net usage with a cap only in the event of chronic bycatch issues will also allow the department to collect data from gill net users to better assess the impacts of gill nets on the whitefish fishery and populations of bycatch, which will be crucial to development of the permanent rule.

-Requires electronic harvest reporting for all commercial whitefish fishers in Green Bay. Electronic reporting is critical to enable the department to closely monitor whitefish harvest and levels of bycatch under the increased quota, as this system requires daily reports as opposed to the biweekly paper reporting system. Commercial fishers will have the option to first record the harvest information on a paper report form after the last net lift of the day while on the water before entering the information into the Electronic Fish Harvest Reporting System by 11:59 p.m. the day of the trip.

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.

Commercial fishing businesses, fish markets and businesses that use fish products, fishing guide businesses, and individual commercial fishers and anglers may be impacted by this rule, and provided some input during the preliminary public hearing and public meetings for this rule. They will also be contacted during development of the permanent rule.

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

Local governments will be contacted for input during development of the permanent rule.

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 will have a minimal impact on most businesses, and will result in an overall impact similar to emergency rule FH-28-20 (E). The rule is anticipated to positively impact commercial fishing businesses that fish for whitefish in Green Bay. The exact amount that each commercial fisher may gain due to the increased quota is unknown. Currently, nine commercial fishing licensees actively fish for whitefish in Green Bay, and additional commercial fishers may be able to purchase quota in Green Bay to be able to fish, 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 quota increase in Zone 1 of 207,603 pounds could convey up to a \$415,206 dockside value benefit to the commercial fishing industry, which would translate into additional income once the fish are sold at wholesale and retail prices.

Any large mesh gill net cap implemented in response to bycatch levels is only expected to have a minimal economic impact, if any, on commercial fishers; fishers can also fish with trap nets in Green Bay to fulfill their catch quotas.

This rule would require harvest reports to be entered electronically. Two licensees that fish for whitefish in Green Bay may or may not have an electronic device such as a computer or smartphone to report electronically, and four licensees transfer whitefish quota to other fishers, so the recipients of that quota may or may not have an electronic device. Assuming \$120 per year as the cost for a basic, inexpensive smartphone with a limited data plan, the estimated total cost to commercial fishers without electronic devices is \$720 or less.

While this rule will not impose any additional regulations on sport fishers or related fishing businesses, sport fishers may be impacted by additional netting in Green Bay. Sport fishing attracts many anglers to the area each year and contributes millions to the Green Bay-area economy annually, and the ice fishery and walleye fishery are increasing in popularity among sport fishers. Of note, sport fishers are concerned about the impacts of additional commercial fishing on bycatch as well as whitefish. Caps on large mesh gill net effort will help mitigate commercial catch of game fish species targeted by anglers, fishing guides and fishing charters, and requiring electronic harvest reporting for commercial fishers will allow the department to obtain expeditious access to bycatch catch data to ensure that impacts to bycatch remain minimal.

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

Implementing this rule will allow commercial fishers more immediate access to additional lake whitefish in Green Bay, which would translate into more lake whitefish available for restaurants and general consumers, and will allow the

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department to collect additional data on bycatch from whitefish commercial fishing operations. If this emergency rule is not implemented, commercial fishers would not be able to continue utilizing the increased Zone 1 quota and would have to wait until the permanent rule is implemented, which will not occur until mid-2022. As a result, the amount of whitefish available for market to Wisconsin businesses and consumers would remain static at best. Conversely, from the sport fishing perspective, if this rule is not implemented, sport fishers may benefit in the short term from fewer user conflicts in Green Bay. However, in that case, the department would also have less data on gill net catch composition, which is a key component of the process for determining permanent regulations to ensure a sustainable long-term management strategy for whitefish that balances the needs of all user groups.

16. Long Range Implications of Implementing the Rule

The long range implications will be similar to the short term. The permanent rule will further address whitefish quotas in all three Lake Michigan commercial fishing zones, including quota updates, gear restrictions, and review of harvest reporting methods.

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 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. The use of electronic reporting for commercial fishing operations is a requirement in Michigan. Michigan requires electronic reporting for commercial fishing, when it occurs, through the Fishing Activity and Catch Tracking System which allows users to report on smartphones.

19. Contact Name Meredith Penthorn	20. Contact Phone Number 608-316-0080
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ATTACHMENT A

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)

This rule will have a minimal impact on most businesses, and will result in an overall impact similar to emergency rule FH-28-20 (E). The rule is anticipated to positively impact commercial fishing businesses that fish for whitefish in Green Bay. The exact amount that each commercial fisher may gain due to the increased quota is unknown. Currently, nine commercial fishing licensees actively fish for whitefish in Green Bay, and additional commercial fishers may be able to purchase quota in Green Bay to be able to fish, 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 quota increase in Zone 1 of 207,603 pounds could convey up to a \$415,206 dockside value benefit to the commercial fishing industry, which would translate into additional income once the fish are sold at wholesale and retail prices.

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The rule will not directly impact sport fishing businesses, but sport fishing businesses and anglers may have a perception of increased user conflict due to additional commercial fishing effort in Green Bay. Since the Green Bay fishery is a shared fishery between sport and commercial fishers, close monitoring of the impacts of the increased Zone 1 quota to whitefish and bycatch through this rule will be important for ensuring that the welfare of sport fishing businesses is also protected.

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 Green Bay whitefish commercial fishers. However, this rule does allow commercial fishers some flexibility in the methods for submitting electronic harvest reports.

5. Describe the Rule's Enforcement Provisions

DNR law enforcement routinely conducts checks of Green Bay commercial fishers, which will continue under this rule.

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

Yes No
