

## STATEMENT OF SCOPE

### Department of Natural Resources

**Rule No.:** FH-02-20

**Relating to:** NR 25, Lake Michigan whitefish management and Great Lakes commercial harvest reporting

**Rule Type:** Permanent

#### **1. Finding/nature of emergency (Emergency Rule only):**

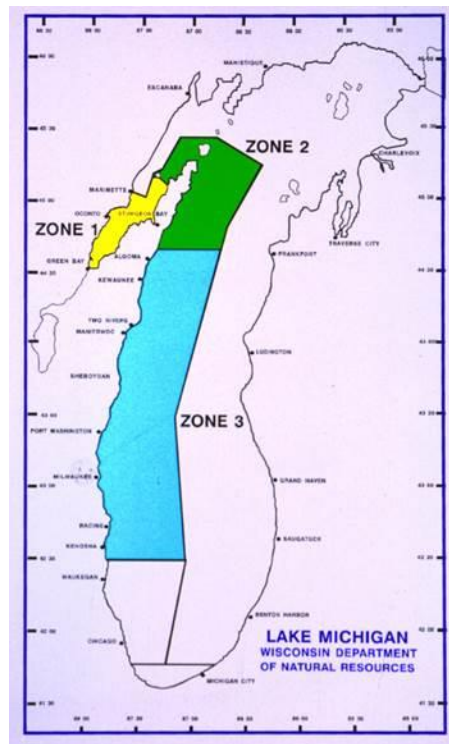
This will be a permanent rule.

#### **2. Detailed description of the objective of the proposed rule:**

This rule will address quotas and other harvest management regulations for lake whitefish in Lake Michigan, and will also standardize commercial harvest reporting requirements for both Lake Michigan (including Green Bay) and Lake Superior.

##### *Lake Michigan lake whitefish quotas and harvest regulations*

The Lake Michigan lake whitefish (*Coregonus clupeaformis*) population is of high value to commercial fishers, and is popular among sport anglers, especially in Green Bay. Three principal whitefish “stocks” (localized groups or populations that spawn and live in certain areas) exist in Wisconsin waters of Lake Michigan and Green Bay, including a spawning stock in the North/Moonlight Bays area off eastern Door County, a stock in Big Bay de Noc (State of Michigan waters) and a newly developed stock from the west shore tributaries of Green Bay. Three zones for commercial fishing encompass these spawning stocks. Zone 1 is located entirely in the waters of Green Bay, Zone 2 includes waters surrounding the Door County peninsula on both the Green Bay and Lake Michigan side and Zone 3 includes Lake Michigan waters from the city of Algoma in Kewaunee County and southward.



*Figure 1: Lake Michigan commercial fishing zones.*

The overall lake whitefish meta-population (all stocks) in Lake Michigan has generally been in decline for several years with fewer fish recruiting to replenish the stocks. This is especially true in the northern end of the lake. Preliminary data from an in-progress whitefish tagging study indicate that the whitefish from the Big Bay de Noc and North/Moonlight Bay stocks mix and contribute to the general WI commercial fishery in Lake Michigan. These data also indicate that some fish from these stocks, especially the Big Bay de Noc stock, move south into Wisconsin waters of Green Bay. In the lower half of Green Bay proper, however, whitefish stocks have been increasing in abundance and recolonizing historic spawning grounds over the past 10-15 years. Surveys show that some WI tributaries in Green Bay are sources of lake whitefish recruitment, Whitefish from these tributaries appear to generally remain in Green Bay as adults, with minimal movement into Lake Michigan. Due to the increase in whitefish abundance in lower Green Bay, some commercial fishers would like the option to harvest more whitefish in this area. However, sport anglers have expressed concern about user conflicts in areas popular for non-commercial harvest of whitefish and other game fish.

The current lake whitefish commercial harvest limit in Wisconsin waters of Lake Michigan is 2.88 million pounds of dressed whitefish per year, which was approved in 2010 (an increase from the prior limit). However, the total pounds of whitefish harvested has been significantly lower than this quota for many years.

#### *Commercial harvest reporting requirements*

The department launched a new electronic reporting system for reporting commercial fish harvests in 2016, following several years of development and discussion with commercial fishers. Previously, commercial fishers were required to use a paper reporting system to provide information on harvest that could be used to manage the fishery and prevent overharvest. However, this system was outdated and

somewhat inefficient. Following rule-making for adoption of the new system and updates to the paper reporting language in administrative code, Lake Michigan, Green Bay and Lake Superior commercial fishers could use either the electronic system through a computer or mobile device, or the old paper reporting system. Because the electronic system is more accurate, efficient, and timely, this rule would require all licensed commercial fishers to use the electronic system instead of the paper reporting system.

### **3. Description of the existing policies relevant to the rule, new policies proposed to be included in the rule, and an analysis of policy alternatives:**

#### *Lake Michigan whitefish quotas and harvest regulations*

Currently, the total allowable commercial harvest of lake whitefish is allocated into three commercial fishing zones:

Lake whitefish commercial harvest limits	Pounds per year
Zone 1 – Southern Green Bay	362,185
Zone 2 – Northern Green Bay and Northern Lake Michigan	2,166,329
Zone 3 – Southern Lake Michigan	351,487
Total Allowable Harvest Limit	2,880,000

The zone allocation structure is largely based on historical fishing effort and catch. From 2010 to 2013, Zone 1 & 3 harvest has been near the allowable harvest limit with some individual quota holders catching their complete individual quotas. However, Zone 2 harvest has been less than half the allowable harvest limit.

Historically many of the lake whitefish captured in Wisconsin waters were from the North/Moonlight Bays spawning stock. However, in recent years the west shore Green Bay tributaries, particularly the Fox and Menominee Rivers, are producing a large number of lake whitefish. Overall, the distribution of lake whitefish has changed with many more fish present in southern Green Bay relative to northern Green Bay and Lake Michigan than in the past.

This rule may adjust the total commercial harvest of lake whitefish in Lake Michigan to protect certain stocks from overharvest and ensure the long-term sustainability of the fishery. This rule may make adjustments to commercial gear, effort, or season length for a specific location or the entire whitefish fishery as an alternative to or in addition to adjusting the total allowable commercial harvest of lake whitefish.

This rule may also adjust the lake whitefish commercial fishing zone boundaries, the formulas used to determine zone specific harvest, or both to better reflect the current whitefish distribution and abundance within the lake, and between Green Bay and the rest of Lake Michigan. Changes to the zone boundaries, zone allocation scheme, or both may allow commercial fishers to better utilize lake whitefish that are available from new spawning stocks from the west shore Green Bay tributaries.

Modification of zone boundaries or allocations would involve modification of commercial fishers' fishing practices and quotas. Advice will be sought from the Lake Michigan Commercial Fishing Board (LMCFB) regarding these proposed rule changes. The LMCFB is directed by s. 29.519(7), Stats., to "recommend to the department species harvest limits and formulas for the allotment of individual licensee catch quotas when the department establishes species harvest limits for allocation among licensees."

Additionally, the rule may modify monitoring and reporting requirements for commercially harvested lake whitefish and bycatch incidentally harvested alongside whitefish in Lake Michigan and Green Bay.

#### *Commercial harvest reporting requirements*

Existing reporting rules require commercial fishers on Lakes Michigan and Superior to report their harvests. The electronic reporting system is more efficient and accurate than paper reporting, and allows the department and commercial fishers to access data in a timelier manner to monitor fish harvest. Requiring Great Lakes commercial fishers to utilize the electronic reporting system would standardize commercial harvest reporting across the Great Lakes and improve data accuracy. This rule may modify the provisions relating to paper harvest reporting, as well as the timeframe and methods for reporting commercial harvests electronically, and may update the types of information that must be reported electronically for specific fisheries or Great Lakes fisheries in part or as a whole.

Additional rule changes may be pursued that are reasonably related to those discussed in this scope statement.

#### **4. Detailed explanation of statutory authority for the rule (including the statutory citation and language):**

Section 29.014(1), Stats., directs the department to establish and maintain any bag limits and conditions governing the taking of fish that will conserve the fish supply and ensure the citizens of this state continued opportunities for good fishing.

Section 29.041, Stats., provides that the department may regulate fishing on and in all interstate boundary waters and outlying waters.

Section 29.519(1m)(b), Stats., grants discretion to the department to establish commercial fish species harvest limits after giving due consideration to the recommendations made by the commercial fishing boards. It also specifies that the limitations on harvests must be based on the available harvestable population of fish and should uphold the wise use and conservation of the fish, so as to prevent overexploitation.

Section 29.519 (5), Stats. authorizes the department to determine the methods that commercial fishers must use to submit commercial fishing records and reports.

Section 29.973, Stats., directs the department to establish and implement a commercial fish reporting system.

#### **5. Estimate of amount of time that state employees will spend developing the rule and of other resources necessary to develop the rule:**

Approximately 450 hours will be required to hold public meetings to discuss rule options, develop rule language and hold public hearings.

#### **6. List with description of all entities that may be affected by the proposed rule:**

Wisconsin-licensed commercial fishers, wholesale fish dealers, and others whose businesses are tied to commercial fishing will be affected by this rule. Great Lakes commercial fishers will be impacted by potential changes to the harvest reporting systems. Sport fishers, fishing guides, and related fishing businesses on Green Bay may be impacted by a potential geographical shift or increase in commercial fishing effort for whitefish. A perception of increased fishing pressure or increased commercial net use

may cause some sport fishers to alter their fishing patterns, especially in the waters of Green Bay. Southern Green Bay is a very popular sport fishing location, including for whitefish, and sport anglers may not support potential commercial fishing increases and related game fish bycatch in this area. Currently, the combined harvest of sport and commercial fishers is below the Wisconsin Lake Michigan commercial whitefish quota. However, increased commercial harvest in southern Green Bay may create user conflicts between sport and commercial fishers. Adequate education and enforcement would be needed to help prevent additional commercial gear from interfering with sport fishing, and vice versa.

During development of this rule, the department will conduct comprehensive outreach to stakeholders to gain input, and will aim to balance the needs of all stakeholders.

**7. Summary and preliminary comparison with any existing or proposed federal regulation that is intended to address the activities to be regulated by the proposed rule:**

No federal regulations apply. None of the rule proposals violate or conflict with federal regulations.

**8. Anticipated economic impact of implementing the rule (note if the rule is likely to have an economic impact on small businesses):**

The rule will impact the harvest of lake whitefish by commercial fishers, and exact economic impacts are likely to vary among commercial fishers. Because of the shift in distribution and overall decline in lake whitefish populations, some commercial fishers could have a reduction in their individual harvest quotas or percentage of the harvest while others have an increase. Certain areas or the whole fishery may be further restricted by season and methods. However, the overall economic impact may be positive for the commercial industry because the rule would allow for more efficient harvest to make full use of the available lake whitefish commercial stocks.

The rule may also have a minimal economic impact on sport anglers, guides and charter businesses, especially if commercial fishers shift part of their harvest effort to Green Bay. This could affect the density and distribution of sport anglers in Green Bay, including those that are targeting game fish other than whitefish. However, fishing may also improve in areas where commercial fishing is lessened due to revised quota allocations.

The rule changes are necessary in order to ensure a sustainable lake whitefish fishery over the long-term and to better allow commercial fishers to harvest the total allowable commercial catch for whitefish. The rule may have a moderate economic impact in the Lake Michigan region, but an exact amount of impact is unknown at this time. The department will conduct an economic impact analysis to gather comments from any individuals, businesses, local governments, or other entities that expect to be affected economically by the rule change. In addition, the department will seek advice from the Lake Michigan Commercial Fishing Board when developing the rule.

The rule may also revise commercial harvest reporting requirements for Lake Superior, Lake Michigan or both. Transitioning to full implementation of the electronic reporting system for all commercial fishers may have a minimal impact since some commercial fishers would need to obtain a computer or cell phone to enter reporting information electronically.

The proposed rule would likely not contain any design or operational standards.

**9. Anticipated number, month and locations of public hearings:**

The department anticipates holding two public hearings in the month of July 2020. Hearing cities will be: Cleveland, WI and Green Bay, WI.

The department will hold this hearing in these locations to obtain public input on the rule from Lake Michigan-area commercial and sport fishers.

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Preston D. Cole, Secretary

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Date Submitted