

STATEMENT OF SCOPE

Department of Natural Resources

Rule No.: FH-01-23

Relating to: Lake Michigan trawling regulations; ch. NR 25

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:

In 2020, the department promulgated a rule regulating trawling for whitefish in Lake Michigan, following a multi-year study to evaluate the effects of using this gear type to take whitefish. The rule included a 2025 sunset requiring the trawling rules to be evaluated and updated within five years following implementation. This rule will review and update, as needed, trawling regulations in Lake Michigan.

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:

This rule may update the gear restrictions for trawling, the times of day allowed for trawling, and the times of year during which trawling is allowed. This rule may also update provisions for recording trawling activities and harvest information to be reported. This rule will focus on trawling for whitefish but may evaluate and update the regulations for other species for which trawling is allowed as well.

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

Under s. 29.014 (1), Stats., “Rule-making for this chapter,” the department is directed to establish and maintain conditions governing the taking of fish that will conserve the fish supply and ensure the citizens of this state continued opportunities for good fishing.

The department is authorized to regulate fishing on and in all interstate boundary waters and outlying waters by s. 29.041, Stats., “Department to regulate hunting and fishing in interstate waters.”

Provisions of s. 29.053 (2), Stats., “Specific open and closed seasons,” provide that the department may establish conditions governing the taking of fish for the state as a whole, for counties or parts of counties, or for waterbodies or parts of waterbodies.

Under s. 29.519 (1m) (b), Stats., “Commercial fishing in outlying waters,” the department is granted the authority to establish restrictions on the kinds, size and amount of gear used in commercial fishing. Finally, this section authorizes the department to conduct inspections of buildings, boats, vehicles, storage and records associated with commercial fishing operations.

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

The department estimates that 100 hours of staff time will be needed to develop this rule and hold the public hearing.

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

This rule will impact Lake Michigan commercial fishers that utilize trawling to harvest fish in Lake Michigan. Changes to trawling regulations may have a minimal impact on Lake Michigan trawling operations. As this rule will not expand the areas where trawling is allowed or make changes to commercial harvest quotas of commercial fish species, this rule is not anticipated to impact other fishers in Lake Michigan and Green Bay.

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 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.

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

This rule is not anticipated to impose any new costs on commercial fishers or commercial fishing businesses as a result of compliance and implementation.

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

The department anticipates holding one public hearing in the month of January 2024. Hearing cities will be: Cleveland, WI or by virtual videoconferencing.

The department will hold these hearings in these locations to gain input on the changes from affected commercial fishers.

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