

**SUBJECT:**

Request that the Board approve the statement of scope for permanent Board Order FH-25-12, proposed rules affecting ch. NR 25 related to trap net placement locations and commercial fishing activity in the Restricted Use Area of Lake Superior.

**FOR: February 2013 Board meeting**

**PRESENTER'S NAME AND TITLE:** Peter Stevens, Lake Superior Fisheries Field Unit Supervisor

**SUMMARY:**

The proposed rule change will revise ch. NR 25, Wis. Adm. Code, to define trap net placement locations and commercial fishing activity in the Restricted Use Area of Lake Superior, which is bounded by the Bayfield Ferry line, a line between Houghton Point and Long Island Point, and a line between Long Island Point and the southernmost point on Madeleine Island. Commercial fishers may currently place trap nets in the Restricted Use Area for the taking of whitefish or herring from June 1 to August 15. Currently, the only limit on how many nets an individual fisher or all fishers combined may place in this small area is the total number of trap nets allowed per commercial licensee, which is 10, and distance restrictions limiting the proximity of adjacent trap nets.

The primary issues with current trap net placement are navigational safety and user conflict. Over the last two years, the Department has received complaints from sport/recreational anglers about a proliferation of trap nets within this area and commercial fishers have experienced acts of vandalism to their nets resulting in significant repair costs.

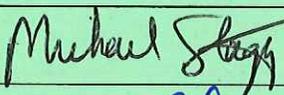
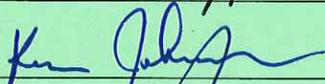
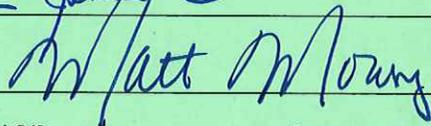
Given that the area is the only ingress or egress from Chequamegon Bay and a popular sport fishing and recreational boating corridor, the navigational safety risks can be significant. The rule is intended to address the number and placement of trap nets in the Restricted Use Area and possibly when the nets may be placed there. Alternatives will be discussed with the Lake Superior Commercial Fishing Board and local angler groups.

Minimal economic impact is anticipated as a result of this rule change. Fishing effort may be redistributed to other areas, possibly requiring additional travel for some fishers, but no quota or fishing effort changes are expected. The Department anticipates a balanced approach that protects the navigational safety of the recreational fishing and boating public and the economic needs of commercial fishers.

**RECOMMENDATION:** That the Board approve the statement of scope for permanent Board Order FH-25-12.

**LIST OF ATTACHED MATERIALS (check all that are applicable):**

- |  |   |
|--|---|
| <input checked="" type="checkbox"/> memo to the Board (for scope statement approval) | <input type="checkbox"/> Attachments to background memo                     |
| <input checked="" type="checkbox"/> Statement of scope                               | <input checked="" type="checkbox"/> Governor approval of statement of scope |
| <input type="checkbox"/> Fiscal estimate and economic impact analysis (EIA) form     | <input type="checkbox"/> Environmental assessment or impact statement       |
| <input type="checkbox"/> Response summary  | <input type="checkbox"/> Board order/rule                                   |

Approved by	Signature	Date
Mike Staggs, Bureau Director		1/4/2013
Ken Johnson, Administrator		1/14/2013
Cathy Stepp, Secretary		1/30/13

cc: Board Liaison - AD/8

Program attorney - LS/8

Department rule coordinator - LS/8

**CORRESPONDENCE/MEMORANDUM**

DATE: November 15, 2012

TO: Natural Resources Board

FROM: Cathy Stepp

SUBJECT: Scope statement approval for Board Order relating to commercial fishing trap net placement in Lake Superior

**Why is the rule being proposed?**

Over the last two years, the Department has received complaints from sport/recreational anglers about a proliferation of commercial fishing trap nets placed in the Restricted Use Area of Lake Superior, which is bounded by the Bayfield Ferry line, a line between Houghton Point and Long Island Point, and a line between Long Island Point and the southernmost point on Madeleine Island. Commercial fishers may currently place trap nets in the Restricted Use Area for the taking of whitefish or herring from June 1 to August 15.

The primary issues with current trap net placement are navigational safety and user conflict. Nets must be clearly marked according to regulations, but excessive use of this area creates confusion about the exact placement and orientation of individual nets and makes navigation through the area potentially hazardous. Given that the area is the only ingress or egress from Chequamegon Bay and a popular sport fishing and recreational boating corridor, the risks can be significant. Also, in each of the last two seasons, commercial fisherman setting nets in this area have experienced significant acts of vandalism to their nets with repair costs ranging into the thousands, if not tens of thousands, of dollars. Out of concern for these issues, the Department decided to seek a rule change to address the situation.

**Has the Natural Resources Board dealt with these issues before?**

The Natural Resources Board has dealt with similar commercial and sport fishing conflict issues in the Great Lakes. Most recently, the Board approved Order FH-50-10 that directed net marking and placement requirements and Order FH-21-11 that requires sport anglers on the Great Lakes to have access to wire cutters. The Board will be addressing an emergency rule in late 2012 and early 2013 that regulates lake trout harvest levels of commercial and sport anglers in Lake Superior.

**Summary of the rule:**

The rule is intended to address the number and placement of trap nets in the Restricted Use Area and possibly when the nets may be placed there. Alternatives will be discussed with the Lake Superior Commercial Fishing Board and local angler groups.

**How does this proposal affect existing policy?**

Currently, the only limit on how many nets an individual fisher or all fishers combined may place in the Restrict Use Area is the total number of trap nets allowed per commercial licensee, which is 10, and distance restrictions limiting the proximity of adjacent trap nets. The proposal will clarify where and how many trap nets are feasible for navigational safety and to reduce user conflict.

Section NR 1.01(2) states that: "the goal of fish management is to provide opportunities for the optimum use and enjoyment of Wisconsin's aquatic resources, both sport and commercial. A healthy and diverse environment is essential to meet this goal and shall be promoted through management programs."

**Public hearing**

One public hearing is expected, likely in summer 2013.

**Who will be impacted by the proposed rule? How will they be impacted?**

The proposed rule change would affect commercial fishing license holders in Lake Superior. Minimal economic impact is anticipated as a result of this rule change. Fishing effort may be redistributed to other areas, possibly requiring additional travel for some fishers, but no quota or fishing effort changes are expected. The Department anticipates a balanced approach that protects the navigational safety of the recreational fishing and boating public and the economic needs of commercial fishers.

Level of economic impact expected: Level 3, minimal economic (less than \$50,000).

**Environmental assessment**

This is a Type III action under Chapter NR 150, Wis. Admin. Code. No environmental assessment is required.

**Small business analysis; Initial regulatory flexibility analysis**

The proposed rule change would impact commercial fishing license holders in Lake Superior. Minimal impact is expected for businesses or business associations. No additional compliance or reporting requirements will be imposed on small businesses as a result of these rule changes. During rule development, the proposed rule will be available for review and comment at <https://health.wisconsin.gov/admrules/public/Home>.

# STATEMENT OF SCOPE

## Department of Natural Resources

Rule No.: FH- 25-12

Relating to: Commercial Fishing Trap Nets in Lake Superior

1. **Finding/nature of emergency (Emergency Rule only):** Not applicable

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

The proposed rule change will revise ch. NR 25, Wis. Adm. Code, to define trap net placement locations and commercial fishing activity in the Restricted Use Area of Lake Superior, which is bounded by the Bayfield Ferry line, a line between Houghton Point and Long Island Point, and a line between Long Island Point and the southernmost point on Madeleine Island.

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:**

Commercial fishers may currently place trap nets in the Restricted Use Area, described above, for the taking of whitefish or herring from June 1 to August 15. Currently, the only limit on how many nets an individual fisher or all fishers combined may place in this small area is the total number of trap nets allowed per commercial licensee, which is 10, and distance restrictions limiting the proximity of adjacent trap nets. Over the last two years, there have been complaints received from sport/recreational anglers about a proliferation of trap nets within this area.

The primary issues with current trap net placement are navigational safety and user conflict. Nets must be clearly marked according to regulations, but excessive use of this area creates confusion about the exact placement and orientation of individual nets and makes navigation through the area potentially hazardous. Given that the area is the only ingress or egress from Chequamegon Bay and a popular sport fishing and recreational boating corridor, the risks can be significant. Also, in each of the last two seasons, commercial fisherman setting nets in this area have experienced significant acts of vandalism to their nets with repair costs ranging into the thousands, if not tens of thousands, of dollars. Out of concern for these issues, the Department decided to seek a rule change. The rule is intended to address the number and placement of trap nets in the Restricted Use Area and possibly when the nets may be placed there. Alternatives will be discussed with the Lake Superior Commercial Fishing Board and local angler groups.

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 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., authorizes the Department to limit the number of Great Lakes commercial fishing licenses, designate the areas in the outlying waters under the jurisdiction of this state where commercial fishing operations are restricted, and designate the kind, size, and amount of gear to be used in the harvest.

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

Approximately 200 hours

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

- State-licensed Commercial Fisherman
- Charter Fisherman
- Recreational Anglers

This rule would increase navigational safety and likely expand safe fishing and boating opportunities for the charter fishers and recreational anglers. Commercial fishers may need to reduce the number or alter placement of trap nets in the Restricted Use Area, but a rule change is not expected to significantly impact their ability to harvest fish from this area according to applicable laws and statutes.

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:

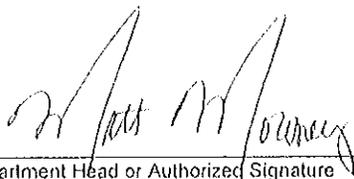
The Department is not aware of any existing or proposed federal regulation that would govern commercial fishing in Wisconsin's waters of Lake Superior.

8. Anticipated economic impact of implementing the rule:

Minimal economic impact is anticipated as a result of this rule change. Fishing effort may be redistributed to other areas, possibly requiring additional travel for some fishers, but no quota or fishing effort changes are expected. The Department anticipates a balanced approach that protects the navigational safety of the recreational fishing and boating public and the economic needs of commercial fishers.

**Contact Person:**

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E-mail: Peter.Stevens@wisconsin.gov



Department Head or Authorized Signature

11/30/10

Date Submitted



**SCOTT WALKER**  
**OFFICE OF THE GOVERNOR**  
**STATE OF WISCONSIN**

P.O. Box 7863  
MADISON, WI 53707

December 28, 2012

Cathy Stepp  
Secretary  
Wisconsin Department of Natural Resources  
101 South Webster St.  
P.O. Box 7921  
Madison, WI 53707-7921

**RE: Scope Statement for FH-25-12 relating to commercial fishing trap nets in Lake Superior**

Dear Secretary Stepp,

I hereby approve the statement of scope submitted on December 4, 2012, pursuant to Wisconsin Statutes § 227.135, in regards to a proposed rule FH-25-12. You may send the scope statement to the Legislative Reference Bureau for publication pursuant to Wisconsin Statutes § 227.135(3).

Sincerely,

A handwritten signature in black ink, appearing to be "S. Walker", written over a white background.

Scott Walker  
Governor