

ADMINISTRATIVE RULES Fiscal Estimate & Economic Impact Analysis

1. Type of Estimate and Analysis

Original Updated Corrected

2. Administrative Rule Chapter, Title and Number

NR 21 WI-MN Boundary Waters & NR 22 WI-IA Boundary Waters (FH-11-16)

3. Subject

Commercial fishing incidental take in Wisconsin-Minnesota and Wisconsin-Iowa boundary waters

4. Fund Sources Affected

GPR FED PRO PRS SEG SEG-S

5. Chapter 20, Stats. Appropriations Affected

6. Fiscal Effect of Implementing the Rule

No Fiscal Effect Increase Existing Revenues Increase Costs
 Indeterminate Decrease Existing Revenues Could Absorb Within Agency's Budget
 Decrease Cost

7. The Rule Will Impact the Following (Check All That Apply)

State's Economy Specific Businesses/Sectors
 Local Government Units Public Utility Rate Payers
 Small Businesses (if checked, complete Attachment A)

8. Would Implementation and Compliance Costs Be Greater Than \$20 million?

Yes No

9. Policy Problem Addressed by the Rule

Commercial fishing activities in WI-MN and WI-IA boundary waters were not compliant with the State's incidental take laws (NR 27, Wis. Adm. Code). The department developed a permit for incidental take of threatened species for commercial fishing activities in the Mississippi River and its connected waters and this rule codifies best practices in the permit.

10. 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.

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, including contacting the six commercial fishers with net licenses to fish Lake Pepin.

11. Identify the local governmental units that participated in the development of this EIA.

The department will conduct an economic impact analysis to gather comments from any local governments that expect to be affected economically by the rule change.

12. 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)

In March 2016, two public meetings were held in Pepin and Prairie du Chien. Commercial fishers in attendance were made aware of the changes under the incidental take permit and this rule, including closure of gill net fishing in Lake Pepin. Attendees requested that handouts be created to help identify threatened river redhorse and black buffalo fish species, which has been done. They also requested and the department has supplied an exact boundary for Wacouta Bay and Catharine's Pass in which gill netting will still be allowed.

It is expected that the proposed rule would have minimal economic impact overall and on small commercial fishing businesses. (Governor's Executive Order 50, level 3 economic impact analysis of less than \$50,000) Only six commercial fishers actively fish Lake Pepin with gill nets, and only during certain times of the year. To help alleviate any potential loss of fishing activity, the department has allowed gill net fishing in two bays in the upper portions of Lake Pepin, known as Wacouta Bay and Catharine's Pass, because it is uncommon for paddlefish and lake sturgeon, which are not commercial species and have no commercial value, to use these bays.

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

The department developed a permit for incidental take of threatened species for commercial fishing activities in the Mississippi River and its connected waters. It also created best management practices in conjunction with commercial fishers to reduce the take of the rare species in the system. The rule codifies some of the best management practices, including the closure of gill net fishing in Lake Pepin. The State of Minnesota has also prohibited the use of gill nets in Lake Pepin. Overall, a long-term benefit of the rule is to protect rare fish species that inhabit the Mississippi River. The rule will reduce the unintentional bycatch of endangered, threatened, or special concern species.

Under s. NR 21.11 (1) (p) and NR 22.11 (15), the department is currently able to require any commercial fisher to cease fishing operations when they are destructive to game fish or will endanger any other species of wild animal. Rather than annually using this policy authority, the changes will be made permanent in chapter NR 21 and 22.

14. Long Range Implications of Implementing the Rule

To promote best management practices and ensure commercial fishing activity is compliant with the State's incidental take laws (NR 27, Wis. Adm. Code), the department developed a permit for incidental take of threatened species for commercial fishing activities in the Mississippi River and its connected waters. The permit and rule objective is to reduce and prevent the unintentional bycatch of endangered, threatened, or special concern species when conducting commercial fishing activities on the Mississippi River and its connected waters. It also provides guidance to commercial fishers if they do encounter rare species.

15. Compare With Approaches Being Used by Federal Government

None of the proposed changes violate or conflict with federal regulations. The department works in conjunction with the U.S. Fish and Wildlife Service to protect rare species under the Federal Endangered Species Act.

16. Compare With Approaches Being Used by Neighboring States (Illinois, Iowa, Michigan and Minnesota)

The waters affected by this rule are Wisconsin-Minnesota boundary waters. Minnesota also has rules that prohibit taking, purchasing, importing, possessing, transporting, or selling endangered or threatened animals without a permit. Minnesota has also prohibited the use of gill nets in Lake Pepin year round.

<h3>17. Contact Name</h3>	<h3>18. Contact Phone Number</h3>
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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)

Main elements of the rule:

- Gill nets may not be used in any manner on Lake Pepin except dead set gill nets may be used in Wacouta Bay and Catharine's Pass at the upstream end of Lake Pepin
- Licensed commercial fishers using nets and setlines on the Wisconsin-Minnesota and Wisconsin-Iowa boundary waters are required to report to the department on monthly report forms all fish caught, obtained, transferred, sold, or kept, except for fish immediately released alive and unharmed. Previously only fish sold and kept were reported.
- Licensed commercial fishers on the Wisconsin-Minnesota and Wisconsin-Iowa boundary waters must report all mortally injured or dead threatened fish species to the department and bring them to a department official or office within 24 hours

Who is affected?

Commercial fishers with net or setline licenses who operate on the Mississippi River and its connected waters

What actions are they likely to take?

- Loss of access to Lake Pepin using gill nets, some other gear is still allowed
- Additional entries on already existing monthly report forms of any threatened fish species caught in their nets and setlines, although it is expected that the closure of gill nets in Lake Pepin will greatly reduce the chance of catching paddlefish, lake sturgeon, and other rare species
- Transport of dead threatened fish species to the department, which could incur a new, minor transportation cost to the commercial fishers

Benefits to the rule:

- The rule will reduce and prevent the unintentional bycatch of endangered, threatened, or special concern species when conducting commercial fishing activities
- It will also help to prevent bad public relations for fishing businesses related to dead fish washing ashore

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

In March 2016, two public meetings were held in Pepin and Prairie du Chien. Commercial fishers in attendance were made aware of the changes under the incidental take permit and this rule, including closure of gill net fishing in Lake Pepin. Attendees requested that handouts be created to help identify threatened river redhorse and black buffalo fish species, which has been done. They also requested and the department has supplied an exact boundary for Wacouta Bay and Catharine's Pass in which gill netting will still be allowed.

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:

To help alleviate any potential loss of fishing activity, the department allows gill net fishing in two bays in the upper portions of Lake Pepin, known as Wacouta Bay and Catharine's Pass, because it is uncommon for paddlefish and lake

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sturgeon to use these bays.

4. Describe the methods incorporated into the Rule that will reduce its impact on Small Businesses

See 3. above

5. Describe the Rule's Enforcement Provisions

The rule will be enforced by department conservation wardens under the authority of chapter 29, Stats., through routine patrols, record audits of wholesale fish dealers and state-licensed commercial fishers, and follow up investigations of citizen complaints.

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

Yes No
