

CSI - Ohio

The Common Sense Initiative

Business Impact Analysis

Agency Name: ODNR Division of Wildlife

Regulation/Package Title: Quota Species

Rule Number(s): 1501:31-3-13

Date: May 20, 2016

Rule Type:

New

5-Year Review

Amended

Rescinded

The Common Sense Initiative was established by Executive Order 2011-01K and placed within the Office of the Lieutenant Governor. Under the CSI Initiative, agencies should balance the critical objectives of all regulations with the costs of compliance by the regulated parties. Agencies should promote transparency, consistency, predictability, and flexibility in regulatory activities. Agencies should prioritize compliance over punishment, and to that end, should utilize plain language in the development of regulations.

Regulatory Intent

1. Please briefly describe the draft regulation in plain language.

This rule stipulates that yellow perch commercial fish trap net licensees must keep an accurate daily record of yellow perch catch, must enter trap net tag numbers in the electronic catch reporting system when harvesting yellow perch, must weigh harvested yellow perch dockside and record the actual weight in the catch reporting system and prohibits inaccurate harvest of yellow perch in the electronic catch reporting system.

2. Please list the Ohio statute authorizing the Agency to adopt this regulation.

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ORC 1531.06, 1531.08, 1533.341, 1533.342, 1533.343

- 3. Does the regulation implement a federal requirement? Is the proposed regulation being adopted or amended to enable the state to obtain or maintain approval to administer and enforce a federal law or to participate in a federal program?**

Not applicable.

- 4. If the regulation includes provisions not specifically required by the federal government, please explain the rationale for exceeding the federal requirement.**

Not applicable.

- 5. What is the public purpose for this regulation (i.e., why does the Agency feel that there needs to be any regulation in this area at all)?**

The purpose of this regulation is to ensure that commercial trap net licensees accurately report landings of yellow perch from Lake Erie. This ensures that Ohio's harvest quota of yellow perch is not exceeded and ensures the sustainability of the yellow perch population in Lake Erie is maintained for all Ohioans.

- 6. How will the Agency measure the success of this regulation in terms of outputs and/or outcomes?**

The Agency will continue to monitor compliance with the regulation through, inspections enforcement, and monitoring fish populations in Lake Erie for sustainability.

Development of the Regulation

- 7. Please list the stakeholders included by the Agency in the development or initial review of the draft regulation.**

Stakeholders present at a November 16, 2015 meeting to discuss this section of OAC included trap net licensees – Dean Koch, Rich Stinson, Jim Swartz, Randy Swartz, Ken King, and Todd Reynolds; seine licensees – Dean Koch, Stan Kutcher Sr., Stan Kutcher Jr., Jim Swartz, Randy Swartz, Daryl Trent, Ken Buehler, and Dennis Buehler. Additionally, Sam Sidoti (Smith and Lehrer Law Offices) was present.

- 8. What input was provided by the stakeholders, and how did that input affect the draft regulation being proposed by the Agency?**

The rule was presented to stakeholders during the November 16, 2015 meeting with no amendment proposed. No additional input or requests were provided by stakeholders.

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Other input on this section of OAC included a discussion of trap net marking procedures. As this was a procedural issue related to implementation of electronic catch reporting, we did not seek modification of this section, but committed to working with stakeholders to develop procedures to streamline individual net marking.

9. What scientific data was used to develop the rule or the measurable outcomes of the rule? How does this data support the regulation being proposed?

No additional scientific data were used to develop the rule as no amendment is being proposed.

10. What alternative regulations (or specific provisions within the regulation) did the Agency consider, and why did it determine that these alternatives were not appropriate? If none, why didn't the Agency consider regulatory alternatives?

No alternatives or specific provisions were considered for this section of OAC.

11. Did the Agency specifically consider a performance-based regulation? Please explain.

No, the Agency did not feel that this was applicable.

12. What measures did the Agency take to ensure that this regulation does not duplicate an existing Ohio regulation?

The ODNR, Division of Wildlife is the only Agency that regulates the commercial fishing industry in regards to harvesting and reporting of yellow perch. The laws and rules of the Agency were reviewed for potential conflict.

13. Please describe the Agency's plan for implementation of the regulation, including any measures to ensure that the regulation is applied consistently and predictably for the regulated community.

No amendment to the regulation is being proposed, therefore current sales and purchase reporting procedures will continue to be collected and monitored as it has in past years.

Adverse Impact to Business

14. Provide a summary of the estimated cost of compliance with the rule. Specifically, please do the following:

a. Identify the scope of the impacted business community;

There are currently 18 commercial trap net licenses held by 12 individuals/corporations.

b. Identify the nature of the adverse impact (e.g., license fees, fines, employer time for compliance);

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This rule requires record keeping, utilizing the electronic catch reporting system, for commercial fisherman catching yellow perch. There will be no new adverse impacts as there are no amendments proposed for this section of OAC.

c. Quantify the expected adverse impact from the regulation.

The Ohio Revised Code requires the electronic catch reporting system which costs approximately \$900 in initial equipment costs and approximately \$160 per year in maintenance fees.

There will be no new adverse impacts as there a no amendments proposed for this section of OAC.

15. Why did the Agency determine that the regulatory intent justifies the adverse impact to the regulated business community?

The regulatory intent justifies the adverse impact to the regulated business community so that Ohio has a sustainable fish population in Lake Erie for future use.

There will be no new adverse impacts as there a no amendments proposed for this rule.

Regulatory Flexibility

16. Does the regulation provide any exemptions or alternative means of compliance for small businesses? Please explain.

There are currently no alternatives or exemptions for compliance with this regulation.

17. How will the agency apply Ohio Revised Code section 119.14 (waiver of fines and penalties for paperwork violations and first-time offenders) into implementation of the regulation?

Enforcement action by law enforcement is reserved for egregious violations and only after consultation with the prosecuting attorney. First time offenders of record keeping requirements will be provided guidance on proper record keeping requirements and warned of the violations.

18. What resources are available to assist small businesses with compliance of the regulation?

The industry may contact the ODNR Division of Wildlife office in Sandusky Ohio for clarification or explanation of the rule. Information is also available on the internet and through email.

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