

# NEW YORK STATE DEPARTMENT OF ENVIRONMENTAL CONSERVATION

## Division of Fish and Wildlife

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Regulatory Impact Statement (SAPA §202-a)

TITLE 6. DEPARTMENT OF ENVIRONMENTAL CONSERVATION

CHAPTER I. FISH AND WILDLIFE

SUBCHAPTER C. FISHING

PART 10. SPORTFISHING REGULATIONS

SECTION 2 Boundary Water Fishing Regulations

1. Statutory authority: Section 3-0301 of the Environmental Conservation Law (ECL) establishes the general functions, powers and duties of the Department of Environmental Conservation (Department) and the Commissioner, including general authority to adopt regulations. Sections 11-0303 and 11-0305 of the ECL authorize the Department to provide for the management and protection of the State's fisheries resources, taking into consideration ecological factors, public safety, and the safety and protection of private property. Section 11-0317 of the ECL empowers the Department to adopt regulations, after consultation with the appropriate agencies of the neighboring states and the Province of Ontario, establish open seasons, minimum size limits, manner of taking, and creel/seasonal limits for the taking of fish in the waters of Lake Erie, Lake Ontario, the Niagara River and the St. Lawrence River. Sections 11-1301 and 11-1303 of the ECL empower the Department to fix by regulation open seasons, size and catch limits, and the manner of taking of all species of fish, except certain

species of marine fish (listed in section 13-0339 of the ECL), in all waters of the State. Section 11-1319 of the ECL governs possession of fish taken in waters of the State.

2. Legislative objectives: Open seasons, size restrictions, daily creel limits, and restrictions regarding the manner of taking fish are tools used by the Department to achieve the intent of the above referenced legislation. The purpose of setting seasons is to prevent over-exploitation of fish populations during vulnerable periods, such as spawning, thereby promoting healthy populations. Size and creel limits are necessary to optimize resource benefits to anglers and maintain high quality sportfisheries.

3. Needs and benefits: The proposed amendments are necessary to maintain or improve the quality of the State's fisheries resources thereby optimizing opportunities for public use and economic benefits, consistent with resource conservation. Four of the five proposed regulation amendments result from a series of meetings with a Lake Ontario Fisheries Management Focus Group (Focus Group), convened to determine anglers' desired fisheries management outcomes and to seek consensus on management actions that will result in maintenance of/improvement to high quality sportfisheries. The Focus Group was comprised of 16 angler representatives, several of whom are charter captains or tributary guides who also interact with county tourism officials. The following four proposed regulation amendments are as follows:

1. Lengthen the open season for lake trout in Lake Ontario/Lower Niagara River by one month - Anglers targeting rainbow trout/steelhead in the Lower Niagara River frequently catch lake trout. Since lake trout spawning is largely over by the end of November, opening the lake trout season on December 1 will provide anglers with

additional opportunities to harvest trophy lake trout without jeopardizing lake trout restoration efforts.

2. Reduce the open Lake Ontario/Lower Niagara River creel limit for rainbow trout/steelhead from 3 to 2 fish/day - Rainbow trout/steelhead provide the primary sportfishery in Lake Ontario's tributaries from November through the following spring. This potential change is designed to increase numbers and sustainability of rainbow trout/steelhead in the tributary fishery by reducing open lake harvest during periods when Chinook fishing success in the lake declines and more anglers specifically target rainbow trout/steelhead.
3. Reduce the creel limit for brown trout in Lake Ontario tributaries from 3 to 1 fish/day - This change is intended to prolong high quality brown fishing opportunities through the winter months, while still allowing anglers the opportunity to harvest a trophy fish. Fishing effort on Lake Ontario tributaries can be intense each year from fall through spring and maintaining high quality brown trout fishing opportunities relies on anglers releasing a high proportion of their catch.
4. Increase the minimum size limit for rainbow trout/steelhead in Lake Ontario tributaries from 21" to 25" - This change is intended to prolong high quality rainbow trout/steelhead fishing opportunities through the winter months, while still allowing anglers the opportunity to harvest a trophy fish. Anglers have noted smaller rainbow trout/steelhead in recent years, and declining rainbow trout/steelhead fishing success as the winter season progresses.

A fifth amendment would remove angling restrictions on two Lake Erie tributaries, thereby expanding angling opportunities: (5) Eliminate special Lake Erie tributary seasonal fishing closures applied to Spooner Creek and North Branch of Clear Creek.

4.Costs: Enacting regulation amendments described herein will not result in increased expenditures by State or local governments, or the general public.

*a. None*

*b. None*

*c. N/A*

5.Local government mandates: These regulation amendments will not impose any programs, services, duties or responsibilities upon any county, city, town, village, school district, fire district, or other special district.

6.Paperwork: No additional paperwork will result from these proposed regulation amendments.

7.Duplication: There are no other State or federal regulations which govern the taking of freshwater sportfish.

8.Alternatives: A no-action alternative would prevent these modifications from becoming established in regulation, and potential sportfishery improvements and associated economic benefits would be deferred. Additionally, a no-action alternative will likely illicit a negative feedback from organized angling groups.

9.Federal standards: There are no minimum federal standards that apply to freshwater sportfishing regulation.

10.Compliance schedule: These regulations, if adopted, will become effective on 1 April, 2020. Anglers will be able to immediately comply with these regulations once they take effect.