

Document: Proposed Rule

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TITLE 312 NATURAL RESOURCES COMMISSION

Proposed Rule

LSA Document #00-189

DIGEST

Adds 312 IAC 2-4 concerning the regulation of watercraft engaged in fishing tournaments or other organized activities. Amends 312 IAC 8-5-2 that addresses licenses on DNR properties. Repeals 312 IAC 8-3. Effective 30 days after filing with the secretary of state.

312 IAC 2-4

312 IAC 8-3

312 IAC 8-5-2

SECTION 1. 312 IAC 2-4 IS ADDED TO READ AS FOLLOWS:

Rule 4. Organized Activities and Tournaments on Designated Public Waters; Administration

312 IAC 2-4-1 Applicability

Authority: IC 14-10-2-4; IC 14-15-7-3

Affected: IC 14

Sec. 1. (a) This rule applies to both of the following:

- (1) The process for designating any public water where organized activities and tournaments are regulated.**
- (2) The administration of organized activities and tournaments on waters designated under subdivision (1).**

(b) Exempted from this rule is any boat race or water ski event. Those activities are governed by 312 IAC 5-3.

(c) A person must not conduct or participate in a fishing tournament or other organized activity on a public water designated in this rule except under a license issued under this rule.

(d) The director shall designate a point of contact within the department for the administration of this rule, including the supervision of an activity regulated under this rule. (Natural Resources Commission; 312 IAC 2-4-1)

312 IAC 2-4-2 Definitions

Authority: IC 14-10-2-4; IC 14-15-7-3

Affected: IC 14

Sec. 2. (a) The definitions in this section apply throughout this rule and are in addition to the definitions in 312 IAC 1.

(b) "Boat race" has the meaning set forth at 312 IAC 5-2-5.

(c) "Fishing tournament" means an activity involving fifteen (15) or more watercraft used for taking fish where:

- (1) persons compete for a trophy, citation, cash, or prize; or**
- (2) a fee is charged to participants.**

(d) "Other organized activity" means an activity involving fifteen (15) or more watercraft other than:

- (1) a boat race;**
- (2) a fishing tournament; or**

(3) a water ski event.

(e) "Water ski event" has the meaning set forth at 312 IAC 5-2-44. (*Natural Resources Commission; 312 IAC 2-4-2*)

312 IAC 2-4-3 Petition to regulate the conduct of fishing tournaments or other organized activities on designated public waters

Authority: IC 14-10-2-4; IC 14-15-7-3

Affected: IC 14-33-1-1

Sec. 3. (a) Any of the following persons may petition the commission to designate, by rule, a particular public water for regulation:

(1) The county executive for the county where the public water is located as more particularly described for:

(A) a lake, the county executive for the county in which the greatest portion of the lake is located; and

(B) another public water, the county executive for any county in which the public water is located.

A petition under this subdivision applies only the portion of the public water located in that county. The county executives for adjoining counties may, however, enter a joint petition.

(2) If a portion of a public water is located within a municipality, the municipality. A petition under this subsection applies only the portion of the public water located in the municipality.

(3) If a portion of a public water is located within a conservancy district, and an approved purpose of the conservancy district is to provide recreational facilities under IC 14-33-1-1, the conservancy district. A petition under this subsection applies only to the portion of the public water located in the conservancy district.

(4) A park department for a jurisdiction in which the public water is located.

(5) A deputy director of the department.

(b) A petition filed under subsection (a) must include the following:

(1) The name and location of the public water to be regulated.

(2) The name, address, and telephone number of the petitioner.

(3) The periods when the public water would be regulated. These periods may be expressed in terms of months or beginning and ending days. Restrictions on activities regulated under this rule may be seasonally adjusted.

(4) Whether regulation would apply to fishing tournaments, other organized activities, or both fishing tournaments and other organized activities. If the regulation would apply to other organized activities, a description of the type of these activities that would be regulated.

(5) Any special terms or conditions the petitioner wishes to have included to promote effective and lawful regulation of fishing tournaments or other organized activities on the particular public water.

(*Natural Resources Commission; 312 IAC 2-4-3*)

312 IAC 2-4-4 Notice of and response to petition

Authority: IC 14-10-2-4; IC 14-15-7-3

Affected: IC 14

Sec. 4. (a) Upon receipt of a completed petition under section 3 of this rule, the division of hearings of the commission shall cause:

(1) a copy of the petition to be delivered for each deputy director of the department; and

(2) notice of the petition and a brief summary of its contents to be delivered to the legislative services agency for publication in the Indiana Register.

(b) Within ninety (90) days after the receipt of a petition under subsection (a), the department shall review and tender written recommendations to the commission regarding preliminary adoption of a rule to implement the petition. A copy of the recommendations shall also be served upon the petitioner and any other person who requests in writing that the department provide a copy.

(c) In preparing the recommendations described in subsection (b), the department shall consult with the petitioner and any other interested person. The recommendations shall consider each of the following:

(1) Fish, wildlife, or botanical resource management.

(2) The protection of users, including the following:

- (A) Limitations of the public water to safely accommodate watercraft.
- (B) Limitations of facilities relative to vehicular access, pedestrian safety, parking, and the launching of watercraft.
- (3) The protection of private and public property.
- (4) Cultural resources.

(d) If the department does not tender its written recommendations to the commission in a timely fashion as provided in subsection (b), the petitioner may move the commission to place the petition on its agenda at the next regular monthly meeting. *(Natural Resources Commission; 312 IAC 2-4-4)*

312 IAC 2-4-5 Designation of regulated public water by rule

Authority: IC 14-10-2-4; IC 14-15-7-3

Affected: IC 4-22; IC 14

Sec. 5. (a) The commission may approve the recommendations of the department under section 4(b) of this rule or may modify or reject those recommendations.

(b) If a petition results in preliminary adoption of a rule, the proposal shall be reviewed under IC 4-22. A public hearing on the proposal shall be conducted in the county where the public water to be regulated is located.

(c) The regulation of a fishing tournament or other organized activity becomes effective for a particular public water when a section under this rule designating that public water becomes effective under IC 4-22. *(Natural Resources Commission; 312 IAC 2-4-5)*

312 IAC 2-4-6 License application

Authority: IC 14-10-2-4; IC 14-15-7-3

Affected: IC 14

Sec. 6. (a) An application for a license to conduct a fishing tournament or other organized activity must be completed on a department form at least ninety (90) days before the date of the proposed tournament.

(b) The applicant shall attach a copy of the proposed tournament standards and regulations. *(Natural Resources Commission; 312 IAC 2-4-6)*

312 IAC 2-4-7 Advance date approval

Authority: IC 14-10-2-4; IC 14-15-7-3

Affected: IC 14

Sec. 7. (a) The department will conduct an organizational meeting between October 1 and December 15 to establish dates for the following two (2) years on which fishing tournaments or other organized activities can be conducted.

(b) A person who receives a reserved date must submit a completed license application within thirty (30) days of notification and at least ninety (90) days before the scheduled event, whichever is earlier. Failure to submit a timely completed application releases the reservation. *(Natural Resources Commission; 312 IAC 2-4-7)*

312 IAC 2-4-8 Bond; list of officials; user fee

Authority: IC 14-10-2-4; IC 14-15-7-3

Affected: IC 14

Sec. 8. At least fourteen (14) days before the scheduled event, a license holder must deliver each of the following to the department:

(1) A cash bond or other security approved by the department in the amount of one hundred fifty dollars (\$150) to compensate the department and the owner of the site where the activity is conducted for expenses incurred to:

- (A) restore the mooring, judge's, or spectators' area; and
- (B) reimburse the department for the costs of supervision, maintenance, and labor.

(2) A list of officials of the license holder who will be present during the event.

- (3) The name of an individual who will be present and responsible for compliance with the terms of the license.
- (4) A user fee equal to the number of individual contestants in a fishing tournament or other organized activity at a rate of one dollar (\$1) per contestant or participant. The department shall allocate the fee in equitable shares among the owners of sites that serve as a staging area for the activity.

(Natural Resources Commission; 312 IAC 2-4-8)

312 IAC 2-4-9 General duties of license holder

Authority: IC 14-10-2-4; IC 14-11-2-1

Affected: IC 14

Sec. 9. In addition to the terms of the license and the requirements otherwise set forth in this rule, a license holder must do the following:

- (1) Obtain permission from the department to use a zone or zones in the public water for mooring, judging, and starting.
- (2) Upon the request of the department, meet with a designated authorized representative or representatives before a tournament begins.
- (3) Remove equipment and refuse and otherwise restore zones used in connection with a fishing tournament or other organized activity to the condition that existed before the event as directed by the department.
- (4) Provide at the site at least one (1) towboat with ropes.
- (5) Provide a person certified by the American Red Cross or registered as an emergency medical technician to handle medical emergencies.
- (6) Provide officials needed to supervise contestants and spectators.
- (7) Require each participating watercraft to clearly display on both sides an identification showing its number and the name or logo of the fishing tournament or other organized activity.
- (8) Establish a starting location for the tournament or activity within an idle speed zone.
- (9) Refrain from and prohibit the sale of food, beverages, or supplies within the area of the activity unless approved in writing by the department and the owner of the area.

(Natural Resources Commission; 312 IAC 2-4-9)

312 IAC 2-4-10 Limitation on usage of facilities

Authority: IC 14-10-2-4; IC 14-15-7-3

Affected: IC 14

Sec. 10. (a) Except as provided in subsection (b), vehicles and trailers of contestants must use no more than seventy-five percent (75%) of the ramp and parking facilities in the staging area of the tournament.

(b) The owner of the staging area may, in writing, authorize more than the maximum allowed usage under subsection (a). This subsection does not, however, apply to a fishing tournament that is subject to section 12 of this rule. *(Natural Resources Commission; 312 IAC 2-4-10)*

312 IAC 2-4-11 Sanctions and emergency relief

Authority: IC 14-10-2-4; IC 14-15-7-3

Affected: IC 4-21.5-3-8; IC 4-21.5-4; IC 14

Sec. 11. (a) The department may file a complaint under IC 4-21.5-3-8, or seek emergency relief under IC 4-21.5-4, to condition, suspend, or revoke the license of a person who violates a term of the license, this article, or another law. In addition, the department may seek an order in the complaint to disqualify the person from receiving another license under this rule, for a period not to exceed three (3) years, if the person:

- (1) conducts an activity, for which a license is required under this rule, without having such a license in effect; or
- (2) violates a term of a license issued under this rule.

(b) The department may file a complaint under IC 4-21.5-3-8, or seek emergency relief under IC 4-21.5-4, to condition, suspend, or revoke a license if warranted by changed circumstances at the staging area or on the public water that might reasonably be anticipated to endanger public health, safety, or the environment.

(c) In addition to the penalties prescribed by subsections (a) and (b), a person who violates this rule commits a Class C

infraction. (Natural Resources Commission; 312 IAC 2-4-11)

312 IAC 2-4-12 Limitations on fishing tournaments at lakes administered by the division of state parks and reservoirs

Authority: IC 14-10-2-4; IC 14-15-7-3

Affected: IC 5-14-3; IC 14

Sec. 12. (a) This section governs fishing tournaments at lakes administered by the division of state parks and reservoirs.

(b) The number of watercraft that may participate in a fishing tournament must not, on any date, exceed the following:

	Monroe	Salamonie	Mississinew	Huntington	Brookville	Hardy	Patoka	Lieber	Raccoon
March	100	75	0	18	100	30	178	50	100
April	175	75	0	18	100	30	178	50	60
May	175	75	0	30	100	20	178	28	50
June	175	30	0	30	75	20	125	28	50
July	175	30	0	30	75	20	125	28	50
August	175	30	0	30	75	20	125	28	50
September	175	75	0	30	100	20	178	28	60
October	175	75	0	18	100	30	178	50	100
November	100	0	0	0	100	30	178	0	0

(c) A watercraft used to administer a tournament is excluded in determining the number of participating watercraft.

(d) The director may authorize a license for a fishing tournament under this section where the participants are not provided advance notice of the location. The name of the lake may be omitted from the license application, but the department must be provided with the name of the lake at least ten (10) days before the tournament. A license issued under this subsection does not authorize a fishing tournament that conflicts with another license issued under this section. Subject to IC 5-14-3, the department will not publish the location of a fishing tournament issued under this subsection.

(e) Notwithstanding subsection (b), no more than one hundred (100) watercraft may participate in a fishing tournament on Monroe Lake on any date after October 15.

(f) At least thirty (30) days before the scheduled event, a license holder shall file a certificate of insurance or an insurance binder with the department. The certificate of insurance or insurance binder shall name the license holder and the department as insureds and shall demonstrate the license holder has obtained an irrevocable general liability insurance policy with a limitation for each of the following of not less than:

- (1) One hundred thousand dollars (\$100,000) for all damages to property for a single occurrence.
- (2) One hundred thousand dollars (\$100,000) for injury or death of one (1) person in a single occurrence.
- (3) Three hundred thousand dollars (\$300,000) for injury to or death of multiple persons in a single occurrence.

(g) The director may require insurance in addition to what is set forth in subsection (a) if the director determines a fishing tournament poses an unusual risk of liability to the department.

(h) A license holder shall indemnify, defend, exculpate, and hold harmless the department and its officials, employees, and agents from liability due to loss, damage, injury, or other casualty to the person or property of anyone arising directly or indirectly from the activity. (Natural Resources Commission; 312 IAC 2-4-12)

SECTION 2. 312 IAC 8-5-2 IS AMENDED TO READ AS FOLLOWS:

312 IAC 8-5-2 License sanctions

Authority: IC 14-10-2-4; IC 14-11-2-1

Affected: IC 4-21.5-3-8; IC 4-21.5-4; IC 14

Sec. 2. (a) The department may **file a complaint** under ~~IC 4-21.5~~ **IC 4-21.5-3-8, or seek emergency relief under IC 4-21.5-4,** to revoke or suspend the license of a person who violates a term of the license, this article, or another law.

(b) In addition to the sanctions provided in subsection (a), the director may order a person disqualified from obtaining a fishing tournament license for three (3) years if the person:

(1) conducts a fishing tournament without a license; or

(2) violates a term of a fishing tournament license:

(Natural Resources Commission; 312 IAC 8-5-2; filed Oct 28, 1998, 3:32 p.m.: 22 IR 748, eff Jan 1, 1999)

SECTION 3. 312 IAC 8-3 IS REPEALED.

Notice of Public Hearing

Under IC 4-22-2-24, notice is hereby given that on April 25, 2001 at 2:00 p.m., at the Indiana Government Center-South, 402 West Washington Street, Conference Center Room B, Indianapolis, Indiana the Natural Resources Commission will hold a public hearing on proposed new rules concerning the regulation of watercraft engaged in fishing tournaments or other organized activities and amendments that addresses licenses on DNR properties. Copies of these rules are now on file at the Indiana Government Center-South, 402 West Washington Street, Room W272 and Legislative Services Agency, One North Capitol, Suite 325, Indianapolis, Indiana and are open for public inspection.

Michael Kiley
Chairman
Natural Resources Commission