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TITLE 312 NATURAL RESOURCES COMMISSION

Proposed Rule

LSA Document #01-359

DIGEST

Amends 312 IAC 2-4-3 that governs petitions to establish site-specific rules for the licensing of fishing tournaments and other organized watercraft activities to delete a provision with respect to special terms and conditions. Amends 312 IAC 9 that governs fish and wildlife to delete a rule section (312 IAC 9-2-7) that describes a prohibition on unlawful taking or possession of endangered species in favor of a statutory section (IC 14-22-34-12) that describes the same prohibition. Modifies numerous cross-references. Effective 30 days after filing with the secretary of state.

312 IAC 2-4-3	312 IAC 9-5-4
312 IAC 9-2-7	312 IAC 9-6-1
312 IAC 9-3-19	312 IAC 9-6-9
312 IAC 9-4-14	312 IAC 9-9-4

SECTION 1. 312 IAC 2-4-3, AS ADDED AT 24 IR 3930, SECTION 1, IS AMENDED TO READ AS FOLLOWS:

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) 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. A petition under this subdivision applies only to the portion of the public water located in that county. The county executives for adjoining counties may enter a joint petition.
- (2) If a portion of a public water is located within a municipality, the executive for the municipality. A petition under this subsection applies only to the portion of the public water located in the municipality.
- (3) 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; filed Aug 3, 2001, 10:54 a.m.: 24 IR 3930, eff Jan 1, 2002)

SECTION 2. 312 IAC 9-3-19 IS AMENDED TO READ AS FOLLOWS:

312 IAC 9-3-19 Endangered and threatened species of mammals

Authority: IC 14-22-2-6; IC 14-22-34-17
Affected: IC 14-22-34-2

Sec. 19. The following species of mammals are threatened or endangered and are subject to the protections provided under ~~312 IAC 9-2-7~~: **IC 14-22-34-12:**

- (1) Bobcat (*Felis rufus*).
- (2) Indiana bat (*Myotis sodalis*).
- (3) Gray bat (*Myotis grisescens*).
- (4) Southeastern bat (*Myotis austroriparius*).
- (5) Evening bat (*Nycticeius humeralis*).
- (6) Badger (*Taxidea taxus*).
- (7) Eastern wood rat (*Neotoma floridana*).
- (8) Swamp rabbit (*Sylvilagus aquaticus*).
- (9) Franklin's ground squirrel (*Spermophilus franklinii*).
- (10) River otter (*Lutra canadensis*).

(Natural Resources Commission; 312 IAC 9-3-19; filed May 12, 1997, 10:00 a.m.: 20 IR 2708)

SECTION 3. 312 IAC 9-4-14, PROPOSED TO BE AMENDED AT 24 IR 3677, SECTION 8, IS AMENDED TO READ AS FOLLOWS:

312 IAC 9-4-14 Endangered and threatened species of birds

Authority: IC 14-22-2-6; IC 14-22-34-17
Affected: IC 14-22-34-12

Sec. 14. The following species of birds are threatened or endangered and are subject to the protections provided under ~~312 IAC 9-2-7~~: **IC 14-22-34-12:**

- (1) American bittern (*Botaurus lentiginosus*).
- (2) Least bittern (*Ixobrychus exilis*).
- (3) Black-crowned night-heron (*Nycticorax nycticorax*).
- (4) Yellow-crowned night-heron (*Nyctanassa violacea*).
- (5) Trumpeter swan (*Sygnus buccinator*).
- (6) Osprey (*Pandion haliaetus*).
- (7) Bald eagle (*Haliaeetus leucocephalus*).
- (8) Northern harrier (*Circus cyaneus*).
- (9) Peregrine falcon (*Falco peregrinus*).
- (10) Black rail (*Laterallus jamaicensis*).
- (11) King rail (*Rallus elegans*).
- (12) Virginia rail (*Rallus limicola*).
- (13) Sandhill crane (*Grus canadensis*).
- (14) Piping plover (*Charadrius melodus*).
- (15) Upland sandpiper (*Bartramia longicauda*).
- (16) Least tern (*Sterna antillarum*).
- (17) Black tern (*Chlidonias niger*).
- (18) Barn owl (*Tyto alba*).
- (19) Short-eared owl (*Asio flammeus*).
- (20) Bewick's wren (*Thryomanes bewickii*).
- (21) Sedge wren (*Cisothorus platensis*).
- (22) Marsh wren (*Cisothorus palustris*).
- (23) Loggerhead shrike (*Lanius ludovicianus*).
- (24) Golden-winged warbler (*Vermivora chrysoptera*).
- (25) Kirtland's warbler (*Dendroica kirtlandii*).
- (26) Bachman's sparrow (*Aimophila aestivalis*).
- (27) Henslow's sparrow (*Ammodramus henslowii*).
- (28) Yellow-headed blackbird (*Xanthocephalus xanthocephalus*).

(Natural Resources Commission; 312 IAC 9-4-14; filed May 12, 1997, 10:00 a.m.: 20 IR 2712; filed May 28, 1998,

5:14 p.m.: 21 IR 3717)

SECTION 4. 312 IAC 9-5-4 IS AMENDED TO READ AS FOLLOWS:

312 IAC 9-5-4 Endangered and threatened species of reptiles and amphibians

Authority: IC 14-22-2-6; IC 14-22-34-17

Affected: IC 14-22-34-12

Sec. 4. The following species of reptiles and amphibians are threatened or endangered and are subject to the protections provided under ~~312 IAC 9-2-7~~; **IC 14-22-34-12**:

- (1) Hellbender (*Cryptobranchus alleganesis*).
- (2) Northern red salamander (*Pseudotriton ruber*).
- (3) Four-toed salamander (*Hemidactylium scutatum*).
- (4) Green salamander (*Aneides aenus*).
- (5) Copperbelly water snake (*Nerodia erythrogaster*).
- (6) Butler's garter snake (*Thamnophis butleri*).
- (7) Kirtland's snake (*Clonophis kirtlandi*).
- (8) Scarlet snake (*Cemophora coccinea*).
- (9) Smooth green snake (*Ophedrys vernalis*).
- (10) Crowned snake (*Tantilla coronata*).
- (11) Cottonmouth (*Agkistrodon piscivorus*).
- (12) Massasauga (*Sistrurus catenatus*).
- (13) Timber rattlesnake (*Crotalus horridus*).
- (14) Eastern mud turtle (*Kinosternon subrubrum*).
- (15) Spotted turtle (*Clemmys guttata*).
- (16) Heiroglyphic turtle (*Pseudemys concinna*).
- (17) Alligator snapping turtle (*Macrolemys temmincki*).
- (18) Blanding's turtle (*Emydoidea blandingi*).
- (19) Crawfish frog (*Rana areolata*).
- (20) Ornate box turtle (*Terrapene ornata*).

(Natural Resources Commission; 312 IAC 9-5-4; filed May 12, 1997, 10:00 a.m.: 20 IR 2713)

SECTION 5. 312 IAC 9-6-1 IS AMENDED TO READ AS FOLLOWS:

312 IAC 9-6-1 Definitions pertaining to fish and fishing activities

Authority: IC 14-22-2-6

Affected: IC 14-22-34-12

Sec. 1. In addition to the definitions contained in 312 IAC 9-1, the following definitions apply throughout 312 IAC 9-7, 312 IAC 9-8, and 312 IAC 9-10:

- (1) "Alewife" means the species *Alosa pseudoharengus*.
- (2) "American eel" means the species *Anguilla rostrata*.
- (3) "Aquarium pet trade" means the business of importing, producing, or selling live fish for display in aquariums, tanks, or other continuing exhibits.
- (4) "Atlantic salmon" means the species *Salmo salar*.
- (5) "Bar mesh" means the length of one (1) side of the square mesh measure or as measured between two (2) knots on the same line.
- (6) "Black bass" means the species *Micropterus salmoides*, *Micropterus dolomieu*, and *Micropterus punctulatus*.
- (7) "Black crappie" means the species *Pomoxis nigromaculatus*.
- (8) "Blue catfish" means the species *Ictalurus furcatus*.
- (9) "Bluegill" means the species *Lepomis macrochirus*.
- (10) "Bluntnose minnow" means the species *Pimephales notatus*.
- (11) "Bowfin" means the species *Amia calva*.
- (12) "Brook trout" means the species *Salvelinus fontinalis*.
- (13) "Brown trout" means the species *Salmo trutta*.

- (14) "Buffalo" means the genus *Ictiobus*.
- (15) "Bullhead" means the species *Ictalurus melas*, *Ictalurus nebulosus*, and *Ictalurus natalis*.
- (16) "Burbot" means the species *Lota lota*.
- (17) "Carp" means the species *Cyprinus carpio*.
- (18) "Cast net" means a net not more than ten (10) feet in diameter and having stretch mesh not larger than three-fourths ($\frac{3}{4}$) inch.
- (19) "Cavefish" means a fish of the family *Amblyopsidae*.
- (20) "Chain pickerel" means the species *Esox niger*.
- (21) "Channel catfish" means the species *Ictalurus punctatus*.
- (22) "Chinook salmon" means the species *Oncorhynchus tshawytscha*.
- (23) "Chub" means the species *Coregonus hoyi* and the species *Coregonus kiyi*.
- (24) "Cisco" means the species *Coregonus artedii*.
- (25) "Closed aquaculture system" means a rearing facility designed to prevent the escape of cultured organisms to the wild.
- (26) "Coho salmon" means the species *Oncorhynchus kisutch*.
- (27) "Crappie" means white crappie and black crappie.
- (28) "Dip net" means a dip net not exceeding three (3) feet square, without sides or walls, and having stretch mesh not larger than one-half ($\frac{1}{2}$) inch.
- (29) "Diploid" means a cell or organism that has two (2) complete sets of chromosomes.
- (30) "Exotic catfish" means a walking catfish or other member of the family *Clariidae*.
- (31) "Exotic fish" means an exotic catfish, rudd, ruffe, tubenose goby, or round goby.
- (32) "Fathead minnow" means the species *Pimephales promelas*.
- (33) "Flathead catfish" means the species *Pylodictis olivaris*.
- (34) "Freshwater drum" means the species *Aplodinotus grunniens*.
- (35) "Gaff" or "gaff hook" means an implement of metal or another hard or tough material with or without barbs, making a single hook having a shank with or without a handle, which may be hand held to seize, hold, or sustain fish.
- (36) "Gar" means the genus *Lepisosteus*.
- (37) "Genetically altered fish" means a fish which is the product of genetic manipulation, including polyploidy, gynogenesis, gene transfer, and hormonal sex control.
- (38) "Gizzard shad" means the species *Dorosoma cepedianum*.
- (39) "Golden shiner" means the species *Notemigonus crysoleucas*.
- (40) "Goldfish" means the species *Carassius auratus*.
- (41) "Grab hook" means a device or implement used as a tong to clutch, close down upon, or grasp fish.
- (42) "Grass carp" means the genus *Ctenopharyngodon*.
- (43) "Green sunfish" means the species *Lepomis cyanellus*.
- (44) "Hybrid striped bass" means the hybrid of striped bass and white bass.
- (45) "Hybrid sunfish" means a hybrid of the genus *Lepomis*.
- (46) "Lake herring" means the species *Coregonus artedii*.
- (47) "Lake sturgeon" means the species *Acipenser fulvescens*.
- (48) "Lake trout" means the species *Salvelinus namaycush*.
- (49) "Lake whitefish" means the species *Coregonus clupeaformis*.
- (50) "Largemouth bass" means the species *Micropterus salmoides*.
- (51) "Minnow seine" means a seine or net not more than twelve (12) feet long and four (4) feet deep, and having stretch mesh not larger than one-half ($\frac{1}{2}$) inch.
- (52) "Minnow trap" means a fish trapping device not exceeding twenty-four (24) inches long. The opening of the throat shall not exceed one (1) inch in diameter.
- (53) "Mosquitofish" means the species *Gambusia affinis*.
- (54) "Muskellunge" means the species *Esox masquinongy*.
- (55) "Northern pike" means the species *Esox lucius*.
- (56) "Quagga mussel" means the species *Dreissena bugensis*.
- (57) "Paddlefish" means the species *Polyodon spathula*.
- (58) "Rainbow trout" means the species *Oncorhynchus mykiss*.
- (59) "Redear sunfish" means the species *Lepomis microlophus*.
- (60) "Rock bass" means the species *Ambloplites rupestris*.
- (61) "Rough fish" means any species of fish not defined as a sport fish or protected under ~~312 IAC 9-2-7~~ **IC 14-22-**

34-12.

- (62) "Round goby" mean the species *Neogobius melanostomus*.
- (63) "Rudd" means the species *Scardinius erythrophthalmus*.
- (64) "Ruffe" means the species *Gymnocephalus cernuus*.
- (65) "Sauger" means the species *Stizostedion canadense*.
- (66) "Saugeye" means the hybrid of walleye and sauger.
- (67) "Shad" means the genera *Alosa* and *Dorosoma*.
- (68) "Single hook" means a fishing hook consisting of one (1) shank and one (1) point.
- (69) "Smallmouth bass" means the species *Micropterus dolomieu*.
- (70) "Smelt" means the genus *Osmerus*.
- (71) "Sockeye salmon" means the species *Oncorhynchus nerka*.
- (72) "Sport fish" means largemouth bass, smallmouth bass, spotted bass, rock bass, white crappie, black crappie, walleye, sauger, saugeye, striped bass, white bass, hybrid striped bass, yellow bass, muskellunge, tiger muskellunge, northern pike, chain pickerel, and trout or salmon.
- (73) "Spotted bass" means the species *Micropterus punctulatus*.
- (74) "Steelhead" means the species *Oncorhynchus mykiss*.
- (75) "Stretch mesh" means the extended distance or length between the extreme angles of a single mesh of net.
- (76) "Striped bass" means the species *Morone saxatilis*.
- (77) "Sucker" means the genera *Carpoides*, *Moxostoma*, *Hypentelium*, *Catostomus*, and *Erimyzon*.
- (78) "Tiger muskellunge" means the hybrid of muskellunge and northern pike.
- (79) "Tilapia" means all species of the genus *Tilapia*.
- (80) "Triploid" means a cell or organism having three (3) haploid sets of chromosomes.
- (81) "Trout or salmon" means lake trout, coho salmon, chinook salmon, sockeye salmon, brown trout, steelhead (or rainbow trout), brook trout, and Atlantic salmon.
- (82) "Tubenose goby" means the species *Proterorhinus marmoratus*.
- (83) "Walleye" means the species *Stizostedion vitreum*.
- (84) "Warmouth" means the species *Lepomis gulosus*.
- (85) "White bass" means the species *Morone chrysops*.
- (86) "White catfish" means the species *Ictalurus catus*.
- (87) "White crappie" means the species *Pomoxis annularis*.
- (88) "Yellow bass" means the species *Morone mississippiensis*.
- (89) "Yellow perch" means the species *Perca flavescens*.
- (90) "Zebra mussel" means the species *Dreissena polymorpha*.

(Natural Resources Commission; 312 IAC 9-6-1; filed May 12, 1997, 10:00 a.m.: 20 IR 2713; filed May 28, 1998, 5:14 p.m.: 21 IR 3717; errata filed Aug 25, 1998, 3:02 p.m.: 22 IR 125)

SECTION 6. 312 IAC 9-6-9 IS AMENDED TO READ AS FOLLOWS:

312 IAC 9-6-9 Endangered and threatened species of fish

Authority: IC 14-22-2-6; IC 14-22-34-17

Affected: IC 14-22-34-12

Sec. 9. The following species of fish are threatened or endangered and are subject to the protections provided under ~~312 IAC 9-2-7~~ **IC 14-22-34-12**:

- (1) Lake sturgeon (*Acipenser fulvescens*).
- (2) Cavefishes (*Amblyopsidae* species).
- (3) Redside dace (*Clinostomus elongatus*).
- (4) Bluebreast darter (*Etheostoma camurum*).
- (5) Spotted darter (*Etheostoma maculatum*).
- (6) Spottail darter (*Etheostoma squamiceps*).
- (7) Tippecanoe darter (*Etheostoma tippecanoe*).
- (8) Variegated darter (*Etheostoma variatum*).
- (9) Gilt darter (*Percina evides*).
- (10) Harlequin darter (*Etheostoma histrio*).

(11) Greater redhorse (*Moxostoma valenciennesi*).
(*Natural Resources Commission; 312 IAC 9-6-9; filed May 12, 1997, 10:00 a.m.: 20 IR 2716*)

SECTION 7. 312 IAC 9-9-4 IS AMENDED TO READ AS FOLLOWS:

312 IAC 9-9-4 Endangered and threatened species of invertebrates

Authority: IC 14-22-2-6; IC 14-22-34-17

Affected: IC 14-22-34-12

Sec. 4. The following species of invertebrates are threatened or endangered and are subject to the protections provided under ~~312 IAC 9-2-7~~: **IC 14-22-34-12:**

- (1) Rabbitsfoot (*Quadrula cylindrica*).
- (2) Sheepnose (*Plethobasus cyphus*).
- (3) Clubshell (*Pleurobema clava*).
- (4) Pyramid pigtoe (*Pleurobema pyramidatum*).
- (5) Fanshell (*Cyprogenia stegaria*).
- (6) Snuffbox (*Epioblasma triquetra*).
- (7) Orangefoot pimpleback (*Plethobasus cooperianus*).
- (8) Pink mucket (*Lampsilis abrupta*).
- (9) Fat pocketbook (*Potamilus capax*).
- (10) Rough pigtoe (*Pleurobema plenum*).
- (11) Tubercled blossom (*Epioblasma torulosa torulosa*).
- (12) White catspaw (*Epioblasma obliquata perobliqua*).
- (13) Northern riffleshell (*Epioblasma torulosa rangiana*).
- (14) Long solid (*Fusconaia subrutunda*).
- (15) White wartyback (*Plethobasus cicatricosus*).

(*Natural Resources Commission; 312 IAC 9-9-4; filed May 12, 1997, 10:00 a.m.: 20 IR 2727*)

SECTION 8. 312 IAC 9-2-7 IS REPEALED.

Notice of Public Hearing

Under IC 4-22-2-24, notice is hereby given that on January 28, 2002 at 11:00 a.m., at the Indiana Government Center-South, 402 West Washington Street, Room W272, Indianapolis, Indiana the Natural Resources Commission will hold a public hearing on proposed amendments to 312 IAC 2-4-3 that governs petitions to establish site-specific rules for the licensing of fishing tournaments and other organized watercraft activities to delete a provision with respect to special terms and conditions, 312 IAC 9 that governs fish and wildlife to delete a rule section (312 IAC 9-2-7) that describes a prohibition on unlawful taking or possession of endangered species in favor of a statutory section (IC 14-22-34-12) that describes the same prohibition. Modifies numerous cross-references. 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