

**Document:** Proposed Rule, **Register Page Number:** 26 IR 1126

**Source:** January 1, 2003, Indiana Register, Volume 26, Number 4

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## TITLE 312 NATURAL RESOURCES COMMISSION

### **Proposed Rule** LSA Document #02-236

#### DIGEST

Amends 312 IAC 2-4 that governs organized activities and tournaments on public waters. A definition for "major organized boating activity" is added, and the regulation of a major organized boating activity is placed under 312 IAC 5-3. Identifies the division of law enforcement as the administering division for 312 IAC 2-4. Additional factors are included for the division to consider in evaluating a license for fishing tournaments, and additional duties are defined for license holders. The department's fall consideration of tournament applications is limited to the next season rather than the next two seasons. Lake Wawasee and Syracuse Lake in Kosciusko County are added to the public waters for which the sponsor of a fishing tournament must obtain a license, and specific numerical limitations are established for tournament activities on these lakes. Amendments are made to 312 IAC 5-3 to provide consistent administration with 312 IAC 2-4. Makes other substantive and technical changes. Repeals 312 IAC 2-4-8 and 312 IAC 2-4-10. Effective October 1, 2003.

<b>312 IAC 2-4-1</b>	<b>312 IAC 2-4-9.5</b>
<b>312 IAC 2-4-2</b>	<b>312 IAC 2-4-10</b>
<b>312 IAC 2-4-4</b>	<b>312 IAC 2-4-12</b>
<b>312 IAC 2-4-6</b>	<b>312 IAC 2-4-13</b>
<b>312 IAC 2-4-7</b>	<b>312 IAC 5-3-1</b>
<b>312 IAC 2-4-8</b>	<b>312 IAC 5-3-2</b>
<b>312 IAC 2-4-9</b>	<b>312 IAC 5-3-3</b>

SECTION 1. 312 IAC 2-4-1, AS READOPTED AT 26 IR 546, SECTION 1, IS AMENDED TO READ AS FOLLOWS:

#### **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~~ **are each of the following:**

- (1) **A boat race.** ~~or~~
- (2) **A water ski event.** ~~Those activities are governed by 312 IAC 5-3.~~
- (3) **A major organized boating activity.**

(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 department's division of law enforcement shall designate a point of contact within the department for the administration of this rule; including the supervision of an activity regulated under administer this rule. (Natural Resources Commission; 312 IAC 2-4-1; filed Aug 3, 2001, 10:54 a.m.: 24 IR 3930, eff Jan 1, 2002; readopted filed Oct 2, 2002, 9:10 a.m.: 26 IR 546)~~

SECTION 2. 312 IAC 2-4-2, AS READOPTED AT 26 IR 546, SECTION 1, IS AMENDED TO READ AS FOLLOWS:

**312 IAC 2-4-2 Definitions**

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

Affected: IC 14

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

(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"~~ **"Major organized boating 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 **that:**

(1) **involves fifteen (15) or more watercraft as participants;**

(2) **involves fifty (50) or more watercraft as spectators;**

(3) **is conducted according to a prearranged schedule for a limited duration; or**

(4) **is reasonably expected to significantly disrupt boat traffic.**

(e) "Water ski event" has the meaning set forth at 312 IAC 5-2-44. (*Natural Resources Commission; 312 IAC 2-4-2; filed Aug 3, 2001, 10:54 a.m.: 24 IR 3930, eff Jan 1, 2002; readopted filed Oct 2, 2002, 9:10 a.m.: 26 IR 546*)

SECTION 3. 312 IAC 2-4-4, AS READOPTED AT 26 IR 546, SECTION 1, IS AMENDED TO READ AS FOLLOWS:

**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) For an application to establish a license requirement on a public freshwater lake, the department shall consider limiting the total number of boats in an activity conducted between April 1 and September 30, and licensed under this rule or under 312 IAC 5-3.**

**(e) The maximum number established under subsection (d) governs any date on which the activity or a portion of the activity is conducted.**

~~(d)~~ **(f)** 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; filed Aug 3, 2001, 10:54 a.m.: 24 IR 3930, eff Jan 1, 2002; readopted filed Oct 2, 2002, 9:10 a.m.: 26 IR 546)*

SECTION 4. 312 IAC 2-4-6, AS READOPTED AT 26 IR 546, SECTION 1, IS AMENDED TO READ AS FOLLOWS:

**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) An applicant must be an individual who is at least eighteen (18) years of age and a resident of Indiana.**

~~(b)~~ **(c)** The applicant shall attach a copy of the proposed ~~tournament~~ standards and regulations **governing the activity.**

**(d) The department shall condition any license to achieve at least one (1) of the following:**

- (1) Prevention of unusual conditions or hazards.**
- (2) Promotion of scientific fish, wildlife, or botanical resource management.**
- (3) Assistance in the protection of users.**

**(e) To accomplish the purposes described in subsection (d), the department may do any of the following:**

- (1) Designate the starting time or ending time for an activity.**
- (2) Designate the time and location for the use of any public facilities.**
- (3) Spread starting times among license holders if more than one (1) is approved for a particular waterway.**
- (4) Restrict portions of the waterway from use by the participants.**

*(Natural Resources Commission; 312 IAC 2-4-6; filed Aug 3, 2001, 10:54 a.m.: 24 IR 3931, eff Jan 1, 2002; readopted filed Oct 2, 2002, 9:10 a.m.: 26 IR 546)*

SECTION 5. 312 IAC 2-4-7, AS READOPTED AT 26 IR 546, SECTION 1, IS AMENDED TO READ AS FOLLOWS:

**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~~ **year** 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)~~ **sixty (60)** 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; filed Aug 3, 2001, 10:54 a.m.: 24 IR 3931, eff Jan 1, 2002; readopted filed Oct 2, 2002, 9:10 a.m.: 26 IR 546*)

SECTION 6. 312 IAC 2-4-9, AS READOPTED AT 26 IR 546, SECTION 1, IS AMENDED TO READ AS FOLLOWS:

**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) At least fourteen (14) days before the scheduled event, deliver a list of officials who will be present during the event.**

**(1) (2) Obtain permission from the department to use a zone or zones in the public water for mooring, judging, ~~and weigh-in,~~ starting, or for any other activities using public facilities.**

**(2) (3) Upon the request of the department, meet with a designated authorized representative or representatives before a tournament or other organized activity begins.**

**(3) (4) 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) (5) Provide officials needed to supervise ~~contestants~~ participants and spectators.**

**(5) (6) Require each participating watercraft to clearly display a logo, banner, or other visible item approved by the department to identify the tournament or other organized activity.**

**(6) (7) Establish a starting location for the tournament or other organized activity within an idle speed zone.**

**(7) (8) 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.**

**(9) Refrain from obstructing ingress, egress, or regress from private property.**

**(10) Assure reasonable access to all persons to public use facilities, including swimming areas, mooring areas, navigational channels, and similar facilities. Limitations on the usage of facilities must include the following:**

**(A) Except as provided in clause (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 clause (A). This clause does not apply to a fishing tournament that is subject to section 12 of this rule.**

**(11) Sponsor no more than one (1) event licensed under this rule on the same waterway with starting dates separated by less than fourteen (14) days. A tournament scheduled for two (2) consecutive days is considered a single event. The division of law enforcement may authorize an individual to seek more than one (1) event on the same waterway, with starting dates separated by less than fourteen (14) days, if in seeking the license, the individual is acting as the agent for different tournament organizations.**

**(12) Act in good faith to fully perform the event. A person who demonstrates a pattern of violations of this subdivision may be denied another license.**

(*Natural Resources Commission; 312 IAC 2-4-9; filed Aug 3, 2001, 10:54 a.m.: 24 IR 3931, eff Jan 1, 2002; readopted filed Oct 2, 2002, 9:10 a.m.: 26 IR 546*)

SECTION 7. 312 IAC 2-4-9.5, AS ADDED AT 25 IR 3045, SECTION 1, IS AMENDED TO READ AS FOLLOWS:

**312 IAC 2-4-9.5 Reporting**

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

Sec. 9.5. (a) **A license holder must report the results of the event on a form provided by the department within thirty (30) days of the completion of the event, including the number of boats and participants, starting and ending**

**times, and actual use of public facilities.**

**(b)** In addition to the terms of the license and the requirements otherwise set forth in this rule, the department may require a fishing tournament license holder to keep and report, on a department form, legible and accurate records of the following:

- (1) Tournament name.
- (2) Name, address, and telephone number of the license holder.
- (3) Tournament date or dates, including starting time and ending time.
- (4) Target fish species.
- (5) Name of any waterway fished.
- (6) Number of boats and number of participants.
- (7) Individual or team catch statistics for each species of fish taken, including the following:
  - (A) The numbers and lengths of fish weighed-in.
  - (B) The numbers and lengths of fish caught and released.

*(Natural Resources Commission; 312 IAC 2-4-9.5; filed May 16, 2002, 10:00 a.m.: 25 IR 3045; readopted filed Oct 2, 2002, 9:10 a.m.: 26 IR 546)*

SECTION 8. 312 IAC 2-4-12, AS READOPTED AT 26 IR 546, SECTION 1, IS AMENDED TO READ AS FOLLOWS:

**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	Mississinewa	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 section 7(a) of this rule, the department's division of state parks and reservoirs 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.**

~~(e)~~ **(f)** 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)~~ **(g)** 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)~~ **(h)** 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 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 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.

~~(h)~~ **(i)** 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.

~~(i)~~ **(j)** 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; filed Aug 3, 2001, 10:54 a.m.: 24 IR 3932, eff Jan 1, 2002; readopted filed Oct 2, 2002, 9:10 a.m.: 26 IR 546*)

SECTION 9. 312 IAC 2-4-13 IS ADDED TO READ AS FOLLOWS:

**312 IAC 2-4-13 Limitations on organized boating activities at Lake Wawasee and Syracuse Lake, Kosciusko County**

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

Affected: IC 14

**Sec. 13. (a) This section governs organized boating activities on Lake Wawasee and Syracuse Lake in Kosciusko County.**

**(b) On the combined waters of Lake Wawasee and Syracuse Lake, the maximum number of watercraft that can lawfully participate in a fishing tournament on a Saturday or a Sunday is as follows:**

- (1) One hundred twenty-five (125) for the following periods:**
  - (A) from April 1 until the weekend including Memorial Day; and**
  - (B) after the weekend including Labor Day until September 15.**
- (2) One hundred (100) from the weekend including Memorial Day through the weekend including Labor Day.**

**(c) For a tournament subject to subsection (b) that is scheduled to continue past midnight, the number of participating watercraft may be attributed either to Saturday or to Sunday so as to facilitate the ability of an organized boating activity to use the lake. (*Natural Resources Commission; 312 IAC 2-4-13*)**

SECTION 10. 312 IAC 5-3-1 IS AMENDED TO READ AS FOLLOWS:

### Rule 3. Boat Races, Water Ski Events, and Major Organized Boating Activities

#### 312 IAC 5-3-1 Boat races, water ski events, and major organized boating activities; applicability

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

Affected: IC 14

Sec. 1. (a) This rule governs the conduct of any boat race, ~~or~~ water ski event, **and major organized boating activity**.

(b) No person shall sponsor, conduct, participate, or compete in a boat race, ~~or~~ water ski event, **or major organized boating activity** upon the public waters of this state, including ice, unless a license for a boat race, ~~or~~ water ski event, **or major organized boating activity** is issued by the division under this rule.

(c) A license application must be made on a department form and delivered to the central office for the division. The application shall include a description of the proposed boat race or water ski event course, capable of being marked and fixed. An application that is not filed with the division at least sixty (60) days before the proposed race or event will be denied unless the requirements of this rule are satisfied pertaining to permit review by the division and notice to interested persons. (*Natural Resources Commission; 312 IAC 5-3-1; filed Mar 23, 2001, 2:50 p.m.: 24 IR 2369, eff Jan 1, 2002*)

#### SECTION 11. 312 IAC 5-3-2 IS AMENDED TO READ AS FOLLOWS:

#### 312 IAC 5-3-2 Site inspection by a conservation officer before issuance of a license for a boat race, water ski event, or major organized boating activity

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

Affected: IC 14

Sec. 2. (a) Upon the receipt of a license application, a conservation officer shall inspect the ~~proposed boat race or water ski event course~~ **areas that would be affected by the event**.

(b) The conservation officer shall consider the following factors in reviewing the permit application:

- (1) The density of water traffic on the public water.
- (2) The physical characteristics of the public water.
- (3) The proximity of the proposed ~~course~~ **event** to land owned by a person other than the license applicant.
- (4) The kinds of watercraft that ~~will participate in the race or event~~ **would be involved**.
- (5) Any other factors ~~relative to the proposed race or event that may cause a hazard to persons, property, or the environment~~ **are appropriate to at least one (1) of the following:**
  - (A) Preventing the existence of unusual conditions or hazards.
  - (B) Promoting scientific fish, wildlife, or botanical resource management.
  - (C) Assisting in the protection of users.

(c) A written report of the inspection shall be submitted by the conservation officer to the division director, together with recommendations for approval, disapproval, or the placement of conditions on the license. (*Natural Resources Commission; 312 IAC 5-3-2; filed Mar 23, 2001, 2:50 p.m.: 24 IR 2369, eff Jan 1, 2002*)

#### SECTION 12. 312 IAC 5-3-3 IS AMENDED TO READ AS FOLLOWS:

#### 312 IAC 5-3-3 Public notice before the issuance of a license for a boat race, water ski event, or major organized boating activity

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

Affected: IC 4-21.5; IC 14

Sec. 3. (a) This section establishes notification requirements before a license is issued under this rule. Subsequent to the issuance of a license by the division, IC 4-21.5 applies.

(b) At least thirty (30) days before the division can issue a license, an applicant shall provide, at its expense, notice

of the license application as follows:

(1) Once in one (1) newspaper of general circulation in the county or counties where the boat race, ~~or~~ water ski event, **or major organized boating activity** will occur.

(2) In person, by certified mail with return receipt requested, or by first class mail with proof of mailing, to the following:

(A) Any person who provides the division with a written request to be notified if a boat race, ~~or~~ water ski event, **or major organized boating activity** permit is requested. A request under this clause is valid during the year in which it is received for the waterway named in the request.

(B) If ~~a course~~ **the affected area** for the boat race, ~~or~~ water ski event, **or major organized boating activity** is located on a public freshwater lake or Lake Michigan, to at least one (1) of the owners of each parcel of property reasonably known to be located within two hundred (200) feet of the course.

(C) If ~~a course~~ **the affected area** for the boat race, ~~or~~ water ski event, **or major organized boating activity** is located within a municipality, to the municipality.

(c) A notice under this section shall do the following:

(1) Provide the name and address of the applicant.

(2) Specify that the license is sought under this rule and whether the license will authorize a boat race, ~~or~~ water ski event, **or major organized boating activity**.

(3) Describe or illustrate the ~~course of area affected by~~ the event and when the event will occur.

(4) Include an explanation of the options available to the persons served. These options are as follows:

(A) File a petition with the central office of the division requesting an informal hearing that is signed by at least twenty-five (25) individuals who are at least eighteen (18) years old and who reside in the county where the event will occur. A hearing under this clause is governed by 312 IAC 2-3.

(B) Request the division to notify the person in writing when an initial determination is made to issue or deny the license. Following the receipt of notice under this clause, a person may request administrative review of the determination under 312 IAC 3-1.

*(Natural Resources Commission; 312 IAC 5-3-3; filed Mar 23, 2001, 2:50 p.m.: 24 IR 2369, eff Jan 1, 2002)*

SECTION 13. THE FOLLOWING ARE REPEALED: 312 IAC 2-4-8; 312 IAC 2-4-10.

### ***Notice of Public Hearing***

*Under IC 4-22-2-24, notice is hereby given that on January 27, 2003 at 6:00 p.m., at the Oakwood Inn Conference Room, 702 East Lake View Road, Syracuse, Indiana; AND on January 29, 2003 at 9:00 a.m., Training Room C2, Indiana Department of Administration Conference Center, 402 West Washington Street, Indianapolis, Indiana the Natural Resources Commission will hold a public hearing on proposed amendments concerning organized activities and tournaments on public waters and boat races and water ski events. 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