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TITLE 312 NATURAL RESOURCES COMMISSION

Proposed Rule LSA Document #03-35

DIGEST

Amends 312 IAC 9-10-3 that governs aquatic vegetation control on waters of the state. Currently, the rule section applies only to chemical controls, but the amendments would implement P.L.19-2002 by extending coverage to controls based on mechanical, physical, and biological methods. Clarifies and supplements the factors considered by the department of natural resources in evaluating a license application to control aquatic plants. Clarifies the need to obtain advance approval from the department of environmental management for waterways used as a surface drinking water source before obtaining a license from the department of natural resources under this section. Requires a report be provided by a license holder to the department of natural resources within seven days after the completion of a control effort. Makes numerous other technical and substantive amendments. Effective January 1, 2004.

312 IAC 9-10-3

SECTION 1. 312 IAC 9-10-3 IS AMENDED TO READ AS FOLLOWS:

312 IAC 9-10-3 Aquatic vegetation control permits

Authority: IC 14-22-2-6; IC 14-22-9-10

Affected: IC 14-22-9-10

Sec. 3. (a) Except as provided under IC 14-22-9-10(a), a person ~~shall~~ **must** obtain a permit under this section before ~~applying a substance to seeking to control aquatic vegetation through chemical, mechanical, physical, or biological means~~ in waters of ~~this the state. to seek aquatic vegetation control:~~

(b) ~~An application for an aquatic vegetation control~~ **Before obtaining a permit shall be made under this section, a person must complete an application** on a departmental form ~~and must include that includes~~ the following information:

- (1) The common name of the ~~target plants and relative abundance of other dominant plants in each area~~ to be controlled.
- (2) The acreage to be ~~treated:~~ **controlled, with affected areas illustrated on a legible map.**
- (3) The maximum depth of the water, ~~the maximum perpendicular distance from shoreline, and the linear distance along the shoreline~~ where plants are to be treated.
- (4) The name and amount of the chemical to be used ~~in each treatment, if a chemical control is used.~~
- (5) ~~The duration and timing of control efforts, if controls will be repeated under a single permit.~~
- (6) ~~The location of any water supply intake that may be adversely affected by the aquatic vegetation control activities.~~
- (7) ~~The species, stocking rate, and release location, if a biological control is used.~~
- (8) ~~The type of equipment and location of disposal area, if a mechanical control is used.~~
- (9) ~~The name and contact information for the person who will conduct the control effort.~~

(c) ~~An applicant for a permit under this section must demonstrate each of the following to the satisfaction of the department:~~

- (1) ~~The proposed treatment is likely to provide effective relief.~~
- (2) ~~The proposed treatment will not result in any of the following:~~
 - (A) ~~A hazard to humans, animals, or other nontarget organisms.~~
 - (B) ~~A significant adverse impact to the treated waterway.~~
 - (C) ~~A significant adverse impact to endangered or threatened species.~~

(D) A significant adverse impact to beneficial organisms within the treatment area or in adjacent areas, either directly or through habitat destruction.

(E) An unreasonable restriction on an existing use of the waterway.

(3) The proposed treatment will not occur within one hundred fifty (150) feet perpendicular to the shoreline of a public freshwater lake, along an area classified as a significant wetland under 312 IAC 11-2-24, except where the applicant demonstrates the treatment can be conducted without reducing the ecological value of the area.

(4) The following apply if a chemical is to be used for aquatic vegetation control:

(A) The chemical is labeled and registered for this purpose by the United States Environmental Protection Agency.

(B) Prior written approval is received from the department of environmental management if the waterway to be treated is a public drinking water supply.

(5) Any other information reasonably required by the department to effectively review the application.

~~(e)~~ **(d)** A permit issued under this section is limited to the terms of the application and to conditions imposed on the permit by the department.

~~(d)~~ **(e)** Five (5) days before the application of a substance permitted under this section, the permit holder must post clearly, visible signs at the treatment area indicating the substance that will be applied and what precautions should be taken.

~~(e)~~ A permit issued under this section is void if the waters to be treated are supplied to the public by a private company or governmental agency.

(f) A permit holder must submit a report on a departmental form not later than the seven (7) days following the control effort, providing the date, location, acreage, and method used in each area where controls were implemented. (Natural Resources Commission; 312 IAC 9-10-3; filed May 12, 1997, 10:00 a.m.: 20 IR 2728)

SECTION 2. SECTION 1 of this document takes effect January 1, 2004.

Notice of Public Hearing

Under IC 4-22-2-24, notice is hereby given that on July 24, 2003 at 11:00 a.m., at the Indiana Government Center-South, 402 West Washington Street, Room W293, Indianapolis, Indiana the Natural Resources Commission will hold a public hearing on a proposed amendment concerning aquatic vegetation control on waters of the state. 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