

TITLE 312 NATURAL RESOURCES COMMISSION

LSA Document #02-318(F)

DIGEST

Amends 312 IAC 9-6 that governs fish and fishing activities. Amends 312 IAC 9-6-1 to include additional definitions of fish species. Amends 312 IAC 9-6-7 by adding fish species that are illegal to import, possess, or release into public or private waters without a license issued by the department. Included are any live fish, fry, viable eggs, or genetic material of the exotic nuisance species black carp, bighead carp, silver carp, white perch, all species of snakeheads in the family Channidae, and hybrid or genetic modification of these fish. Exemptions are provided for accredited zoological parks, during lawful interstate shipment, and holders of an aquaculture permit under 312 IAC 9-10-17 for medical, educational, or scientific purposes. Effective 30 days after filing with the secretary of state.

312 IAC 9-6-1

312 IAC 9-6-7

SECTION 1. 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) "Bighead carp" means the species *Hypophthalmichthys nobilis*.
- ~~(6)~~ (7) "Black bass" means the species *Micropterus salmoides*, *Micropterus dolomieu*, and *Micropterus punctulatus*.
- (8) "Black carp" means the species *Mylopharyngodon piceus*.
- ~~(7)~~ (9) "Black crappie" means the species *Pomoxis nigromaculatus*.
- ~~(8)~~ (10) "Blue catfish" means the species *Ictalurus furcatus*.
- ~~(9)~~ (11) "Bluegill" means the species *Lepomis macrochirus*.
- ~~(10)~~ (12) "Bluntnose minnow" means the species *Pimephales notatus*.
- ~~(11)~~ (13) "Bowfin" means the species *Amia calva*.
- ~~(12)~~ (14) "Brook trout" means the species *Salvelinus fontinalis*.
- ~~(13)~~ (15) "Brown trout" means the species *Salmo trutta*.
- ~~(14)~~ (16) "Buffalo" means the genus *Ictiobus*.
- ~~(15)~~ (17) "Bullhead" means the species *Ictalurus melas*, *Ictalurus nebulosus*, and *Ictalurus natalis*.
- ~~(16)~~ (18) "Burbot" means the species *Lota lota*.
- ~~(17)~~ (19) "Carp" means the species *Cyprinus carpio*.
- ~~(18)~~ (20) "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)~~ (21) "Cavefish" means a fish of the family Amblyopsidae.
- ~~(20)~~ (22) "Chain pickerel" means the species *Esox niger*.
- ~~(21)~~ (23) "Channel catfish" means the species *Ictalurus punctatus*.

- (22) (24) "Chinook salmon" means the species *Oncorhynchus tshawytscha*.
- (23) (25) "Chub" means the species *Coregonus hoyi* and the species *Coregonus kiyi*.
- (24) (26) "Cisco" means the species *Coregonus artedii*.
- (25) (27) "Closed aquaculture system" means a rearing facility designed to prevent the escape of cultured organisms to the wild.
- (26) (28) "Coho salmon" means the species *Oncorhynchus kisutch*.
- (27) (29) "Crappie" means white crappie and black crappie.
- (28) (30) "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 (½) inch.
- (29) (31) "Diploid" means a cell or organism that has two (2) complete sets of chromosomes.
- (30) (32) "Exotic catfish" means a walking catfish or other member of the family Clariidae.
- (31) (33) "Exotic fish" means an exotic catfish, **bighead carp, black carp, silver carp, white perch, snakehead**, rudd, ruffe, tubenose goby, or round goby, **or a hybrid or genetically altered fish of any of these species**.
- (32) (34) "Fathead minnow" means the species *Pimephales promelas*.
- (33) (35) "Flathead catfish" means the species *Pylodictis olivaris*.
- (34) (36) "Freshwater drum" means the species *Aplodinotus grunniens*.
- (35) (37) "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) (38) "Gar" means the genus *Lepisosteus*.
- (37) (39) "Genetically altered fish" means a fish which is the product of genetic manipulation, including polyploidy, gynogenesis, gene transfer, and hormonal sex control.
- (38) (40) "Gizzard shad" means the species *Dorosoma cepedianum*.
- (39) (41) "Golden shiner" means the species *Notemigonus crysoleucas*.
- (40) (42) "Goldfish" means the species *Carassius auratus*.
- (41) (43) "Grab hook" means a device or implement used as a tong to clutch, close down upon, or grasp fish.
- (42) (44) "Grass carp" means the genus *Ctenopharyngodon*.
- (43) (45) "Green sunfish" means the species *Lepomis cyanellus*.
- (44) (46) "Hybrid striped bass" means the hybrid of striped bass and white bass.
- (45) (47) "Hybrid sunfish" means a hybrid of the genus *Lepomis*.
- (46) (48) "Lake herring" means the species *Coregonus artedii*.
- (47) (49) "Lake sturgeon" means the species *Acipenser fulvescens*.
- (48) (50) "Lake trout" means the species *Salvelinus namaycush*.
- (49) (51) "Lake whitefish" means the species *Coregonus clupeaformis*.
- (50) (52) "Largemouth bass" means the species *Micropterus salmoides*.
- (51) (53) "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 (½) inch.
- (52) (54) "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) (55) "Mosquitofish" means the species *Gambusia affinis*.
- (54) (56) "Muskellunge" means the species *Esox masquinongy*.
- (55) (57) "Northern pike" means the species *Esox lucius*.
- (56) (58) "Quagga mussel" means the species *Dreissena bugensis*.
- (57) (59) "Paddlefish" means the species *Polyodon spathula*.
- (58) (60) "Rainbow trout" means the species *Oncorhynchus mykiss*.
- (59) (61) "Redear sunfish" means the species *Lepomis microlophus*.
- (60) (62) "Rock bass" means the species *Ambloplites rupestris*.
- (61) (63) "Rough fish" means any species of fish not defined as a sport fish or protected under IC 14-22-34-12.
- (62) (64) "Round goby" mean the species *Neogobius melanostomus*.
- (63) (65) "Rudd" means the species *Scardinius erythrophthalmus*.
- (64) (66) "Ruffe" means the species *Gymnocephalus cernuus*.
- (65) (67) "Sauger" means the species *Stizostedion canadense*.
- (66) (68) "Saugeye" means the hybrid of walleye and sauger.
- (67) (69) "Shad" means the genera *Alosa* and *Dorosoma*.
- (70) "Silver carp" means the species ***Hypophthalmichthys molitrix***.
- (68) (71) "Single hook" means a fishing hook consisting of one (1) shank and one (1) point.

~~(69)~~ (72) "Smallmouth bass" means the species *Micropterus dolomieu*.

~~(70)~~ (73) "Smelt" means the genus *Osmerus*.

(74) "Snakehead" means all species of the family Channidae, including the genera Channa and Parachanna.

~~(71)~~ (75) "Sockeye salmon" means the species *Oncorhynchus nerka*.

~~(72)~~ (76) "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)~~ (77) "Spotted bass" means the species *Micropterus punctulatus*.

~~(74)~~ (78) "Steelhead" means the species *Oncorhynchus mykiss*.

~~(75)~~ (79) "Stretch mesh" means the extended distance or length between the extreme angles of a single mesh of net.

~~(76)~~ (80) "Striped bass" means the species *Morone saxatilis*.

~~(77)~~ (81) "Sucker" means the genera *Carpoides*, *Moxostoma*, *Hypentelium*, *Catostomus*, and *Erimyzon*.

~~(78)~~ (82) "Tiger muskellunge" means the hybrid of muskellunge and northern pike.

~~(79)~~ (83) "Tilapia" means all species of the genus *Tilapia*.

~~(80)~~ (84) "Triploid" means a cell or organism having three (3) haploid sets of chromosomes.

~~(81)~~ (85) "Trout or salmon" means lake trout, coho salmon, chinook salmon, sockeye salmon, brown trout, steelhead (or rainbow trout), brook trout, and Atlantic salmon.

~~(82)~~ (86) "Tubenose goby" means the species *Proterorhinus marmoratus*.

~~(83)~~ (87) "Walleye" means the species *Stizostedion vitreum*.

~~(84)~~ (88) "Warmouth" means the species *Lepomis gulosus*.

~~(85)~~ (89) "White bass" means the species *Morone chrysops*.

~~(86)~~ (90) "White catfish" means the species *Ictalurus catus*.

(91) "White perch" means the species Morone americana.

~~(87)~~ (92) "White crappie" means the species *Pomoxis annularis*.

~~(88)~~ (93) "Yellow bass" means the species *Morone mississippiensis*.

~~(89)~~ (94) "Yellow perch" means the species *Perca flavescens*.

~~(90)~~ (95) "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; filed May 16, 2002, 12:25 p.m.: 25 IR 3047; filed Jul 23, 2003, 10:30 a.m.: 26 IR 3866)

SECTION 2. 312 IAC 9-6-7 IS AMENDED TO READ AS FOLLOWS:

312 IAC 9-6-7 Exotic fish

Authority: IC 14-22-2-6

Affected: IC 14-22-2-3

Sec. 7. (a) Except as otherwise provided under this section, ~~it is unlawful to a person must not~~ import, to possess, **propagate, buy, sell, barter, trade, transfer, loan, or to** release into public or private waters ~~an exotic catfish or rudd, ruffe, tubenose goby, or round goby;~~ **any of the following live fish or fry of live fish or their viable eggs or genetic material:**

(1) Exotic catfish.

(2) Bighead carp.

(3) Black carp

(4) Silver carp.

(5) White perch.

(6) Snakehead.

(7) Rudd.

(8) Ruffe.

(9) Tubenose goby.

(10) Round goby.

(11) A hybrid or genetically altered fish of any of these species.

(b) A person who takes a fish listed in subsection (a) does not violate this section if the fish listed in subsection (a) is killed immediately upon capture.

(c) This section does not apply to the following:

- (1) The use of a fish by a properly accredited zoological park as defined in 312 IAC 9-5-8(i).**
- (2) During the lawful interstate shipment of fish through the state if the fish are not unloaded or do not leave the control of a common carrier.**
- (3) A person who lawfully possesses an exotic fish under a permit issued under 312 IAC 9-10-17 for medical, educational, or scientific purposes.**

~~(c)~~ **(d) A person who possesses an exotic fish under a permit issued under 312 IAC 9-10-6 does not violate this section: federally listed injurious species must also comply with 18 U.S.C. 42 and 50 CFR 16.** *(Natural Resources Commission; 312 IAC 9-6-7; filed May 12, 1997, 10:00 a.m.: 20 IR 2716; filed May 28, 1998, 5:14 p.m.: 21 IR 3719; filed Jul 23, 2003, 10:30 a.m.: 26 IR 3868)*

LSA Document #02-318(F)

Notice of Intent Published: 26 IR 814

Proposed Rule Published: March 1, 2003; 26 IR 1966

Hearing Held: March 25, 2003

Approved by Attorney General: July 1, 2003

Approved by Governor: July 16, 2003

Filed with Secretary of State: July 23, 2003, 10:30 a.m.

Incorporated Documents Filed with Secretary of State: None