

Notice of Public Hearing
LSA Document #06-262**Notice of Public Hearing**

Under [IC 4-22-2-24](#), notice is hereby given that on December 18, 2006, at 6:00 p.m., at the Department of Natural Resources Northeast Regional Office, 1353 South Governor's Drive, Columbia City, Indiana; **AND** on December 21, 2006, at 6:00 p.m., at the Atterbury Fish and Wildlife Area, 7970 South Rowe Street, Edinburgh, Indiana the Natural Resources Commission will hold public hearings on proposed amendments to [312 IAC 9](#) governing standards for fish management.

[IC 4-22-2-24](#)(d)(3) Justification Statement: These proposed rules in this package from the Department of Natural Resources (DNR) provide additional protection for various fish populations in public waters in Indiana as well as provide additional quality fishing opportunities for improved public use of our fisheries resources by anglers. The DNR has the statutory authority to provide for the protection, reproduction, care, management, survival, and regulations of wild fish populations in [IC 14-22-2-3](#). Furthermore, the DNR has the statutory authority to adopt rules to establish, open, close, and shorten seasons, establish bag and size limits, and establish other rules to properly manage fish populations pursuant to [IC 14-22-2-6](#) and [IC 14-10-2-4](#).

Rules regarding the smallmouth bass and panfish such as bluegill are needed to provide for improved public use of our Indiana's fishing resources in several locations around the state. One rule ([312 IAC 9-7-2](#)) simply allows another method for taking fish (bowfishing) day or night at eight large stream reaches and prohibits the use of the pitchfork as a legal piece of equipment to take fish. Currently, bowfishing is allowed day or night on lakes but only during the day on streams. This difference appears to be unnecessary and overly restrictive. Removes the reference to pitchforks legal means of taking fish since there is no known justification for this rule, and few if any people who utilize it. Without these rule proposals, smallmouth bass fishing opportunities could be affected by fewer, smaller bass caught in Delaney Park Lake, J.C. Murphey Lake, and Dove Hollow Lake ([312 IAC 9-7-6](#)). The proposed changes for the Blue River and Sugar Creek ([312 IAC 9-7-6](#)) again only affect anglers who fish for bass in those streams by limiting the size and number of bass that can be taken. Additional rule changes specific for J.C. Murphey Lake at Willow Slough FWA in Newton County ([312 IAC 9-7-6](#) and [312 IAC 9-7-13](#)) simply add additional restrictions for bluegill, redear, crappie, and bass taken there. Without the changes at J.C. Murphey Lake, fishing opportunities will be severely diminished in a matter of years, requiring another costly renovation for the DNR, unless panfish bag limits are required.

Brown trout populations could continue to be over-harvested without a catch and release season or closed season. The proposed change in [312 IAC 9-7-13](#) establishes a "catch and release only" season for inland trout from January 1 through April 14 on streams only. This period is essentially the current closed season (and unnecessary for resource protection purposes) and would encourage fishing participation while protecting brown trout stocked by trout clubs. The proposed changes for trout also establish a brown trout bag limit of one fish (out of the daily bag limit of five trout) statewide with the exception of three named stream segments in Elkhart County where a "catch-and-release only" designation would be established ([312 IAC 9-7-13](#)). These same segments would also be designated artificial lures or flies only. Again, these changes only affect anglers who fish for trout in these inland streams. The rule proposals also redefine areas closed to fishing as April 15 (instead of April 20) to the last Saturday in April and add nine streams to this list. These are the streams that receive most of the rainbow trout stocked by DNR for opening day and the closures will protect the stocked fish and allow time to complete the stockings prior to opening day. The rule proposal also adjusts the starting time on opening day of stream trout season from 5:00 a.m. to 6:00 a.m. to compensate for the shift to daylight savings time. This will maintain the intentional effort to start the season about one hour before daylight.

The DNR is also proposing to define an open season (October 1 through May 31) for commercial harvest of shovelnose sturgeon on the Ohio River ([312 IAC 9-8-6](#)), and in other public waters ([312 IAC 9-8-2](#)), as well as establish a 25" minimum fork length size limit on shovelnose sturgeon that can be taken for both sport and commercial fishing. Additional rule changes are made to define the species of shovelnose sturgeon by scientific name and define "fork length" for the measurement of shovelnose sturgeon to clarify how shovelnose sturgeon should be measured since the tail fin is lobed and the measurement must be taken at the fork of the tail. Shovelnose sturgeon are a slow growing, late maturing fish species that have the potential to suffer significant and perhaps unrecoverable population declines if harvest remains unregulated. Populations have been lost in other states, and harvest is expected to continue to escalate with increasing demand for shovelnose sturgeon eggs (caviar). If no changes are made, the shovelnose sturgeon population could be severely impacted within the next few years to the point of populations being extirpated (extinct), as has happened in states such as Ohio. With other states already establishing similar rules regarding the taking of shovelnose sturgeon, commercial fishermen are likely to move to Indiana and over-harvest shovelnose sturgeon until these proposed changes become law.

For the trout rule proposals, the Northeastern Indiana Trout Association, Elkhart Conservation Club, and St.

Joseph River Valley Fly-Fishers consulted with the DNR both verbally and in writing, including specific written rule input. The Smallmouth Bass Alliance, Blue River Commission, Indianapolis Fly Casters, and Friends of Sugar Creek were also contacted by DNR biologists in reference to smallmouth bass research and proposed regulation changes. DNR fisheries biologists spoke at meetings with these groups, sharing with them the research that was done on the particular stream as well as their findings and purposes for proposed changes to the smallmouth bass regulations as a result.

The proposed rule amendments would not impose requirements or costs under [IC 4-22-2-24\(d\)\(3\)](#).

The research and information used to propose the rule changes was supplied by the DNR's fisheries biologists, with consultation from their supervisors and the fisheries chief. These professional fisheries biologists have college degrees and conduct research on fish populations in public waters each year. As a result of their research, they have made requests for proposed administrative rule changes to further protect the fisheries populations and provide more quality fishing opportunities. The Chief of Fisheries and DNR fisheries biologists consulted with multiple trout fishing organizations to develop a proposal that can lead to improved brown trout fishing quality, provide unique opportunities for fly fishermen, and not negatively impact fishing opportunities for other anglers. Fisheries surveys were conducted by DNR fisheries biologists, and previous reports of surveys done on those bodies of water were reviewed to determine the need for changing the fisheries rules pertaining to black bass. The statewide shovelnose sturgeon administrative rule change was proposed by Thomas C. Stefanavage, Indiana DNR Big River Fisheries Biologist, who has done research on shovelnose sturgeon and talked to other state agencies about shovelnose sturgeon regulations. His research sources included the following:

- Christenson, L. M. 1995. The shovelnose sturgeon *Scaphirynchus platyrhynchus* (Rafinesque) in the Red Cedar - Chippewa River System, Wisconsin. Wisconsin Department of Natural Resources. 23pp.
- Kennedy, A.J. 2005. Population characteristics, reproductive biology, and the effects of length limits on shovelnose sturgeon in the upper Wabash River, Indiana. Masters Degree Thesis, Purdue University, IN. 101pp.
- Morrow, J. V., J. P. Kirk, K. J. Killgore, and S. G. George. 1998. Age, growth, and mortality of shovelnose sturgeon in the lower Mississippi River. *North American Journal of Fisheries Management*. 18:725-730, 1998. American Fisheries Society. 1998.
- Pflieger, W. L. 1997. The fishes of Missouri. Missouri Department of Conservation. 372 pp.
- Williamson, D. F., G. W. Benz, and C. M. Hoover. 1998. Proceedings of the Symposium on the harvest, trade and conservation of North American paddlefish and sturgeon, May 7-8, 1998, Chattanooga, TN. TRAFFIC North America/ World Wildlife Fund, Washington, D.C., USA.

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.

Richard J. Cockrum
Chairman
Natural Resources Commission

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