

**Economic Impact Statement**

LSA Document #08-886

**IC 4-22-2.1-5 Statement Concerning Rules Affecting Small Businesses****Estimated Number of Small Businesses Subject to this Rule:**

The Indiana Department of Natural Resources (DNR) estimates that the proposed rule amendments to [312 IAC 9](#) will impose no new monetary costs on small businesses. However, it is estimated that 33 Ohio River commercial fishing license holders that may be small businesses will be affected by these rules, in addition to not more than 10 businesses that sell paddlefish eggs as caviar. The new requirements for commercial fishing license holders are as follows: the season for commercial fishing for paddlefish on the Ohio River is limited to November 1 through April 30, paddlefish that are harvested must be at least 32 inches in length, checking for eggs from a living paddlefish is restricted to the insertion of a 10-gauge needle, and the bar mesh size for gill and trammel nets is restricted.

The Natural Resources Commission has the authority to promulgate rules in accordance with the requirements found in [IC 14-22-2-6](#) and [IC 14-10-2-4](#).

**Estimated Average Annual Reporting, Record Keeping, and Other Administrative Costs Small Businesses Will Incur for Compliance:**

There are no new administrative costs imposed upon small businesses as a result of the rule changes governing the taking of paddlefish. There are no new annual reports or other record keeping requirements for small businesses as a result of these rule changes.

**Estimated Total Annual Economic Impact on Small Businesses to Comply:**

The DNR estimates that there will be an economic impact on some small businesses as a result of compliance with the proposed rule changes in [312 IAC 9-8-6](#). Compliance with the new rules could limit the number of paddlefish eggs that are obtained, thereby reducing the amount of revenue received from their sale. The total annual economic impact is unable to be estimated at this time because paddlefish that may have been harvested before the season will likely be harvested during the season. Most of the few small gravid females will exceed 32 inches during the season, and few eggs viable for caviar processing are harvested outside the proposed season dates.

**Justification Statement of Requirement or Cost:**

Prior to the emergency rule that became law in September of 2007, commercial fishing license holders that may operate as a small business could harvest an unlimited number of paddlefish at any time of year and with no size requirement.

These rule changes are necessary to protect paddlefish populations in the Ohio River as well as inland waters and prevent them from being over-fished. Paddlefish do not reproduce until they are seven to 10 years old. Because commercial fishermen can sell the eggs of paddlefish as caviar throughout the world, they are taking an increasing number of paddlefish and, oftentimes, fishing for them in protected areas or with illegal equipment. A major investigation into the poaching and illegal sale of paddlefish was conducted by Indiana Conservation Officers and U.S. Fish and Wildlife Service Law Enforcement Agents in 2006 and 2007. This investigation led to the arrest of 22 individuals who were taking paddlefish in prohibited areas, selling paddlefish that were taken with illegal equipment, not reporting the taking of paddlefish under their commercial fishing licenses, as well as other violations. Without these rule changes, paddlefish populations will decline and are not expected to be able to continue to support the businesses that rely upon their harvest.

**Regulatory Flexibility Analysis of Alternative Methods:**

- Explanation of Preliminary Determination: In [312 IAC 9-8-6](#), the additional restrictions imposed upon small businesses could be reduced with one of the following options:
  - (1) Extend the season.
  - (2) Not have a season.
  - (3) Lower the size limit of paddlefish that can be harvested.
  - (4) Not have a size limit.
  - (5) Not impose restrictions on the bar mesh size used in gill and trammel nets.

The DNR believes that these season dates (November 1 through April 30) and size limit (32 inches) are the minimum that can be proposed in order to provide adequate protection for paddlefish. Lowering the size limit and extending (or not having) the season will only allow a greater number of paddlefish to be harvested and will reduce the number of mature female paddlefish that will be able to spawn (lay eggs) in future years. Last year, an emergency rule was enacted that imposed a shorter season and a higher size limit. The DNR contacted

commercial fishing license holders and worked with staff from Kentucky who met with their license holders to work out provisions that could be agreed upon by both state agency staff charged with protecting fisheries resources, such as paddlefish, and those who harvest the resources. The rule changes proposed in this package reflect the compromise that was reached.

Regarding the establishment of a season for taking paddlefish, the DNR expects only a minimal impact to commercial fishing license holders and small businesses. The percentage of paddlefish eggs harvested outside the proposed season was 4.5% for the winter of 2005/2006, 7.0% for the winter of 2006/2007, and 0.7% for the winter of 2007/2008 (the 2007/2008 season was impacted by an emergency rule signed by the Director of the DNR and during which time the major harvester generally only reported his harvest to Kentucky). Ohio River paddlefish spawn during late April into early May, and paddlefish eggs gain in weight as they mature. The eggs become worthless in terms of caviar at an egg maturity stage prior to spawning as the eggs become too soft and burst during the caviar processing procedure. This happens late during late April to early May and varies by year. The more conscientious commercial fishermen stop fishing when they start getting soft eggs while others fish until they no longer harvest eggs, even though those late season eggs are of no economic value.

The rule change that would allow only those paddlefish that are a minimum of 32 inches in length to be harvested is expected to have only a minimal impact to commercial fishing license holders that operate as a small business. In fact, research biologists expect a minor positive impact in future years as paddlefish are allowed to mature into larger sizes prior to being harvested, at which point they also have a larger number of eggs. Based upon the data collected by Kentucky and Indiana fisheries biologists with assistance and documentation from Indiana Conservation Officers, only 6.5% (four of 62) of the gravid females were less than 32 inches in length. A 32 inch minimum size limit will only protect some of the smallest, first time spawners. These small gravid females generally have a gonadal somatic index (GSI) around 10%, meaning that a small 20 pound gravid female will contain 10% (two pounds of eggs) of her body weight in eggs. The GSI for gravid females increases to 25% as they approach 40 inches and exceed 50 pounds in total weight. Therefore, the regulation will have a slight positive impact as 31 inch females are protected and then harvested as 32 inch females as the 32 inch females will have a higher GSI. A 50 pound female paddlefish will provide approximately 12 1/2 pounds of eggs, whereas six, 32 inch females (120 pounds total weight) will provide only approximately 12 pounds of eggs. It is anticipated these proposed new rule changes will allow additional young female paddlefish to grow into mature females, which will supply more eggs.

There is not expected to be an impact to commercial fishing license holders that operate as a small business as a result of the changes to the gill/trammel (entanglement gear) bar mesh size. None of the Ohio River commercial fishermen use entanglement gear except when fishing for paddlefish, and they only use five and six inch bar mesh net, which would remain legal to use.

- Supporting Data, Studies, or Analyses:

The DNR relied on the DNR's Big Rivers Biologist who issues the commercial fishing licenses. The data on gravid female paddlefish was collected by Kentucky and Indiana fisheries biologists with assistance and documentation from Indiana Conservation Officers; the data on numbers of paddlefish harvested was obtained from the monthly reports provided by commercial fishing license holders for the past three years; additional information was obtained from surveys done by the DNR's fisheries biologists.

No other studies were used.

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