

TITLE 312 NATURAL RESOURCES COMMISSION

Emergency Rule
LSA Document #09-918(E)

DIGEST

Temporarily governs the placement and maintenance of aerators on public freshwater lakes, including the establishment of a general license for qualified aerators and clarifies that an aerator, which is not authorized by a general license, must not be placed in a public freshwater lake except upon prior receipt of an individual license from the Department of Natural Resources. Effective December 1, 2009.

SECTION 1. This document assists in implementation of [IC 14-26-2](#) and supplements [312 IAC 11-1](#) through [312 IAC 11-5](#).

SECTION 2. (a) The definitions contained in [IC 14-8-2](#), [IC 14-26-2](#), [312 IAC 1](#), and [312 IAC 11-2](#) apply throughout this document.

(b) In addition to the definitions contained in subsection (a), "aerator" means a mechanical device placed within a public freshwater lake that is used to accomplish any of the following:

- (1) Increase the amount of dissolved oxygen in the water.
- (2) Increase the decomposition of organic materials.
- (3) Alter water flow or circulation.
- (4) Reduce icing.
- (5) Enhance audio or visual enjoyment by bubbling or spraying water.

SECTION 3. (a) This SECTION establishes terms for a general license to place and maintain an aerator.

(b) A person who acts under this SECTION is not required to complete an application or to obtain a written license from the department under [IC 14-26-2](#) and [312 IAC 11-1](#) through [312 IAC 11-5](#). A person who wishes to place or maintain an aerator, which does not qualify under this SECTION, must obtain a written license in advance of placement.

(c) To qualify for the general license, a person must satisfy each of the following requirements:

- (1) Limit operation of the aerator to March through October.
- (2) For March, post and maintain a sign at the site of the aerator which does each of the following:
 - (A) States "beware thin ice" in black lettering clearly visible to an approaching person.
 - (B) Includes a standard illustration in black for thin ice, upon a reflective yellow background, within a black triangle.
 - (C) Substantially conforms to the following illustration:



- (3) Limit the effects of the aerator to a distance which does not:
 - (A) exceed one hundred fifty (150) feet from the shoreline or water line of the public freshwater

lake; or

(B) extend beyond the boundaries of the person's riparian zone.

(4) Operate the aerator to accomplish both of the following:

(A) minimize the disturbance of bottom sediments; and

(B) not diminish water clarity.

(5) Operate the aerator so it does not unduly infringe on the recreational usage of the lake by adjacent landowners or the public.

(6) Operate the aerator so that it does not remove more than six hundred twenty-five (625) square feet of aquatic vegetation.

(7) Cause the aerator to be the following:

(A) Readily inoperable or removable.

(B) Secure from movement caused by water currents, wind, or similar factors.

LSA Document #09-918(E)

Filed with Publisher: November 18, 2009, 11:03 a.m.

Posted: 11/25/2009 by Legislative Services Agency

An [html](#) version of this document.