

Notice of Public Hearing

LSA Document #09-616

Notice of Public Hearing

Under [IC 4-22-2-24](#), notice is hereby given that on March 30, 2010, at 1:00 p.m., at the Indiana Government Center North, 100 North Senate Avenue, Room N501, Indianapolis, Indiana, the Natural Resources Commission will hold a public hearing on proposed amendments to [312 IAC 9-5](#), [312 IAC 9-6](#), [312 IAC 9-7](#), [312 IAC 9-8](#), [312 IAC 9-9](#), [312 IAC 9-10](#), and [312 IAC 9-11](#), which govern definitions, restrictions, standards, licensure and permits applicable to reptiles, amphibians, sport fishing, commercial fishing, and invertebrates, to modify and reorder language for improved clarity, simplicity, and continuity, [312 IAC 9-5-4](#) to update scientific names of endangered species of reptiles and amphibians, [312 IAC 9-5-6](#) to clarify requirements for the collection and possession of reptiles and amphibians native to Indiana, [312 IAC 9-5-7](#) to clarify requirements for sale and transport of reptiles and amphibians native to Indiana and to update common and scientific names, [312 IAC 9-5-8](#) to clarify the possession and sale of dangerous reptiles, [312 IAC 9-5-9](#) to remove unnecessary language and update the common and scientific names of reptiles, [312 IAC 9-6-1](#) to also apply the definitions to [312 IAC 9-9](#), [312 IAC 9-6-4](#) to clarify requirements for release of fish that cannot be lawfully possessed, [312 IAC 9-6-6](#) to clarify areas closed to fishing, [312 IAC 9-6-7](#) to clarify terminology used for exotic fish, [312 IAC 9-6-8](#) to clarify the restrictions on the use of live carp and gizzard shad as bait, and [312 IAC 9-6-10](#) to clarify species of exempted fish, proposed new section [312 IAC 9-6-11](#) to provide standards for commercial shipment and processing of fish, proposed amendments to [312 IAC 9-7-1](#) to clarify fishing license requirements, [312 IAC 9-7-2](#) to clarify sport fishing methods except on the Ohio River, [312 IAC 9-7-3](#) through [312 IAC 9-7-13](#) to clarify requirements for taking catfish, muskellunge, tiger muskellunge, northern pike, black bass, white bass, hybrid striped bass, striped bass, crappie, redear sunfish, rock bass, walleye, sauger, saugeye, trout, and salmon, [312 IAC 9-7-14](#) to clarify requirements for fish with no bag limit, possession limit, or size limit, [312 IAC 9-7-15](#) to clarify requirements for taking and possessing minnow, [312 IAC 9-7-16](#) to clarify requirements for sport fishing on the Ohio River, [312 IAC 9-7-18](#) and [312 IAC 9-7-2](#) to clarify requirements for taking yellow perch and shovelnose sturgeon, [312 IAC 9-8-2](#) and [312 IAC 9-8-3](#) to clarify the provisions for commercial fishing licenses, [312 IAC 9-9-2](#) to clarify requirements for taking and possessing crayfish, [312 IAC 9-9-3](#) to clarify the possession of mussels and their shells, [312 IAC 9-10-3](#) to clarify the exemptions for aquatic vegetation control permits, [312 IAC 9-10-5](#) through [312 IAC 9-10-8](#) to clarify requirements for taxidermist licenses, scientific purposes licenses, field trial permits, and fish stocking permits, [312 IAC 9-10-9.5](#) to add a provision for allowing holders of a federal special purpose possession permit for migratory birds to qualify for a special purpose educational permit and to add a provision for inspections by conservation officers, [312 IAC 9-10-10](#) to update and clarify provisions governing hunting permits for persons with disabilities, [312 IAC 9-10-12](#) to clarify requirements for fur buyers' license holders and to add a provision for inspections by conservation officers, [312 IAC 9-10-13.5](#), [312 IAC 9-10-14](#), [312 IAC 9-10-16](#), [312 IAC 9-10-17](#), [312 IAC 9-10-19](#), and [312 IAC 9-10-20](#) to clarify requirements for the special purpose salvage permit, the fish hauler's and supplier's permit, the dog training ground permit, the aquaculture permit, the fish tagging or marking permit, and the importation permit for the release of mammals, birds, reptiles, amphibians, mollusks, and crustaceans for release, [312 IAC 9-11-2](#) to change the requirement of an examination of an animal by a licensed veterinarian to 45 days after the issuance of a wild animal possession permit, [312 IAC 9-11-6](#) by adding a definition of "Class I wild animal", [312 IAC 9-11-7](#) by adding a definition of "Class II wild animal", and [312 IAC 9-11-8](#) by adding definition "Class III wild animal" and to make other technical amendments and repeal [312 IAC 9-5-2](#), [312 IAC 9-5-3](#), [312 IAC 9-10-2](#), and [312 IAC 9-11-5](#).

[IC 4-22-2-24\(d\)\(3\)](#) Justification Statement: These proposed rules in this package from the Department of Natural Resources (DNR) contain amendments to fish and wildlife rules that govern the following rules: reptiles, amphibians, sport fishing, commercial fishing - definitions, restrictions, and standards, invertebrates, and special licenses - permits and standards, to modify and reorder language for improved clarity, simplicity, and continuity. The proposed rules provide for greater clarification and consistency with existing statutes and rules.

Clarification of the rules governing sport fishing, commercial fishing, and special permits are needed to help the public understand the requirements and assist DNR conservation officers in enforcement of the rules. Many of the changes will positively affect anglers and others individuals by clarifying the taking, possession, and sale of species of reptiles, amphibians, fish, minnows, crayfish, and mussels and make the rules easier to understand. Several rules are also being repealed because they have been combined with other rules or because they are no longer needed.

The current problem consists of many of these rules being difficult to understand or enforce. The rules governing the taking of reptiles, amphibians, fish, and crayfish clarify the licenses or permits required to take and possess these species. The DNR has received many inquiries about the legality of possessing, taking and selling many species of wild animals, including reptiles, amphibians, and fish. Amendments to the rules in this package

clarify these requirements. Additionally, DNR law enforcement officers need clarification of requirements for the taking, possession, and sale of these wild animals in order to be able to better enforce the law.

Some businesses will be impacted by the changes to the rules governing the fish hauler's and supplier's permit ([312 IAC 9-10-14](#)) and aquatic vegetation control permit ([312 IAC 9-10-3](#)). There are approximately 100 businesses that hold a fish hauler's and supplier's permit, some of which are located outside Indiana, and there are approximately 250 aquatic vegetation control permits issued each year, primarily to businesses in Indiana.

Businesses that apply for a fish hauler's and supplier's permit may be negatively affected due to the requirements that a person applying for the permit must first establish that a fish that is raised in Indiana or imported into Indiana is free of a communicable disease, will not become a nuisance, and will not damage a native wild or domestic species of animal or plant. These are the same requirements as those who request a fish importation permit in [312 IAC 9-10-15](#), but these provisions are needed for fish haulers and suppliers because they are exempt from needing an importation permit when importing fish. Fish haulers and suppliers typically sell fish for food purposes or to stock in private ponds, and it is important that the fish be free of a communicable disease and also not destroy existing plants and animals in a person's pond.

Businesses may also have to apply for additional aquatic vegetation control permits as a result of the amendments to [312 IAC 9-10-3](#). The exemptions added in [312 IAC 9-10-3](#) are currently found in [IC 14-22-9-10\(a\)](#), but the amendments to the rule provide additional clarification that the exemption to the permit to treat a 625 square foot area does not mean multiple, separate 625 square foot sections of water, it means one 625 square foot area. That same area can be treated multiple times in the same calendar year without a permit. Therefore, individuals and businesses may have to purchase additional aquatic vegetation control permits at a cost of \$5 each.

The DNR has the statutory authority to provide for the protection, reproduction, care, management, survival, and regulation of wild animal populations in [IC 14-22-2-3](#). Furthermore, the DNR has the statutory authority to allow the taking, possession, and sale of wild animals in [IC 14-22-2-6](#). The Natural Resources Commission has the statutory authority to adopt rules under [IC 14-10-2-4](#). The definition of wild animal in [IC 14-8-2-318](#) includes birds, mammals, fish, reptiles, amphibians, crayfish, and mussels. Sources of information for determining costs and benefits were obtained from DNR staff.

Copies of these rules are now on file at the Indiana Government Center North, 100 North Senate Avenue, Room N501 and Legislative Services Agency, One North Capitol, Suite 325, Indianapolis, Indiana and are open for public inspection.

Bryan W. Poynter
Chairman
Natural Resources Commission

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