

Final Rule

LSA Document #10-566(F)

DIGEST

Adds [312 IAC 8-2-4.5](#) to require a license from a property manager before the placement of a fish attractor on a property administered by the Department of Natural Resources and to provide for consultation within the Department before issuance of a permit and affirm the additional permitting requirements for sites within a floodway under [IC 14-28-1](#) or a navigable waterway under [IC 14-29-1](#), if the Department's Division of Water determines the fish attractor poses more than a minimal potential for harm. Effective January 1, 2012.

[312 IAC 8-2-4.5](#)

SECTION 1. [312 IAC 8-2-4.5](#) IS ADDED TO READ AS FOLLOWS:

[312 IAC 8-2-4.5](#) Fish attractors

Authority: [IC 14-10-2-4](#); [IC 14-11-2-1](#); [IC 14-28-1-5](#); [IC 14-29-1-8](#)

Affected: [IC 14-28-1](#); [IC 14-29-1](#)

Sec. 4.5. (a) A person must obtain a license from a property manager, under this section, before constructing or placing a fish attractor within either of the following:

- (1) A waterway located on a DNR property.
- (2) A navigable waterway that is within the riparian area of a DNR property.

(b) To qualify for a license, a fish attractor must be each of the following:

(1) Anchored to ensure proper settling.

(2) Not placed:

(A) in a channel;

(B) in a beach area; or

(C) near the waterway surface or in an area that would adversely affect public safety and navigation as determined by the division of law enforcement.

(3) Constructed of materials approved by the department and applying methods to ensure safe placement. In implementing this subdivision, the property manager shall consult with the division of water. If the division of water determines placement or maintenance of the fish attractor poses more than a minimum potential for harm, the department shall require the applicant to obtain a license under the following:

(A) [IC 14-28-1](#) and [312 IAC 10](#) if located in a floodway.

(B) [IC 14-29-1](#) and [312 IAC 6](#) if located in a navigable waterway.

The department shall develop a memorandum of understanding concerning characteristics of a fish attractor likely to pose more than a minimal potential for harm relative to division of water review under this subdivision.

(4) Placed under the supervision of the division of fish and wildlife.

(c) The license holder must promptly remove from the waterway any portion of the fish attractor that becomes detached from the licensed structure. This responsibility is a condition of a license.

(d) This section does not apply to the placement of a fish attractor in a public freshwater lake. The placement of a fish attractor in a public freshwater lake is governed by [312 IAC 11-4-7](#).

(e) As used in this section, "fish attractor" means a structure or structures providing an artificial reef or similar habitat and that is or is intended to be beneficial to fish populations.

(Natural Resources Commission; [312 IAC 8-2-4.5](#); filed Feb 22, 2011, 1:12 p.m.: [20110323-IR-312100566FRA](#), eff Jan 1, 2012)

SECTION 2. SECTION 1 of this document takes effect January 1, 2012.

LSA Document #10-566(F)

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Proposed Rule: [20101020-IR-312100566PRA](#)

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