

Notice of Public Hearing

LSA Document #20-81

Notice of Public Hearing

Under [IC 4-22-2-24](#), notice is hereby given that on July 29, 2020, at 6:00 p.m., at the Mounds State Park, Nature Center, 4306 Mounds Road, Anderson, Indiana **AND** on July 30, 2020, at 6:00 p.m., at McCormick's Creek State Park, Canyon Inn, 250 McCormick's Creek Park Road, Spencer, Indiana, the Natural Resources Commission will hold a public hearing on proposed amendments to [312 IAC 9](#). The proposal amends [312 IAC 9-6-1](#) adding definitions for bank pole, drop line, free-float line, limb line, pink salmon, setline, throw line, and trotline. The proposal amends [312 IAC 9-6-9](#) to add cisco and the western sand darter to and remove the northern brook lamprey from the endangered species list of fish. The proposal amends [312 IAC 9-7-6](#) governing the taking of black bass; amends [312 IAC 9-7-12](#) governing the taking of walleye, sauger, and saugeye; and amends [312 IAC 9-7-14](#) to remove cisco. The proposal amends [312 IAC 9-7-16](#) governing sport fishing on the Ohio River. The proposal amends [312 IAC 9-9-3](#) to govern golden mussel.

[IC 4-22-2-24\(d\)\(3\)](#) Justification Statement: [312 IAC 9-6-9](#): The proposed rule in [312 IAC 9-6-9](#) removes northern brook lamprey from the list of endangered species and adds cisco and western sand darter to the endangered species of fish.

By removing the northern brook lamprey from the list of endangered species, it would be able to be caught by anglers and businesses that do construction projects in waterways and would not be limited due to the presence of this species. The northern brook lamprey was elevated to endangered status in 2004. A statewide survey was initiated shortly after its listing as endangered. Results of that survey indicated that it was much more common than previously realized, inhabiting at least 15 streams in 10 counties. With this updated information, the northern brook lamprey's endangered status is no longer warranted. At the September 29, 2017, meeting of Indiana's Nongame Fish Technical Advisory Committee, it was recommended that the northern brook lamprey be down-listed from endangered, which allows it to be taken from the wild.

The current cisco designation (species of special concern) does not provide adequate protection for the species and its habitat, both of which are in decline. There is currently no limit to the number of cisco that can be taken by anglers. The cisco is a coldwater species within the family Salmonidae, which requires late summer (i.e., late August through early September) water temperatures less than 68.0 °F with a dissolved oxygen concentration of at least 3 ppm. Accelerated eutrophication of Indiana's glacial lakes has steadily reduced the number of lakes with adequate water quality to support cisco. In 1955, cisco existed in 42 Indiana lakes (Frey 1955). Subsequent population assessments of cisco revealed declines by the early 1970s (27 lakes; Goulash 1975), continuing into the early 1990s (12 lakes; Koza 1994) and 2000s (13 lakes; Pearson 2001). The most recent assessment of cisco by the Division of Fish and Wildlife (DFW) indicates that there are now only 7 lakes remaining with cisco (Donabauer & Linn 2017). The remaining cisco lakes include Crooked (Noble/Whitley Co.), Eve (LaGrange Co.), Failing (Steuben Co.), Gage (Steuben Co.), Indiana (Elkhart Co.), and North/South Twin (LaGrange Co.) lakes. While each of these lakes contains cisco, the availability of late summer coldwater habitat appears to have declined in many of them. On multiple occasions coldwater habitat degradation has resulted in cisco die-offs. Temporary dissolved oxygen depletion has previously resulted in multiple late summer cisco die-offs at Crooked Lake (Noble/Whitley Co.) including die-offs in 1981, 1986, 2000, 2012, and 2017 (Donabauer 2015; Donabauer and Linn 2017). Based on the historical decline of cisco, the species is likely to become extirpated from Indiana in the next 100 years. Accelerated eutrophication is likely the primary source of the decline of cisco in Indiana. Therefore, the future persistence of cisco will depend on the ability to reduce nutrient loading in these lakes. There are very few anglers (<1%) that target the species and those that do are limited primarily to Crooked Lake (Noble/Whitley Co.). Therefore, cisco now meets the definition of an endangered species as described in [IC 14-22-34-1](#).

The western sand darter is also proposed to be added to this rule as an endangered species. There is only limited information on the historical distribution of the western sand darter in Indiana. None were captured in a statewide survey of fishes between 1940 and 1943. Two specimens were collected from the mainstem White River near Petersburg, Knox-Pike counties in 1977. In more recent times, the DFW has been able to collect western sand darter further upstream on the East Fork White River in Martin County and Daviess-Dubois counties, as well as former locations in Daviess-Pike counties. It has also been collected from the mainstem White River, Knox-Pike counties. The western sand darter was likely a wide-ranging, large river darter species in Indiana historically, but is now restricted to rather disjunct portions of the mainstem White River in Gibson, Knox, and Pike counties, and the East Fork White River in Daviess, Dubois, and Martin counties over a total of approximately 70 river miles. At the September 29, 2017, meeting of Indiana's Nongame Fish Technical Advisory Committee it was recommended that the western sand darter be added to Indiana's list of endangered fish species since it now meets the definition of an endangered species as described in [IC 14-22-34-1](#).

[312 IAC 9-7-6](#): The proposed rule in [312 IAC 9-7-6](#) increases the minimum size limit for largemouth bass to 18 inches and reduces the daily bag limit to no more than 2 largemouth bass at 4 lakes in Noble County – Bixler, Henderson, Little Long, and Round. Although various site-specific rules are in place to limit angler harvest of largemouth bass, a general rule throughout much of the state limits the take to no more than five largemouth bass daily and each must be 14 inches or larger. While this general rule, coupled with angler interest in catch-and-release bass fishing, has increased largemouth bass abundance during the last 30 years (Pearson 2008), additional protections are needed at some lakes where largemouth bass can help control the abundance of nuisance fish species (e.g., gizzard shad and carp), reduce the abundance of overpopulated, slow growing sunfish (primarily bluegills), and where few large bass are present to interest anglers. This proposal seeks to increase the minimum size limit to 18 inches and reduce the daily catch limit to no more than two largemouth bass at four lakes in Noble County (Bixler, Henderson, Little Long, and Round lakes) where carp comprise a substantial amount of fish biomass, threaten water clarity, compete with bluegills and other popular sport fish, and where numbers of large bass are low. Bixler (117 acres), Little Long (71 acres), and Round (99 acres) lakes are located in and near the City of Kendallville in Noble County within the headwaters of the Elkhart River North Branch and have a long history of carp problems associated with nearby Henderson Lake (22 acres).

[312 IAC 9-7-12](#): The proposed rule in [312 IAC 9-7-12](#) adds a 14 inch minimum size limit for saugeye taken from Glenn Flint Lake in Putnam County. Saugeye stocking has started on Glenn Flint Lake to increase fishing opportunities and to provide additional predation on several nongame species that have colonized Glenn Flint Lake. Saugeye and other Sander species often require protection from premature harvest to ensure the availability of larger fish preferred by anglers (Stone and Lott 2002). Protecting the saugeye population in Glenn Flint Lake from overharvest at small sizes will aid in the development of a quality fishery. Development of a quality saugeye fishery in the lake is expected to increase revenue to the Little Walnut Creek Conservancy District, local baitshops, convenience stores, hotels/motels, restaurants, and other businesses by increasing the number of anglers attracted to the area.

[312 IAC 9-7-14](#): The proposed rule in [312 IAC 9-7-14](#) removes cisco from the list of species of fish from which there is no bag limit, possession limit, or size limit. The justification for this change is listed above under [312 IAC 9-6-9](#).

[312 IAC 9-7-16](#): The proposed rule in [312 IAC 9-7-16](#) establishes a 14 inch minimum size limit for sauger, reduces the daily bag limit to 6 sauger, walleye, and saugeye in aggregate, and reduces the possession limit to 12 total of sauger, walleye, and saugeye for sport fishing on the Ohio River. Current sauger management regulations on the Ohio River are not providing enough protection from overfishing. Sauger fishing on the Ohio River is extremely popular in the winter and early spring when the fish congregate downstream of dams, making them easy targets to catch. The decline and/or lack of sauger over 3+ years old is concerning and is likely influenced by the high harvest rates that the population is experiencing. The Ohio River Fisheries Management Team (ORFMT) has compiled and analyzed sauger survey data collected over the past 13 years and has recommended additional regulations in the lower portions of the Ohio River (Indiana waters) to help increase size structure and reproductive potential of sauger by reducing fishing mortality. The Kentucky Division of Fish and Wildlife Resources also now has these same regulations in place for sauger fishing on the Ohio River. In addition, Illinois DNR recently passed a 14 inch size limit, 6 daily bag limit on sauger which is now in effect for their portion of the Ohio River; this came after Southern Illinois University conducted research on the sauger population and recommended new regulations to prevent overfishing and increase size structure. Sport fishermen will initially be effected by this proposal because they will not be able to harvest sauger under 14 inches. Fortunately sauger growth is fast, so within 2 years anglers should start to see an increase in the number of large sauger and will enjoy better quality fishing opportunities once the fish reach 14 inches.

[312 IAC 9-9-3](#): The proposed rule in [312 IAC 9-9-3](#) adds the golden mussel (*Limnoperna fortunei*) to the list of exotic mussels that cannot be imported, possessed, or released into public or private waters in Indiana. This is an exotic mussel that if released, could negatively affect our native mussel populations. A person could not import or possess this species of exotic mussel under this rule change proposal.

The Department of Natural Resources (DNR) has the statutory authority to allow the taking wild animals and to establish the methods, locations, and means of taking wild animals in [IC 14-22-2-6](#). The DNR is also required to develop rules that are based upon "(A) The welfare of the wild animal, (B) The relationship of the wild animal to other animals, and (C) The welfare of the people in [IC 14-22-2-6](#)." "Wild animal" is defined in [IC 14-8-2-318](#) and includes fish. The DNR is also required in [IC 14-22-34-11](#) to review the endangered species list at least every 2 years and make any changes or additions as necessary. The Natural Resources Commission has the statutory authority to adopt rules pursuant to [IC 14-10-2-4](#).

The changes to [312 IAC 9-6-1](#) do not impose a requirement or cost under [IC 4-22-2-24\(d\)\(3\)](#).

The benefits and costs of the proposed changes were obtained from staff of the DNR Divisions of Fish and Wildlife and Law Enforcement. All requirements or costs by the rule amendments on regulated entities under [IC 4-22-2-24\(d\)\(3\)](#) are reasonably necessary for the implementation of the statutory authority of the DNR identified above.

Sources of information for determining costs and benefits were obtained from staff of the DNR Division of

Fish and Wildlife.

Distributional ecology of the cisco (coregonus artedii) in Indiana. Frey, David G. Indiana University. 1955.

A summary of Indiana cisco investigations, 1971-1974. Gulish, William J. Indiana Department of Natural Resources. Division of Fish and Wildlife. 1975.

Current status of cisco abundance, habitat and harvest and northern Indiana lakes. Koza, Larry. Indiana Department of Natural Resources. Division of Fish and Wildlife. 1994.

Cisco population status and management in Indiana. Pearson, Jed. Indiana Department of Natural Resources. Division of Fish and Wildlife. 2001.

Mid-summer oxy-thermal stress on cisco at Little Crooked Lake (Whitley Co.). Donabauer, Steven B. Indiana Department of Natural Resources. Division of Fish and Wildlife. 2015.

Cisco (Coregonus artedii) in Indiana's glacial lakes. Donabauer, Steven B. and Matthew D. Linn. Indiana Department of Natural Resources. Division of Fish and Wildlife. 2017.

Indiana anglers' fishing participation and their opinions on fishing management issues. Responsive Management, Inc. 2017.

Individuals requiring reasonable accommodations for participation in this event should contact the Natural Resources Commission at:

*Indiana Government Center North
100 North Senate Avenue, Room N103
Indianapolis, IN 46204-2273
Attn: ADA Compliance*

or call (317) 232-4699. Speech and hearing impaired callers may contact the Commission via the Indiana Relay Service (711) or (800) 743-3333. Please provide a minimum of 72 hours notification.

The proposed rule amendments together with any data, studies, or analyses relied upon under [IC 4-22-2-24\(d\)](#) may be inspected and copied at the Natural Resources Commission, Division of Hearings, Indiana Government Center North, 100 North Senate Avenue, Room N103, Indianapolis, Indiana. Submit written comments to the same mailing address or electronically through:

<http://www.in.gov/nrc/2377.htm>

Bryan W. Poynter
Chairman
Natural Resources Commission

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