

A fiscal analysis was prepared in association with the proposed rule package. The Department determined that the proposed amendments, with the exception of the amendments to 312 IAC 9-8-6, will have no fiscal impacts. The Department anticipates that the amendments to 312 IAC 9-8-6 may have a “minimal impact to commercial fishing license holders and small businesses” in the short term by allowing only the taking of Paddlefish thirty-two inches long or longer. However, the Department anticipates that the long term impact of the proposed rule amendments will be an increase in the amount of eggs harvested from Ohio River Paddlefish. The Department explains that gravid female Paddlefish of near thirty-two inches will contain only 10% of their body weight in eggs, while more mature Paddlefish of forty inches will typically contain approximately 25% of their body weight in eggs. By allowing increased numbers of female Paddlefish to reach maturity the Department anticipates that the Paddlefish egg harvest will actually increase.

The fiscal analyses, a copy of the proposed rule language and a copy of the posted Notice of Intent were submitted to the Office of Management and Budget on December 2, 2008. In a letter dated March 25, 2009 Christopher A. Ruhl, Director, Office of Management and Budget, recommended that the proposed rule amendments be approved.

In accordance with IC 4-22-2.1-5(c)(2), a copy of the proposed rule and the statement concerning rules affecting small business were submitted to the Indiana Economic Development Corporation (*IEDC*) on April 6, 2009. On May 18, 2009 *IEDC* submitted to the NRC written comments dated May 12, 2009 stating that “*IEDC* does not object to the economic impact on small businesses as a result of this rule.” Linnea Petercheff responded to the comments of the *IEDC* on May 18, 2009. *IEDC*’s comments were made available for public inspection and copying in the NRC’s Division of Hearings office and on the NRC website on May 18, 2009. Copies of *IEDC*’s comments were made available at the public hearings held on May 20, 2009 and June 25, 2009.

The NRC Division of Hearings submitted the rule proposal to the Legislative Services Agency (*LSA*) along with the “Statement Concerning Rules Affecting Small Business” on April 1, 2009. The Notice of Public Hearing was submitted to LSA on April 6, 2009. The Notice of Public Hearing, along with the Economic Impact Statement and the text of the proposed rule was posted to the INDIANA REGISTER database website on March 11, 2009. Following receipt of an “Authorization to Proceed” from LSA on April 6, 2009, the NRC Division of Hearings also caused a Notice of Public Hearing to be published by the Indianapolis Newspapers, a newspaper of general circulation in Marion County Indiana, on April 17, 2009 with respect to the public hearing conducted on May 20, 2009. In addition, notice of the public hearing scheduled for May 20, 2009 and a summary of the proposed rule changes were published on the Commission’s web-based electronic calendar.

Because IEDC’s comments were not received at least seven (7) days in advance of the public hearing scheduled for May 20, 2009 as required by Indiana Code § 4-22-2.1-6, a second public hearing was scheduled for and conducted on June 25, 2009, more than seven (7) days after receipt of IEDC’s comments. The NRC Division of Hearings submitted a Change in Notice of Public Hearing to LSA on May 22, 2009. The Change in Notice of Public Hearing was posted to the INDIANA REGISTER database website on June 3, 2009. The NRC Division of Hearings also caused the Change in Notice of Public Hearing to be published by the Indianapolis Newspapers, a newspaper of general circulation in Marion County Indiana, on May 29, 2009. In addition, notice of the public hearing scheduled for June 25, 2009 and the summary of the proposed rule changes remained available on the Commission’s web-based electronic calendar.

2. REPORT OF PUBLIC HEARING AND COMMENTS

a) Public Hearing Comments

The first public hearing was scheduled for May 20, 2009 at 6:00 p.m. at the Sugar Ridge Fish and Wildlife Area located at 2310 East State Road 364, Winslow Indiana. Hearing

Officer, Sandra Jensen, was present along with Bill James, Chief of Fisheries, Brian Schoenung, Natural Sciences Manager, and other staff of the Department's Division of Fish and Wildlife. No member of the public appeared to offer comments.

The second public hearing was scheduled for June 25, 2009 at 11:00 a.m. at the NRC's Division of Hearings offices located in the Indiana Government Center North, Room N501, 100 North Senate Avenue, Indianapolis, Indiana. Hearing Officer, Sandra Jensen, was present to conduct the public hearing. No member of the public appeared to offer comments.

b) Comments Received Outside Public Hearing

The following written comments were received from members of the public outside of the public hearings held on May 20, 2009 and June 25, 2009.

David F. Delaney, Marion County, Indiana (January 17, 2009)

The proposed rule on paddlefish is an outrage. Commercial fishing interests should never take priority over the average Indiana resident fisherman. Requiring a person to have commercial license to simply harvest a paddlefish is totally wrong. My tax dollars and fishing and hunting dollars to go promote and protect wildlife and fish and I should have a right to pursue those species with a regular Indiana fishing license. Actually, commercial fisherman licenses are ridiculously cheap here in Indiana and licenses should be priced at a level that equates to the income that is generated from the taking of our natural resources. This proposed rule is wrong!

David M Kowlon, Laporte County, Indiana (January 18, 2009)

If paddlefish are too endangered to allow sport fishing then why allow commercial fishing? I thought these fish belonged to "The State" and all the residents!! Why not have a catch and release season for sport fishing?

Gregory Scott Yazel, Indiana Striped Bass Association, Decatur County, Indiana (January 19, 2009)

The paddlefish is a sport fish for ALL fisherman to enjoy catching. If a paddlefish is caught legally by a properly licensed fisherman, it should be his/her choice as to whether he gets to keep the fish. Not some money hungry commercial fishing company!!!

Jack Corpuz, Pheasants Forever, Indianapolis (January 19, 2009)

Strongly support this initiative.

Jason McGowen, Responsible Indiana Sportsman, Mooresville, Indiana (January 17, 2009)

Are we going to continue to sell off our natural resources? Why is it acceptable for a commercial fisherman to take a paddlefish, only for the eggs, and not acceptable for anyone else? This is a "typical" proposal by this state's legislation and I'd personally like to know who wrote this up.

I took the time to comment on this topic and I think it would befit for someone to reply back. My tax dollars and license fees (along w/ many others) are what writes your checks. I want a response on another proposal that takes our Indiana wildlife out of that average Hoosiers hands and puts it into someone's out to make a buck.

Joe Bacon, Marion, Indiana (January 17, 2009)

I can not believe that Fish & Wildlife and IDNR as a whole would support taking a fish away from license purchasing sportsmen and allowing only commercial interests to fish for it. Be it rod & reel or a gill net it is still "taking" of a resource and all Hoosiers should be allowed to partake. This is an insult to the recreational fisherman.

John Chambers, Johnson, Indiana (January 18, 2009)

I do not wish to see the taking of Paddlefish limited to commercial entities. The Paddlefish is a natural resource to the residents of Indiana and the right to lawfully take Paddlefish with a normal, individual fishing license (read non-commercial) should not be revoked.

Larry Bateman, West Point (May 6, 2009)

It is my opinion that these prehistoric fish should be preserved for future generations. Not harvested! I would support a complete ban on taking paddlefish for any reason.

Dick Klene, Jackson, WY (May 6, 2009)

So, the paddlefish is too rare to have a sport fishing season, but commercial fishermen not only can catch them, but sell them on the market? Gee, I hope those commercial folks support the fish and game department in a major way, since they definitely are getting a lot and sport fishermen are getting the short end of the stick. I lived in Ohio before retiring to Wyoming, and still fish Indiana a good bit since I visit Ohio and have lots of relatives around Greensburg, Indianapolis and Batesville. I've never caught a paddlefish, but I'd sure like to, and I'd release it, of course. Interesting to read your articles, but this doesn't sound like a department that is dealing fairly with sport fishing folks, while coddling the lawbreaking industry.

Suzanne Mittenthal, Hoosier Hikers Council, Martinsville, IN (May 6, 2009)

This fishery should be discontinued. Habitat degradation suggests severe threats exist to the preservation of this extremely slow-maturing fish, enough to endanger it.

Chuck Lowe, Indianapolis, IN (May 6, 2009)

Why should there be a commercial harvest while individuals are prohibited from harvesting? I think there should be priority given to the individual, not the commercial interest. Who does the wildlife of the state belong to? Corporations or the people of

Indiana? If the paddlefish are threatened, close the fishery for all not just the individual. Manage the resources of the state for the people not commercial interests!

Greg Williamson, New Harmony, (May 14, 2009)

Makes more sense to eliminate commercial fishing. They take more fish than anyone. Missouri did this and limited the number of catfish in general. Sizes increased dramatically as well as numbers. Way past due on the Wabash and Ohio rivers. Very very few if anyone makes a living commercial fishing. Lic. sales probably increase if there was a better chance to catch fish on these rivers. Have fished both for many years have seen more nets and trotlines and less fish every year.

c) Response by the Department of Natural Resources

The Department of Natural Resources offered the following response to the public comments.

DNR Response

Prohibition on Sport-Fishing of Paddlefish

The majority of the comments submitted were in opposition to the rule changes regarding the sport-fishing of paddlefish and did not want to see paddlefish harvest opportunity limited to just commercial fishermen. The comments were principally concerned with allowing the commercial utilization of fisheries resources and felt commercial license fees should be increased.

The view that paddlefish harvest should be allocated in part or whole to sport fishermen seems based on the assumption that paddlefish can be readily taken by sport fishing methods (baited hook or lure and line) as with bluegill, catfish, bass or other common “sport fish” species. This is an erroneous assumption since paddlefish are filter feeders that strain plankton from the water and are not attracted to a baited hook or lure. Occasionally, a paddlefish can be accidentally foul-hooked by a sport angler fishing for something else, but it is not a common occurrence. The intentional snagging of protected species of fish such as bass and walleye with baited or unbaited hooks in Indiana has been illegal on public waters, except for the Ohio River, for many years and is currently illegal on the Ohio River under an emergency rule. Snagging has been allowed in the past only on Indiana’s portion of the Ohio River to match Kentucky’s fishing regulations. However, this method of “blind grabbing” or intentional snagging of paddlefish has been prohibited under the emergency rule that is currently in place and is proposed within this rule package. Snagging is indiscriminate in that the angler doesn’t know for sure what fish they will snag. Large snag hooks can inflict considerable damage to fish that tear lose and escape. This method also results in large quantities of discarded monofilament fishing line that accumulates in snagging locations. Historically, snagging of fish has been viewed by many as a questionable means of sport fishing from an ethical standpoint. The current emergency rule in place for the Ohio River prohibits snagging of fish based on insights gained from the 18-month undercover law enforcement investigation of illegal paddlefish harvesting activities in 2006-2007. People posing as sport fishing

snaggers were in fact illegally selling snagged paddlefish in organized groups working for paddlefish egg buyers. When snagging is eliminated as a legal means of taking paddlefish with rod and reel, there is no legitimate means of taking paddlefish with sport fishing methods save the occasional foul-hooking. Thus, there is in reality no reasonable allocation of paddlefish harvest opportunity to partition between commercial and sport fishing interests.

Commercial Fishing

The issue of whether or not commercial fishing should be allowed is beyond the scope of these proposed rule changes. Prohibiting the commercial take of paddlefish is a substantive change that would require additional review and discussion. Furthermore, commercial license fees are established by statute in IC 14-22-13-1 and 14-22-13-2 and cannot be increased by the Natural Resources Commission. Only the Indiana General Assembly can increase commercial fishing licensing fees.

These rule changes governing the commercial harvest of paddlefish are necessary to protect paddlefish populations in the Ohio River and prevent them from being over-fished. The DNR anticipates that these rule changes will help ensure the continued survival of paddlefish populations in the Ohio River and support Indiana businesses that rely upon commercial fishing for many years to come. 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 a U.S. Fish and Wildlife Service Law Enforcement Agent 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 would not be expected to be able to continue to support the businesses that rely upon their harvest.

Float-fishing (312 IAC 9-7-16(b)(2))

The DNR Divisions of Fish and Wildlife and Law Enforcement do not believe that the limit on the number of floats used at one time by an individual who is sport-fishing on the Ohio River is necessary. Kentucky's current sport fishing regulations on the Ohio River do not limit the number of floats used by individuals but instead sets an upper limit per boat. There are also no law enforcement concerns at this time regarding float fishing by individuals on the Ohio River. Therefore, the DNR has decided to no longer support the change to limit the number of floats used at one time and is requesting that the added language of "with more than twenty-five (25) floats at one time" in 312 IAC 9-7-16(b)(2) be removed from this rule package.

The DNR is requesting that all of the other changes in this rule package be given final adoption.

3. RECOMMENDATION

The amendments to 312 IAC 9-6-2 and 312 IAC 9-8-6 were proposed for the purpose of protecting and preserving Paddlefish populations on the Ohio River by establishing a season for the commercial fishing of Paddlefish that will extend from November 1 to April 30, by establishing a minimum size limit of 32 inches, by establishing a method of measuring Paddlefish harvested as well as by imposing certain regulations upon the methods for taking Paddlefish pursuant to a commercial fishing license on the Ohio River. The amendments to 312 IAC 9-7-19 will prohibit the taking of Paddlefish except with a license for commercial fishing on the Ohio River.

The remaining proposed amendments include a correction to 312 IAC 9-6-1, to apply the definitions contained in that rule to that entire Article. The second proposed amendment to 312 IAC 9-6-1 removes the definition of “rough fish” to avoid inconsistencies between that definition and the definition of “exempted fish,” which is found at 312 IAC 9-6-10. The proposed amendments to 312 IAC 9-7-16 will permanently eliminate the ability to sport fish on the Ohio River for exempted species by snagging.

Paddlefish are valuable for their eggs, which are sold throughout the world as caviar. For this reason Paddlefish are susceptible to being over-fished. Compounding efforts to protect Paddlefish populations is the fact that female Paddlefish do not reproduce until they are seven to ten years old. Data gathered by the Department establishes that only 6.5% of seven to ten year old gravid female Paddlefish are smaller than 32 inches in length. Fisheries biologists from Indiana and Kentucky, in conjunction with Indiana Conservation Officers also determined that near the time for Paddlefish to spawn, from late April into early May, the maturing eggs become too soft for processing into caviar.

The proposed size limits will allow persons holding licenses to fish commercially on the Ohio River to harvest those Paddlefish that are capable of producing eggs. Further, the Department’s proposal to establish a season for the commercial harvest of Paddlefish will

limit the taking of Paddlefish to an annual time period when the eggs harvested remain economically valuable for caviar. These proposed rule amendments offer legitimate limits on the harvesting of Paddlefish that will protect the population by maximizing the harvest of eggs by allowing the taking of appropriately sized Paddlefish while preventing the indiscriminate harvest of Paddlefish that have not reached maturity or are of a size that the amount of eggs produced is minimal. The proposed rule will also prevent the continued harvest of Paddlefish near the time for spawning when data reveals that the eggs can no longer withstand the necessary processing for use as caviar. No comments were received from the public regarding the regulations upon commercial fishing for Paddlefish.

Public comments were received from individual interested in sport fishing. The comments received are in opposition to the Department's proposal to prohibit the ability to take Paddlefish except with a commercial fishing license. These comments reflect the near unanimous opinion that sport fishing should take priority over commercial fishing endeavors with respect to Paddlefish. The comments reflect the belief that continued sport fishing of Paddlefish combined with a prohibition on the commercial fishing of Paddlefish would more greatly reduce the number of Paddlefish taken and therefore be a better protection for the population than what has been proposed by the Department.

The Department responded to the public comments by explaining that Paddlefish are filter feeders that strain plankton from the water. With the exception of a rare catch of a Paddlefish by a foul hook, typical sport fishing methods of hook and lure is not successful for taking Paddlefish. Consequently, Paddlefish are only able to be fished by snagging.

Snagging is a particularly offensive form of fishing by which fish of all species are subject to the hooks being pulled or jerked through the water. This form of indiscriminate fishing has the ability to inflict considerable damage to fish that tear lose and escape. Snagging has long been questioned as a legitimate means of sport fishing and was disallowed in Indiana except for the sport fishing for rough fish on the Ohio

River. Snagging fish on the Ohio River is presently prohibited by virtue of a temporary rule and the amendments to 312 IAC 9-7-16 will serve to permanently prohibit snagging as a means of sport fishing on the Ohio River.

With snagging prohibited as a means of sport fishing, the Department concludes that there exists no legitimate means of fishing for this species using legal methods under a sport-fishing license.

The amendments to 312 IAC 9-6-2 and 312 IAC 9-8-6 that establish a season and minimum size limits for the commercial harvest of Paddlefish along with the establishment of other regulations imposed upon the commercial fishing for Paddlefish are appropriately designed to protect the population of this natural resource. Due to the characteristics of the Paddlefish and the means by which Paddlefish would have to be taken, sport fishing will be impacted only very minimally by the amendments to 312 IAC 9-7-19.

The amendments proposed for 312 IAC 9-7-16(b)(2) would limit the number of floats allowed for float fishing on the Ohio River to twenty-five. The Department has concluded that placing a limit on the number of floats that may be used for sport fishing on the Ohio River is unnecessary and has sought to withdraw this proposal.

Based upon the foregoing discussion, the hearing officer recommends that the proposed amendment to 312 IAC 9-7-16(b)(2) be withdrawn from this package and that the Commission grant final adoption to this rule package as revised. The revised rule is attached as Exhibit A.

Dated: June 30, 2009

Sandra L. Jensen
Hearing Officer

“Exhibit A”

TITLE 312 NATURAL RESOURCES COMMISSION

Final Rule

LSA Document #08-886

DIGEST

Amends 312 IAC 9-6-1, 312 IAC 9-6-2, 312 IAC 9-7-16, 312 IAC 9-7-19, and 312 IAC 9-8-6, governing the taking of fish from public waters, to prohibit the taking or possession of paddlefish except under a commercial fishing license on the Ohio River, to amend fish measurement to clarify how a paddlefish is to be measured, to limit commercial fishing for paddlefish on the Ohio River to November 1 through April 30, to establish a minimum size limit, to restrict checking for eggs from a living paddlefish to the insertion of a 10-gauge needle, to restrict the bar mesh size for gill and trammel nets, and to eliminate snagging as a lawful method for taking fish from public waters. Effective 30 days after filing with the Publisher.

312 IAC 9-6-1; 312 IAC 9-6-2; 312 IAC 9-7-16; 312 IAC 9-7-19; 312 IAC 9-8-6

SECTION 1. 312 IAC 9-6-1 IS AMENDED TO READ AS FOLLOWS:

312 IAC 9-6-1 Definitions pertaining to fish and fishing activities

Authority: IC 14-10-2-4; IC 14-22-2-6

Affected: IC 14-22-34-12

Sec. 1. In addition to the definitions in 312 IAC 9-1, the following definitions apply throughout **this rule**, 312 IAC 9-7, 312 IAC 9-8, and 312 IAC 9-10:

- (1) "Alewife" means the species *Alosa pseudoharengus*.
- (2) "American eel" means the species *Anguilla rostrata*.
- (3) "Aquarium pet trade" means the business of importing, producing, or selling live fish for display in:
 - (A) aquariums;
 - (B) tanks; or
 - (C) other continuing exhibits.
- (4) "Atlantic salmon" means the species *Salmo salar*.
- (5) "Bar mesh" means the length of one (1) side of the square mesh measure or as measured between two (2) knots on the same line.
- (6) "Bighead carp" means the species *Hypophthalmichthys nobilis*.
- (7) "Black bass" means the species:
 - (A) *Micropterus salmoides*;
 - (B) *Micropterus dolomieu*; and

- (C) *Micropterus punctulatus*.
- (8) "Black carp" means the species *Mylopharyngodon piceus*.
- (9) "Black crappie" means the species *Pomoxis nigromaculatus*.
- (10) "Blue catfish" means the species *Ictalurus furcatus*.
- (11) "Bluegill" means the species *Lepomis macrochirus*.
- (12) "Bluntnose minnow" means the species *Pimephales notatus*.
- (13) "Bowfin" means the species *Amia calva*.
- (14) "Brook trout" means the species *Salvelinus fontinalis*.
- (15) "Brown trout" means the species *Salmo trutta*.
- (16) "Buffalo" means the genus *Ictiobus*.
- (17) "Bullhead" means the species:
- (A) *Ictalurus melas*;
- (B) *Ictalurus nebulosus*; and
- (C) *Ictalurus natalis*.
- (18) "Burbot" means the species *Lota lota*.
- (19) "Carp" means the species *Cyprinus carpio*.
- (20) "Cast net" means a net:
- (A) not more than ten (10) feet in diameter; and
- (B) having stretch mesh not larger than three-fourths (3/4) inch.
- (21) "Cavefish" means a fish of the family *Amblyopsidae*.
- (22) "Chain pickerel" means the species *Esox niger*.
- (23) "Channel catfish" means the species *Ictalurus punctatus*.
- (24) "Chinook salmon" means the species *Oncorhynchus tshawytscha*.
- (25) "Chub" means the species:
- (A) *Coregonus hoyi*; and
- (B) *Coregonus kiyi*.
- (26) "Cisco" means the species *Coregonus artedii*.
- (27) "Closed aquaculture system" means a rearing facility designed to prevent the escape of cultured organisms to the wild.
- (28) "Coho salmon" means the species *Oncorhynchus kisutch*.
- (29) "Crappie" means:
- (A) white crappie; and
- (B) black crappie.
- (30) "Dip net" means a dip net:
- (A) not exceeding three (3) feet square;
- (B) without sides or walls; and
- (C) having stretch mesh not larger than one-half (1/2) inch.
- (31) "Diploid" means a cell or organism that has two (2) complete sets of chromosomes.
- (32) "Exotic catfish" means a walking catfish or other member of the family *Clariidae*.
- (33) "Exotic fish" means:
- (A) an exotic catfish;
- (B) a bighead carp;
- (C) a black carp;
- (D) a silver carp;
- (E) a white perch;
- (F) a snakehead;

- (G) a rudd;
- (H) a ruffe;
- (I) a tubenose goby;
- (J) a round goby; or
- (K) a hybrid or genetically altered fish of any of these species.
- (34) "Fathead minnow" means the species *Pimephales promelas*.
- (35) "Flathead catfish" means the species *Pylodictis olivaris*.
- (36) "Freshwater drum" means the species *Aplodinotus grunniens*.
- (37) "Gaff" or "gaff hook" means an implement:
 - (A) of metal or another hard or tough material;
 - (B) with or without barbs;
 - (C) making a single hook having a shank with or without a handle; and
 - (D) that may be hand held to seize, hold, or sustain fish.
- (38) "Gar" means the genus *Lepisosteus*.
- (39) "Genetically altered fish" means a fish that is the product of genetic manipulation, including polyploidy, gynogenesis, gene transfer, and hormonal sex control.
- (40) "Gizzard shad" means the species *Dorosoma cepedianum*.
- (41) "Golden shiner" means the species *Notemigonus crysoleucas*.
- (42) "Goldfish" means the species *Carassius auratus*.
- (43) "Grab hook" means a device or implement used as a tong to clutch, close down upon, or grasp fish.
- (44) "Grass carp" means the genus *Ctenopharyngodon*.
- (45) "Green sunfish" means the species *Lepomis cyanellus*.
- (46) "Hybrid striped bass" means the hybrid of striped bass and white bass.
- (47) "Hybrid sunfish" means a hybrid of the genus *Lepomis*.
- (48) "Lake herring" means the species *Coregonus artedii*.
- (49) "Lake sturgeon" means the species *Acipenser fulvescens*.
- (50) "Lake trout" means the species *Salvelinus namaycush*.
- (51) "Lake whitefish" means the species *Coregonus clupeaformis*.
- (52) "Largemouth bass" means the species *Micropterus salmoides*.
- (53) "Minnow seine" means a seine or net:
 - (A) not more than twelve (12) feet long and four (4) feet deep; and
 - (B) having stretch mesh not larger than one-half (1/2) inch.
- (54) "Minnow trap" means a fish trapping device not exceeding twenty-four (24) inches long. The opening of the throat shall not exceed one (1) inch in diameter.
- (55) "Mosquitofish" means the species *Gambusia affinis*.
- (56) "Muskellunge" means the species *Esox masquinongy*.
- (57) "Northern pike" means the species *Esox lucius*.
- (58) "Quagga mussel" means the species *Dreissena bugensis*.
- (59) "Paddlefish" means the species *Polyodon spathula*.
- (60) "Rainbow trout" means the species *Oncorhynchus mykiss*.
- (61) "Redear sunfish" means the species *Lepomis microlophus*.
- (62) "Rock bass" means the species *Ambloplites rupestris*.
- ~~(63) "Rough fish" means any species of fish not defined as a sport fish or protected under IC 14-22-34-12.~~
- ~~(64)~~ **(63)** "Round goby" mean the species *Neogobius melanostomus*.

- ~~(65)~~ **(64)** "Rudd" means the species *Scardinius erythrophthalmus*.
- ~~(66)~~ **(65)** "Ruffe" means the species *Gymnocephalus cernuus*.
- ~~(67)~~ **(66)** "Sauger" means the species *Stizostedion canadense*.
- ~~(68)~~ **(67)** "Saugeye" means the hybrid of walleye and sauger.
- ~~(69)~~ **(68)** "Shad" means the genera:
- (A) *Alosa*; and
 - (B) *Dorosoma*.
- ~~(70)~~ **(69)** "Shovelnose sturgeon" means the species *Scaphirhynchus platyrhynchus*.
- ~~(71)~~ **(70)** "Silver carp" means the species *Hypophthalmichthys molitrix*.
- ~~(72)~~ **(71)** "Single hook" means a fishing hook consisting of:
- (A) one (1) shank; and
 - (B) one (1) point.
- ~~(73)~~ **(72)** "Smallmouth bass" means the species *Micropterus dolomieu*.
- ~~(74)~~ **(73)** "Smelt" means the genus *Osmerus*.
- ~~(75)~~ **(74)** "Snakehead" means all species of the family *Channidae*, including the genera:
- (A) *Channa*; and
 - (B) *Parachanna*.
- ~~(76)~~ **(75)** "Sockeye salmon" means the species *Oncorhynchus nerka*.
- ~~(77)~~ **(76)** "Sport fish" means any of the following:
- (A) Largemouth bass.
 - (B) Smallmouth bass.
 - (C) Spotted bass.
 - (D) Rock bass.
 - (E) White crappie.
 - (F) Black crappie.
 - (G) Walleye.
 - (H) Sauger.
 - (I) Saugeye.
 - (J) Striped bass.
 - (K) White bass.
 - (L) Hybrid striped bass.
 - (M) Yellow bass.
 - (N) Muskellunge.
 - (O) Tiger muskellunge.
 - (P) Northern pike.
 - (Q) Chain pickerel.
 - (R) Trout or salmon.
- ~~(78)~~ **(77)** "Spotted bass" means the species *Micropterus punctulatus*.
- ~~(79)~~ **(78)** "Steelhead" means the species *Oncorhynchus mykiss*.
- ~~(80)~~ **(79)** "Stretch mesh" means the extended distance or length between the extreme angles of a single mesh of net.
- ~~(81)~~ **(80)** "Striped bass" means the species *Morone saxatilis*.
- ~~(82)~~ **(81)** "Sucker" means the following genera:
- (A) *Carpoides*.
 - (B) *Moxostoma*.
 - (C) *Hypentelium*.

(D) Catostomus.

(E) Erimyzon.

~~(83)~~ **(82)** "Tiger muskellunge" means the hybrid of muskellunge and northern pike.

~~(84)~~ **(83)** "Tilapia" means all species of the genus Tilapia.

~~(85)~~ **(84)** "Triploid" means a cell or organism having three (3) haploid sets of chromosomes.

~~(86)~~ **(85)** "Trout or salmon" means the following:

(A) Lake trout.

(B) Coho salmon.

(C) Chinook salmon.

(D) Sockeye salmon.

(E) Brown trout.

(F) Steelhead (or rainbow trout).

(G) Brook trout.

(H) Atlantic salmon.

~~(87)~~ **(86)** "Tubenose goby" means the species *Proterorhinus marmoratus*.

~~(88)~~ **(87)** "Walleye" means the species *Stizostedion vitreum*.

~~(89)~~ **(88)** "Warmouth" means the species *Lepomis gulosus*.

~~(90)~~ **(89)** "White bass" means the species *Morone chrysops*.

~~(91)~~ **(90)** "White catfish" means the species *Ictalurus catus*.

~~(92)~~ **(91)** "White perch" means the species *Morone americana*.

~~(93)~~ **(92)** "White crappie" means the species *Pomoxis annularis*.

~~(94)~~ **(93)** "Yellow bass" means the species *Morone mississippiensis*.

~~(95)~~ **(94)** "Yellow perch" means the species *Perca flavescens*.

~~(96)~~ **(95)** "Zebra mussel" means the species *Dreissena polymorpha*.

(Natural Resources Commission; 312 IAC 9-6-1; filed May 12, 1997, 10:00 a.m.: 20 IR 2713; filed May 28, 1998, 5:14 p.m.: 21 IR 3717; errata filed Aug 25, 1998, 3:02 p.m.: 22 IR 125; filed May 16, 2002, 12:25 p.m.: 25 IR 3047; filed Jul 23, 2003, 10:30 a.m.: 26 IR 3866; readopted filed Jul 28, 2003, 12:00 p.m.: 27 IR 286; filed Feb 27, 2007, 2:25 p.m.: 20070328-IR-312060262FRA; readopted filed Nov 24, 2008, 11:08 a.m.: 20081210-IR-312080672RFA)

SECTION 2. 312 IAC 9-6-2 IS AMENDED TO READ AS FOLLOWS:

312 IAC 9-6-2 Fish measurement

Authority: IC 14-10-2-4; IC 14-22-2-6

Affected: IC 14-22

Sec. 2. (a) Except as provided in ~~subsection~~ **subsections (b) and (c)**, the measurement of the length of a fish must be taken in a straight line from the tip of the snout with the mouth closed to the utmost end of the caudal (tail) fin when the fin is compressed so that the upper and lower lobes of the fin touch or overlap.

(b) The measurement of the fork length of shovelnose sturgeon must be taken in a straight line from the tip of the snout to the fork of the tail fin.

(c) The measurement of the eye to fork length of paddlefish must be taken in a straight line from the eye to the fork of the tail fin.

(Natural Resources Commission; 312 IAC 9-6-2; filed May 12, 1997, 10:00 a.m.: 20 IR 2715; readopted filed Jul 28, 2003, 12:00 p.m.: 27 IR 286; filed Feb 27, 2007, 2:25 p.m.: 20070328-IR-312060262FRA; readopted filed Nov 24, 2008, 11:08 a.m.: 20081210-IR-312080672RFA)

SECTION 3. 312 IAC 9-7-16 IS AMENDED TO READ AS FOLLOWS:

312 IAC 9-7-16 Sport fishing on the Ohio River

Authority: IC 14-10-2-4; IC 14-22-2-6

Affected: IC 14-22

Sec. 16. (a) This section governs fishing on the Ohio River, excluding all bays and tributaries.

(b) A person must not take sport fish except by any of the following:

(1) Fishing pole or hand line.

(2) Float fishing;

(3) Setlines:

(A) attached to a:

(i) tree limb;

(ii) tree trunk;

(iii) bank pole; or

(iv) the bank itself; and

(B) each bearing one (1) single or multibarbed hook.

(4) Not more than two (2) trotlines per ~~individual~~ **person**. Each trotline shall have not more than fifty (50) single or multibarbed baited hooks placed not closer together than eighteen (18) inches. All trotlines ~~shall~~ **must** be tended at least once every twenty-four (24) hours.

(c) ~~An individual~~ **A person** may take ~~rough~~ **an exempted species of fish as defined in 312 IAC 9-6-10** by the methods prescribed in subsection (b) or according to the following methods:

(1) Long bow, including compound bow, with an arrow having one (1) or more barbs and a line attached. ~~Rough~~ **An exempted species of fish** without scales shall not be taken with bow and arrow during nighttime hours (from one-half (1/2) hour after sunset until one-half (1/2) hour before sunrise).

(2) Gigging from February 1 through May 10 with any pronged or barbed instrument attached to the end of a rigid object. A person must not take fish by gigging from a boat or platform.

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~~(3) Snagging from February 1 through May 10 with one (1) single or treble hook attached by line to a pole and jerked or pulled through the water. A person must not take fish by snagging from a boat or platform.~~

(d) A person must not take fish within two hundred (200) yards below any dam on the Ohio River except by fishing pole or hand line.

(e) A person must not take minnows from the Ohio River except by:
 (1) a minnow trap not to exceed three (3) feet long and eighteen (18) inches in diameter nor having a throat opening greater than one (1) inch in diameter;
 (2) a dip net not to exceed three (3) feet in diameter;
 (3) a minnow seine not to exceed thirty (30) feet long and six (6) feet deep nor having mesh size larger than one-fourth (1/4) inch bar mesh;
 (4) a cast net not to exceed nine (9) feet in diameter nor having mesh size larger than three-eighths (3/8) inch bar mesh; or
 (5) lawful fishing methods provided in this section.

(f) The daily bag limits, possession limits, and size limits for taking fish by angling are as follows:

	Bag Possession		Size (Inches)
Bass (largemouth, smallmouth, and spotted)	6	12	12 (except no size limit on spotted bass)
Bass (white, yellow, striped, and hybrids)	30	60	No more than four 4 fish can be 15 or longer
Rock bass	15	30	none
Walleye, sauger, and saugeye	10	20	none
Muskellunge and tiger muskellunge	2	2	30
Crappie	30	60	none

(Natural Resources Commission; 312 IAC 9-7-16; filed May 12, 1997, 10:00 a.m.: 20 IR 2720; errata filed Nov 24, 1997, 4:30 p.m.: 21 IR 1347; readopted filed Jul 28, 2003, 12:00 p.m.: 27 IR 286; readopted filed Nov 24, 2008, 11:08 a.m.: 20081210-IR-312080672RFA)

SECTION 4. 312 IAC 9-7-19 IS AMENDED TO READ AS FOLLOWS:

312 IAC 9-7-19 Paddlefish

Authority: IC 14-10-2-4; IC 14-22-2-6
 Affected: IC 14-22

Sec. 19. ~~(a)~~ **Except as provided in 312 IAC 9-8-6 with a commercial fishing license,** a person ~~may~~ **must** not take or possess paddlefish from any public water. ~~except the Ohio River.~~

~~(b) The daily bag limit is two (2) paddlefish.~~

~~(c) The sorting or release of lawfully snagged paddlefish is prohibited.~~

~~(d) Snagging is prohibited for the remainder of the day after two (2) paddlefish are taken.~~

~~(e) Snagging is prohibited within two hundred (200) yards of a dam located on the Ohio River.~~

(Natural Resources Commission; 312 IAC 9-7-19; filed May 28, 1998, 5:14 p.m.: 21 IR 3723; readopted filed Jul 28, 2003, 12:00 p.m.: 27 IR 286; readopted filed Nov 24, 2008, 11:08 a.m.: 20081210-IR-312080672RFA)

SECTION 5. 312 IAC 9-8-6 IS AMENDED TO READ AS FOLLOWS:

312 IAC 9-8-6 Commercial fishing on the Ohio River

Authority: IC 14-10-2-4; IC 14-22-2-6; IC 14-22-13

Affected: IC 14-22-13-4

Sec. 6. (a) This section applies to **license holders engaged in** commercial fishing on the Ohio River **as authorized under IC 14-22-13.**

(b) **"License holder" means an individual licensed under IC 14-22-13 to use in, and to possess for use in, the water:**

(1) seines;

(2) nets; or

(3) other commercial fishing gear.

The term includes an individual commercially fishing while accompanied by the licensee as specified at IC 14-22-13-4.

~~(b) No person~~ **(c) A license holder shall not take or sell fish except in accordance with IC 14-22-13, this section, and 312 IAC 9-10. A person license holder may take fish with the aid of illumination of:**

(1) a spotlight;

(2) a searchlight; or

(3) an artificial light;

where lawfully engaged in commercial fishing.

~~(c)~~ **(d) A license holder under this section may take and sell all species of fish from the Ohio River except the following:**

- (1) Largemouth bass.
- (2) Smallmouth bass.
- (3) Spotted bass.
- (4) Rock bass.
- (5) White crappie.
- (6) Black crappie.
- (7) Walleye.
- (8) Sauger.
- (9) Saugeye.
- (10) Striped bass.
- (11) White bass.
- (12) Hybrid striped bass.
- (13) Yellow bass.
- (14) Muskellunge.
- (15) Northern pike.
- (16) Tiger muskellunge.
- (17) Chain pickerel.
- (18) Lake sturgeon.
- (19) Trout.
- (20) Salmon.
- ~~(21) Shovelnose sturgeon taken on June 1 through September 30.~~

(e) A license holder may take and sell shovelnose sturgeon taken from October 1 through May 31 must be that are at least twenty-five (25) inches in fork length only from October 1 through May 31.

(f) A license holder may take and sell paddlefish that are at least thirty-two (32) inches in eye to fork length only from November 1 through April 30. The cutting or mutilation of live paddlefish to check for eggs is prohibited except that a 10-gauge needle may be inserted into the abdomen between the pectoral and pelvic fins to determine the presence of eggs.

~~(d)~~ **(g)** A license holder under this section must tag each item of gear so that a conservation officer may determine if the:

- (1) gear is properly licensed; and
- (2) license holder is complying with the law.

~~(e)~~ **(h)** No person shall possess a seine, net, or commercial trotline except as authorized for **with a valid** commercial fishing license for the Ohio River. This subsection does not apply to a manufacturer, retailer, or wholesale dealer who possesses gear exclusively for sale.

~~(f)~~ **(i)** Commercial fishing nets authorized under this section cannot be used on a bay or inlet of the Ohio River. A line drawn from point to point of a bay or inlet denotes the limits of the fishing zone. Commercial gear cannot be used within fifty (50) yards of the

mouth of a stream. Commercial gear, except slat traps, cannot be used in the following locations:

- (1) John T. Myers Dam downstream to the outer lock wall and the portion of the split channel around the southern part of Wabash Island from the fixed weir dam to the first dike.
- (2) Newburgh Dam downstream to the end of the outer lock wall.
- (3) Cannelton Dam downstream to the end of the outer lock wall.
- (4) McAlpine Dam downstream to the K and I railroad bridge.
- (5) Markland Dam downstream to the end of the outer lock wall.

~~(g)~~ (j) Each item of fishing gear in use must be tended not less frequently than once every twenty-four (24) hours and all fish taken by the gear removed, except that baited hoop nets or slat traps may be left unattended for not more than seventy-two (72) hours. Each item of gear must be removed from the waters in which the item was fished immediately upon usage.

~~(h)~~ (k) Gear is authorized only as set forth as follows:

- (1) Lines and mesh must be made of:
 - (A) linen;
 - (B) cotton; or
 - (C) a flexible synthetic fiber.
- (2) The following restrictions apply to a hoop net, wing net, straight lead net, or heart lead net:
 - (A) Each net described in this subdivision must have a minimum bar mesh size of one (1) inch.
 - (B) Hoops may be any size, shape, or material.
 - (C) The maximum length of the lead or wing is sixty (60) feet.
 - (D) One (1) tag must be attached to the front hoop of each net.
- (3) The following restrictions apply to a gill or trammel net:
 - (A) The minimum bar mesh size **that can be fished from November 1 through April 30** is four (4) inches.
 - (B) **The only bar mesh size that can be fished from May 1 through October 31 is from four (4) inches to four and one-half (4 1/2) inches.**
 - ~~(B)~~ (C) The nets referenced in this subdivision may be fished weighted or as a flag net.
 - ~~(C)~~ (D) A tag must be attached to the net at intervals not less than one hundred (100) feet apart.
- (4) The following restrictions apply to a commercial trotline:
 - (A) Each line must have more than fifty (50) hooks placed not closer than eighteen (18) inches apart.
 - (B) One (1) tag must be attached.
 - (C) The trotline must be:
 - (i) not longer than three thousand (3,000) feet, including staging; and
 - (ii) fished separately rather than tied in a continuous line.
- (5) The following restrictions apply to a seine:
 - (A) A seine must have the following:
 - (i) A minimum bar mesh size of one (1) inch.

- (ii) Both float and lead lines.
- (iii) Wood, fiberglass, metal poles, or brails attached to each end.
- (B) A seine in the water must be attended by ~~persons~~ **individuals** pulling the seine through the water for the entrapment of fish.
- (C) A seine must have a tag attached at intervals not less than one hundred (100) feet apart.
- (6) The following restrictions apply to a slat trap basket:
 - (A) No wire or other mesh may be added to the trap.
 - (B) At least two (2) openings not less than one and one-fourth (1 1/4) inches wide must be located between the slats. These openings shall not be restricted by cross-bracings shorter than eight (8) inches long.
 - (C) The trap shall be not larger than two (2) feet in diameter or square end measure.
 - (D) A tag must be attached to the open ring or square.

⊕ (I) A license holder must do the following:

- (1) Keep accurate daily catch records on a departmental form of the following:
 - (A) The pounds and species of fish caught by gear type.
 - (B) The number of paddlefish and shovelnose sturgeon caught by gear type.
 - (C) The pounds of paddlefish, shovelnose sturgeon, sucker, and eggs sold.
 - (D) The location fished by pool, river mile, and county.
- (2) Submit to the department the completed form required under subdivision (1) by the fifteenth day of each month for the preceding month whether the license holder fished or not.
- (3) Allow on-board and dockside inspection of the gear and catch at any time by the director or the director's representative.

(Natural Resources Commission; 312 IAC 9-8-6; filed May 12, 1997, 10:00 a.m.: 20 IR 2725; filed May 28, 1998, 5:14 p.m.: 21 IR 3727; readopted filed Jul 28, 2003, 12:00 p.m.: 27 IR 286; filed Feb 27, 2007, 2:25 p.m.: 20070328-IR-312060262FRA; readopted filed Nov 24, 2008, 11:08 a.m.: 20081210-IR-312080672RFA)