

Regulatory Analysis
LSA Document #25-281

I. Description of Rule

- a. History and Background of the Rule** – Invasive carp, including bighead, silver, and grass carp species is invasive. Invasive carp has become an issue throughout the Midwest. Invasive carp impacts not only native riverine ecosystems but boating and fishing recreational activities on rivers. Department of natural resources (department) fisheries biologists regularly talk with anglers and are frequently asked what steps the department is taking to reduce the invasive carp population. For at least eight (8) years, the department actively participated in the Ohio River Invasive Carp Partnership (partnership), which annually prioritizes invasive carp research and management projects among state partners. The partnership is comprised of the department, the Illinois Department of Natural Resource, the Kentucky Department of Fish and Wildlife Resources, the Ohio Department of Natural Resources, the Pennsylvania Fish and Boat Commission, the West Virginia Department of Natural Resources, the U.S. Fish and Wildlife Service, the U.S. Army Corp of Engineers, the U.S. Geological Survey, and several universities assisting with state prioritized research. During this time, the partnership obtained millions of dollars in federal funding to address the invasive carp overpopulation issue on a broad scale. The department specifically received more than three million one hundred thousand dollars (\$3,100,000) to assist with the collaborative effort. Most of the funding received does not have a state dollar match.

Work conducted by the partnership yielded useful information regarding: (1) invasive carp relative densities; (2) growth rates and conditions for evaluating population level changes; (3) the extent of spawning and recruitment on the Ohio River basin; (4) the specific recruitment locations; (5) adult silver carp movement rates and patterns; and (6) the feasibility of contractual or commercial harvest facilitation programs. At a July 2023 meeting of the partnership, the need to substantially increase invasive carp harvest in the Ohio River basin was identified. A large portion of state waters are a known source of the invasive carp population in the Ohio River basin. Very little harvesting occurs in the Ohio River basin due to the legality of effective fishing gears to catch invasive carp, and the lack of locations to sell invasive carp locally.

During the last several years, department fisheries biologists were approached by numerous potential investors and business owners that want to capitalize on the largely untapped invasive carp population in state waters. However, businesses cannot afford to invest in an area where little to no harvesting of invasive carp occurs, because businesses need a steady supply of product to justify the startup cost. Therefore, the department believes that the first step toward increasing harvest is to allow the use of certain fishing gear proven effective for catching large numbers of invasive carp.

- b. Scope of the Rule** – The proposed rule creates a new permit to allow specific fishing gears to be used to harvest invasive carp that are not currently allowed for use by sport anglers and not allowed in water where commercial fishing is currently allowed. The rule

would include the necessary oversight provisions to ensure native fish are not impacted by the new fishing methods permitted under the rule. This permit also adds a new opportunity for commercial fishing permit holders to catch additional invasive carp and sell it with no cost for the permit. Without the permit, these anglers may not fish in state waters with the permitted types of fishing gear. Anglers have a new opportunity to sell invasive carp that they harvest under the permit for a profit, and to help reduce the invasive carp population, which helps Hoosier anglers. The proposed rule allows an individual to fish with an invasive carp harvest permit in restricted water if the individual provides certain information to the department. Additionally, the proposed rule describes when an individual who is not issued an invasive carp harvest permit may assist an individual who is issued an invasive carp harvest permit, and the requirements of assisting the individual. Finally, the proposed rule clarifies requirements regarding live invasive carp and provides requirements for transporting invasive carp.

- c. **Statement of Need** – Invasive carp have become an issue in state rivers. Invasive carp impacts recreational activities and ecosystem functions by jumping onto boats, creating a danger to people, and outcompeting native fish in certain areas by eating their food. Current rules prohibit the use of a gill net and seines in most state waters, except seines less than one hundred (100) yards long that may be commercially used in the boundary waters of the Wabash River and a gill net with specific mesh sizes that may be commercially used in the Ohio River. Gill nets and large seines have proved to be effective for harvesting large numbers of invasive carp, and ongoing programs in other states have demonstrated that the gear can be used responsibly to ensure minimal impact to native fish species while harvesting larger numbers of invasive carp. Large numbers of invasive carp frequently concentrate in areas currently closed to commercial fishing; therefore, to start having an impact on the invasive carp population, and the entire Ohio River basin, anglers need to be able to use effective harvest methods in locations where large numbers of invasive carp reside. There is no new statutory requirement, court order, or audit finding necessitating this new permit option.
- d. **Statutory Authority for the Proposed Rule** – The department has the statutory authority to establish the methods for taking a wild animal in IC 14-22-2-6. The department 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. (C) The welfare of the people.” Under IC 14-22-2-6. “Wild animal” (as defined by IC 14-8-2-318) includes fish. The natural resources commission (commission) has the statutory authority to adopt rules pursuant to IC 14-10-2-4.
- e. **Fees, Fines, and Civil Penalties** – The permit is free; therefore, there will be no new fees. The only fines associated with the permit will be those already set forth for a violation of fish and wildlife laws under IC 14-22-38.

II. Fiscal Impact Analysis

- a. **Anticipated Effective Date of the Rule** – Preliminary adoption with the commission would be at the May commission meeting. If preliminary adoption is in May, the first comment period and public hearing would run until the beginning of July, and the second comment period and public hearing would run until the end of August, then final

adoption of the proposed permanent rule would be at the September commission meeting. After review by the Attorney General and the Governor, the rule would likely be submitted to the Indiana Register in late November or early December. The proposed rule would be effective December 2025 or January 2026.

- b. Estimated Fiscal Impact on State and Local Government** – The department expects no impact to expenditures or revenue for state or local government. There will be some administrative costs for department staff associated with the permit, including reviewing applications, reviewing fishing requests, and summarizing fishing reports. There will be at least one (1) intermittent employee staffed to conduct frequent ride-alongs with permit holders participating in invasive carp fishing. However, these administrative and staffing costs will be funded by federal funds that do not require a state match that are designated for invasive carp control efforts occurring in the Ohio River basin.
- c. Sources of Expenditures or Revenues Affected by the Rule** – There will be no need for changes in the distribution of revenue resulting from the rule change. All costs to implement the permit are funded using federal funds that do not require a state match, which the department received from the United States Fish and Wildlife Service (USFWS) to research and manage invasive carp in the Ohio River basin.

III. Impacted Parties

- a.** The department estimates at least ten (10) and not more than thirty (30) individuals will be interested in an invasive carp harvest permit initially. This is a best estimate based on conversations with existing commercial fishing permit holders over the last several years and perceived interest. Once effective methods for invasive carp harvest are permitted, small business opportunities should grow, and processing facilities may become established. The creation of this permit would allow small business opportunities to expand by capitalizing on the underutilized invasive carp population. As processing facilities become established, additional anglers may become interested in harvesting invasive carp because there are local places to sell the invasive Carp. Fishing activities will reduce invasive carp populations, which will impact recreational users of rivers and streams by decreasing injury and damage to personal property that occurs when invasive carp jump into boats. The proposed rule also affects individuals who are not issued invasive carp harvest permits, but assist individuals issued invasive carp harvest permits.

IV. Changes in Proposed Rule

There are no proposed changes to existing rules. The proposed rule creates a new permit. The new permit would allow the harvest and sale of invasive carp species using gill nets and seines. Permit holders would not be allowed to harvest native fish species. Minimizing impact to our native fish species is a priority for the department; therefore, there are several components of the proposed rule language intended to minimize bycatch, or native species, mortality. These components include: (1) requesting and receiving permission from the department prior to starting fishing activities; (2) fishing at approved locations during approved times; (3) actively tending all fishing gear at all times; (4) prohibiting leaving nets out overnight; (5) requiring all bycatch, anything other than invasive carp, to be immediately released; and (6) reporting fishing effort, catch, and released bycatch daily. In addition, the department staff will conduct ride-alongs to monitor fishing efforts and ensure data quality. Additionally, the proposed rule includes provisions for those assisting an individual who is

issued an invasive carp harvest permit. Finally, the proposed rule describes the requirements for transporting and selling invasive carp. The department reserves the right to deny a fishing request if a higher than normal bycatch is occurring or expected, and may suspend or revoke a permit if the rule is not followed.

V. Benefit Analysis

- a. Estimate of Primary and Direct Benefits of the Rule** – The rule would directly benefit riverine ecosystems by reducing the biomass of invasive carp in the river. Invasive carp competes with native fish for plankton, so reducing the invasive carp population will alleviate competition for food resources. Additionally, anglers who want to take advantage of the underutilized invasive carp resource in state rivers will benefit financially by being able to use effective fishing gears to remove and sell large numbers of invasive carp.
- b. Estimate of Secondary or Indirect Benefits of the Rule** – As the harvest of invasive carp increases in the state under the permit, the department expects to see processors move into the area to begin growing local markets for invasive carp. A variety of products are made from invasive carp in other states, including human food products, fish oil, fish meal for pet foods, recreational fishing bait, and fertilizer. The only way to interest processors to come to the state is to show a steady supply of fish. The only way to see a steady supply of fish is to allow use of effective fishing gears where high numbers of invasive carp concentrate, which the permit authorizes.
- c. Estimate of Any Cost Savings to Regulated Industries** – This rule proposal would allow cost savings to only a small handful of individuals and businesses that currently utilize invasive carp in the state by allowing them to use effective methods to harvest more invasive carp in a shorter period. However, the proposed rule would open the door for more individuals and businesses to grow because more invasive carp can be harvested in the state. There is no cost for the permit, and if an angler possesses the gear, the angler will have to perform administrative work to obtain the permit and submit the required reports. The ability to sell more invasive carp is expected to increase revenue, overriding the cost of administrative work.

VI. Cost Analysis

- a. Estimate of Compliance Costs for Regulated Entities** – Permit holders will be able to use gear they normally use only in other waters where commercial fishing gear is permitted under a commercial fishing license. A permit holder should not have to purchase equipment to fish in these waters under the permit. However, there will be some administrative costs to complete the application and required reports to comply with the rule.
- b. Estimate of Administrative Expenses Imposed by the Rules** – Permit holders will need to complete an application form and submit monthly reports. At twenty-five dollars (\$25) per hour, this would likely amount to approximately one (1) hour each month for the report, plus one (1) hour to complete the application, resulting in an estimated cost of three hundred twenty-five dollars (\$325) per year.

- c. **The fees, fines, and civil penalties analysis required by IC 4-22-2-19.6** – There are no new fees, fines, or civil penalties resulting from this rule. The only fines will be those set forth for violations of Fish and Wildlife laws in IC 14-22-38.

VII. Sources of Information

- a. **Independent Verifications or Studies** – The use of this program by the Kentucky Department of Fish and Wildlife Resources has shown that the use of additional commercial fishing gear in waters normally off-limits to commercial fishing, but where invasive carp congregate, can significantly affect the invasive carp population in these areas. Additionally, allowing these opportunities in other states has shown that new or existing businesses can have new sales opportunities. Illinois and Kentucky have businesses that process and sell invasive carp. If enough invasive carp is removed from the waters of Indiana, there is potential for business opportunities to process and sell invasive carp in Indiana. Currently, there are no processors in Indiana due to the uncertainty regarding the number of invasive carp and the longevity of the operation.

The number of anglers expected to obtain this permit is estimated from personal conversations of department staff with current commercial fishing license holders and the permit program in other states.

VIII. Regulatory Analysis

While there are no additional costs to obtain the permit. Permit holders would have the ability to use fishing gear already in possession to capture and sell invasive carp. Administrative costs for a permit holder should amount to less than three hundred fifty dollars (\$350) per year, and permit holders should be able to sell invasive carp at an estimated at least ten cents (\$0.10) and not more than fifteen cents (\$0.15) per pound. Small business opportunities should grow, and processing facilities may become established due to the availability of invasive carp for mass processing. There are invasive carp processors in Illinois and Kentucky that make revenue processing and selling invasive carp. According to the invasive carp biologist for the department, there are likely at least fifteen (15) years of business opportunities in removing invasive carp from waters of Indiana. To make the investment worthwhile for small businesses, the proposed permanent rule changes are needed. The creation of the permit allows small business opportunities to expand by capitalizing on the underutilized invasive carp populations. As processing facilities become established, additional anglers may become interested in fishing for invasive carp if they have a local place to sell them, which will increase profits across the industry. Fishing activities will reduce the invasive carp population, which will impact recreational users of rivers and streams by decreasing injury and damage to personal property that occurs when invasive carp jump into boats.

Additional Information for OMB and SBA Review

The following information is required for OMB and State Budget Agency (SBA) review but will not be published along with the regulatory analysis.

IX. Contact Information of Staff to Answer Substantive Questions

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[Text to be added by the Register]

First Notice of Public Comment Period [link to document with proposed rule]

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Notice of Determination Received: [date]