

Notice of First Public Comment Period
LSA Document #25-281

INVASIVE CARP HARVEST PERMIT

PURPOSE OF NOTICE

The Natural Resources Commission (commission) is soliciting public comment on rules added at 312 IAC 9-10-27 to establish the invasive carp harvest permit to allow an individual to harvest invasive carp on waters of the state using gear that is not currently allowed in waters of the state for commercial fishing. The commission seeks comment on the affected citations listed and any other provisions of Title 312 that may be affected by this rulemaking. Effective 30 days after filing with the Publisher.

HISTORY:

ADDITIONAL DOCUMENTS

Regulatory Analysis: No changes were made to the Regulatory Analysis published with the Notice of First Public Comment Period. [Replace sentence with DIN if submitted with Notice of Second Public Comment Period]
Notice of Public Hearing: [DIN]

CITATIONS AFFECTED: IC 14-10-2-1; IC 14-10-2-4; IC 14-22-2-4; IC 14-22-2-6

AUTHORITY: IC 14-22

OVERVIEW

Basic Purpose and Background

Asian carp, as well as other carp species are 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 department received more than three million one hundred thousand dollars (\$3,100,000) to assist with the collaborative effort to manage the invasive carp issue. The rulemaking affects any individual who wishes to use certain commercial fishing gear and methods to catch and sell invasive carp.

For purposes of IC 4-22-2-28.1, small businesses affected by this rulemaking may contact the Small Business Regulatory Coordinator:

Linnea Petercheff
Licensing and Permits Supervisor
Division of Fish and Wildlife
Department of Natural Resources
Indiana Government Center South
402 West Washington Street, Room W273
Indianapolis, IN 46204
(317)233-6527
lpetercheff@dnr.IN.gov

For purposes of IC 4-22-2-28.1, the Small Business Ombudsman designated by IC 5-28-17-6 is:

Matthew Jaworowski
Small Business Ombudsman
Indiana Economic Development Corporation

One North Capitol, Suite 700
Indianapolis, IN 46204
(317) 650-0126
majaworowski@iedc.in.gov

Resources available to regulated entities through the small business ombudsman include the ombudsman's duties stated in IC 5-28-17-6, specifically IC 5-28-17-6(9), investigating and attempting to resolve any matter regarding compliance by a small business with a law, rule, or policy administered by a state agency, either as a party to a proceeding or as a mediator.

REQUEST FOR PUBLIC COMMENT

The commission is soliciting public comment on the proposed rule. Comments may be submitted in one of the following ways:

- (1) By the commission's rulemaking docket at <https://www.in.gov/nrc/rules/rulemaking-docket/>.
- (2) By mail or common carrier to the following address:
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Whitney M. Wampler
Department of Natural Resources, Legal Division
C/O Natural Resources Commission
Indiana Government Center South
402 West Washington Street, Room W261
Indianapolis IN 46204
- (3) By email to WWampler@dnr.IN.gov. **PLEASE NOTE: Email comments will not be considered part of the official written comment period unless they are sent to the address indicated in this notice.**
- (4) Attend scheduled public hearing.

COMMENT PERIOD DEADLINE

All comments must be postmarked or time stamped not later than [date to be entered by publisher after agency confirmation].

The rule, Regulatory Analysis, appendices referenced in the Regulatory Analysis, and materials incorporated by reference, if applicable, are on file at the and are available for public inspection at the Department of Natural Resources, Legal Division, Indiana Government Center South, 402 West Washington Street, Room W261, Indianapolis IN 46204. Copies of the rule, Regulatory Analysis, and appendices referenced in the Regulatory Analysis are available at the Department of Natural Resources' office on behalf of the Natural Resources Commission (commission).

If the commission does not receive substantive comments during the public comment period or public hearing, the rule may be adopted with text that is the same as or does not substantially differ from the text of the proposed rule published in this notice.

PROPOSED PERMANENT RULE

SECTION 1. 312 IAC 9-10-28 IS ADDED TO READ AS FOLLOWS:

312 IAC 9-10-28 Invasive carp harvest permit

Authority: IC 14-10-2-1; IC 14-10-2-4; IC 14-22-2-4; IC 14-22-2-6

Affected: IC 14-22

Sec. 28 (a) The following definitions apply throughout this section:

- (1) "Bycatch" means a fish or aquatic life that is not an invasive carp.
- (2) "Invasive carp" means silver carp, bighead carp, black carp, and grass carp.
- (3) "Restricted water" means a water of the state where:
 - (A) commercial fishing is not authorized under the Indiana Code or this article;

- (B) commercial fishing with gill nets or seines is prohibited under the Indiana Code or this article; or**
- (C) fishing with gill nets of a restricted mesh size is prohibited under the Indiana Code or this article.**

(b) The department may issue to an individual an invasive carp harvest permit under this section that allows the individual to harvest and sell invasive carp using gill nets and seines not otherwise authorized for fishing in a water of the state.

(c) An invasive carp harvest permit issued under this section is subject to:

- (1) the conditions set forth in the application for an invasive carp harvest permit; and**
- (2) the terms, conditions, and restrictions under an invasive carp harvest permit.**

(d) The director of the division of fish and wildlife may place the following conditions on the invasive carp harvest permit:

- (1) The location where harvesting is permitted.**
- (2) The date and time when certain gear may be used.**
- (3) The permitted gear to harvest invasive carp.**

An individual may fish with an invasive carp harvest permit in restricted water if the individual provides the information required under subsection (f).

(e) The director of the division of fish and wildlife may issue an invasive carp harvest permit under this section to an individual who meets the following requirements:

(1) The individual completes an application in a form and manner prescribed by the department that includes the following information:

- (A) The boat motor horsepower and hull width and length.**
- (B) The type, size, and quantity of gear.**
- (C) The years of prior experience using the gear under clause (B).**
- (D) The location and water of the state where the individual intends to harvest invasive carp.**
- (E) The intended disposition of harvested fish.**

(2) The individual does not have a suspended or revoked:

- (A) sport fishing license;**
- (B) commercial fishing license;**
- (C) roe dealer's license; or**
- (D) roe harvester's license;**

by a criminal process or an administrative process, in the state or any other jurisdiction.

(f) An individual who is issued an invasive carp harvest permit shall do the following:

(1) Notify the department at least forty-eight (48) hours before the requested harvest date and provide the following information:

- (A) The name of the individual who is issued the invasive carp harvest permit.**
- (B) The requested harvest date.**
- (C) The name and location of the boat ramp to be used on the harvest date.**
- (D) The river where invasive carp is to be harvested.**
- (E) The specific location within the river where invasive carp is to be harvested; including the river mile, the nearest town, and the embayment name.**
- (F) The gear to be used.**

(2) Harvest invasive carp only on the date and in the location approved by the department.

(3) Notify the department and receive approval prior to changing the requested harvesting date or location.

(4) Harvest and possess only invasive carp species.

(5) Release all bycatch immediately upon capture.

- (6) Use gear in a manner that does not prevent navigation of another watercraft.**
- (7) Attend to deployed gear at all times.**
- (8) Visibly mark each net set with floating buoys and signs provided by the department.**
- (9) Remove all gear from a water of the state at end of the calendar day.**
- (10) Possess only gear authorized under this rule while aboard a watercraft:**
 - (A) from which a gill net or seine is actively set, retrieved, or transported;**
 - (B) to set or retrieve a gill net or seine; or**
 - (C) to transport harvested invasive carp;****under this section.**
- (11) Report true and accurate harvest to the department not later than seven (7) days after the date harvested. A report must be submitted prior to requesting a new date and location to harvest invasive carp. A report must include the following:**
 - (A) The name of the individual who is issued the invasive carp harvest permit.**
 - (B) The date harvesting occurred.**
 - (C) The name or location of the boat ramp used.**
 - (D) The name of the river where harvesting occurred.**
 - (E) The specific location within the water of the state where harvesting occurred.**
 - (F) The gear used, including the mesh size and total feet deployed.**
 - (G) The number and pounds of invasive carp harvested by species.**
 - (H) The number of bycatch released by species.**
- (12) Allow a conservation officer or other authorized agent of the department to perform:**
 - (A) an on board inspection;**
 - (B) a dockside inspection; or**
 - (C) both;****of gear and harvest at any time.**
- (13) Sell or otherwise legally discard of invasive carp.**

(g) An individual who is issued an invasive carp harvest permit may use an individual who is not issued an invasive carp harvest permit to assist while actively harvesting. An individual assisting under this subsection may operate a boat or fishing gear independently from the individual issued an invasive carp harvest permit if at least two (2) boats are used to deploy, attend, or retrieve, a single net. The individual assisting under this subsection must not have had a suspended or revoked:

- (1) sport fishing license;**
- (2) commercial fishing license;**
- (3) roe dealer license; or**
- (4) roe harvester license;**

by a court or administrative process, in the state or any other jurisdiction.

(h) The department shall do the following:

- (1) Maintain a list of the name and contact information of an individual who is issued an invasive carp harvest permit.**
- (2) Unless the harvesting request is denied under subsection (i), review and approve a qualified harvesting request by assigning a date, location, and boat ramp to the individual who is issued an invasive carp harvest permit.**

(i) The department shall deny a harvesting request for the following reasons:

- (1) The department determines that a higher than normal bycatch is likely to occur on the requested date and at the requested location.**
- (2) The department finds that excessive user conflicts will occur.**
- (3) The individual who is issued the invasive carp harvest permit consistently fails to submit the report required by this section.**

(j) An individual who is issued an invasive carp harvest permit may sell invasive carp harvested under an invasive carp harvest permit. The individual may not transport live invasive carp, or transport invasive carp in a manner intended to keep the invasive carp alive, under a permit.

(k) An individual who is issued an invasive carp harvest permit may transport invasive carp if the invasive carp are:

- (1) not live by a means under 312 IAC 9-6-7;**
- (2) packed on ice only while directly transported to a fish market or processor; or**
- (3) packed dry while directly transported to a fish market or processor.**

(l) An invasive carp harvest permit may be suspended, denied, or revoked under IC 4-21.5 if the individual who is issued the invasive carp harvest permit:

- (1) fails to comply with requirements under this section;**
- (2) provides false information on:**
 - (A) an application for an invasive carp harvest permit; or**
 - (B) a report required under this section; or**
- (3) has a suspended or revoked:**
 - (A) sport fishing license;**
 - (B) commercial fishing license;**
 - (C) roe dealer license; or**
 - (D) roe harvester license.**

(m) An invasive carp harvest permit issued under this section expires on December 31 of the year the invasive carp harvest permit is issued. (Natural Resources Commission; 312 IAC 9-10-28)

[text added by publisher to end of document]

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Notice of First Public Comment Period: [DIN]

Public Hearing Held: [date]

Notice of Second Public Comment Period: [DIN] [if applicable]

Public Hearing Held: [date] [if applicable]

Approved by Attorney General: [date]

Approved by Governor: [date]

Filed with Publisher: [date]

Documents Incorporated by Reference: [references received by publisher]

Small Business Regulatory Coordinator: [contact information]