

# Asian Carps Enforcement Activities: Approaches across Great Lakes Jurisdictions

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# Overview

- Background
- Who are we, what do we do
- Regulatory overview
- Some accomplishments – influence model
- Promoting compliance – selected examples
- Other work



# The Great Lakes Fishery



## BY THE NUMBERS

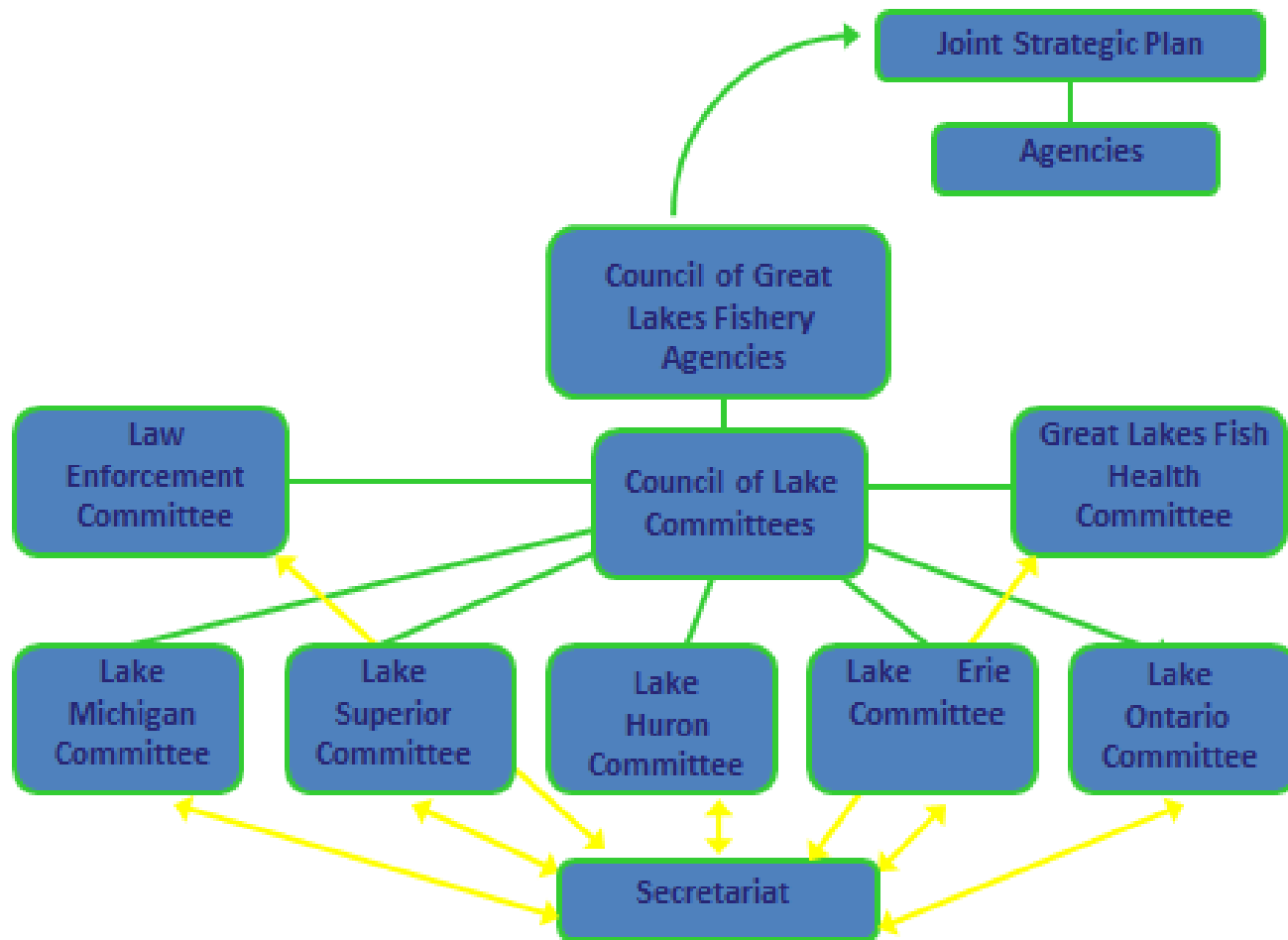
- **7,227,424,732**  
Minimum economic impact in dollars of the Great Lakes fishery
- **177**  
Fish species currently in the Great Lakes and their tributaries
- **139**  
Native fish species
- **34**  
Known non-native fish species
- **4**  
Fish species of undetermined origin
- **61**  
Fish species considered to be threatened or endangered
- **18**  
Fish species extinct or extirpated from at least one Great Lake





# Great Lakes Law Enforcement Committee (LAW)

- Reporting Structure
- Membership







Minnesota



Lake Superior

Treaty of 1842



GLIFWC (headquarters)

Michigan



Treaty of 1836

CORA (headquarters)

Ontario

Québec



Wisconsin



Lake Michigan

Michigan



Lake Huron

Ontario



Lake Ontario

New York



Lake Erie

Illinois



Indiana



Ohio



Pennsylvania





# LAW Mission Statement

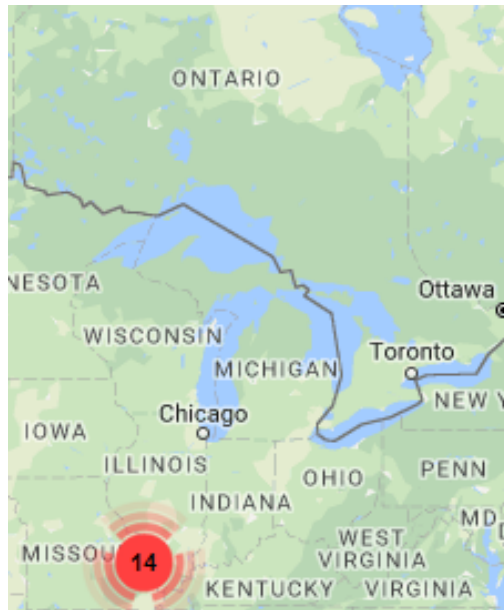
*“To protect, enhance and promote the safe and wise use of the natural resource in the Great Lakes for present and future generations.”*

- Forum for information sharing
- Agency support
- Recommendations to the Council of Lake Committees (CLC)
  - Provide enforcement information for fishery management decisions:
    - ✓ Cooperative procedures
    - ✓ Practical (and enforceable) policies
    - ✓ Consistent regulations

**Consistent Regulations ≠ Uniform Regulations**



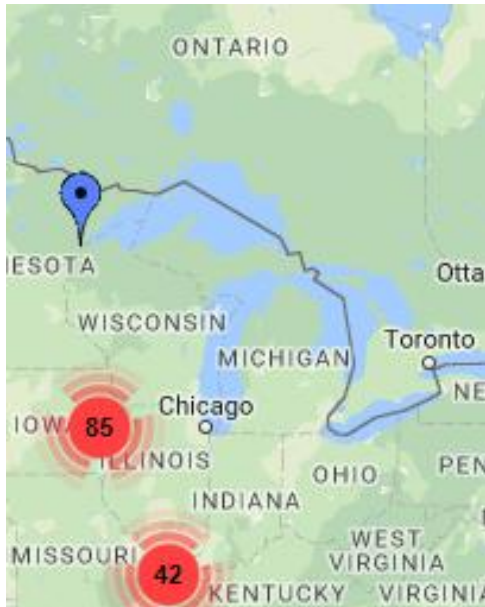
Black carp



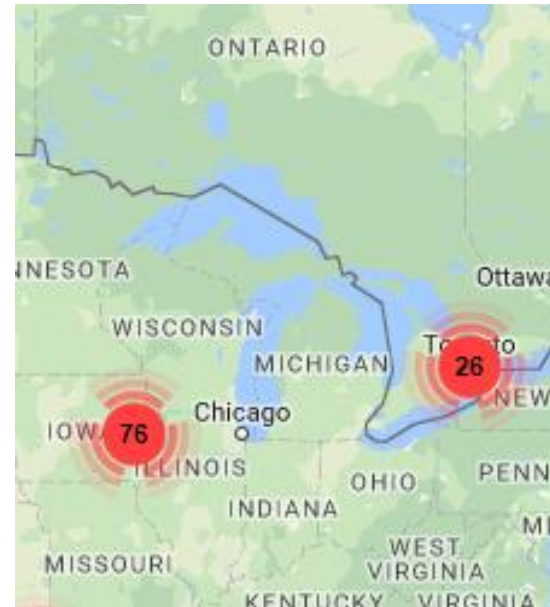
Silver carp



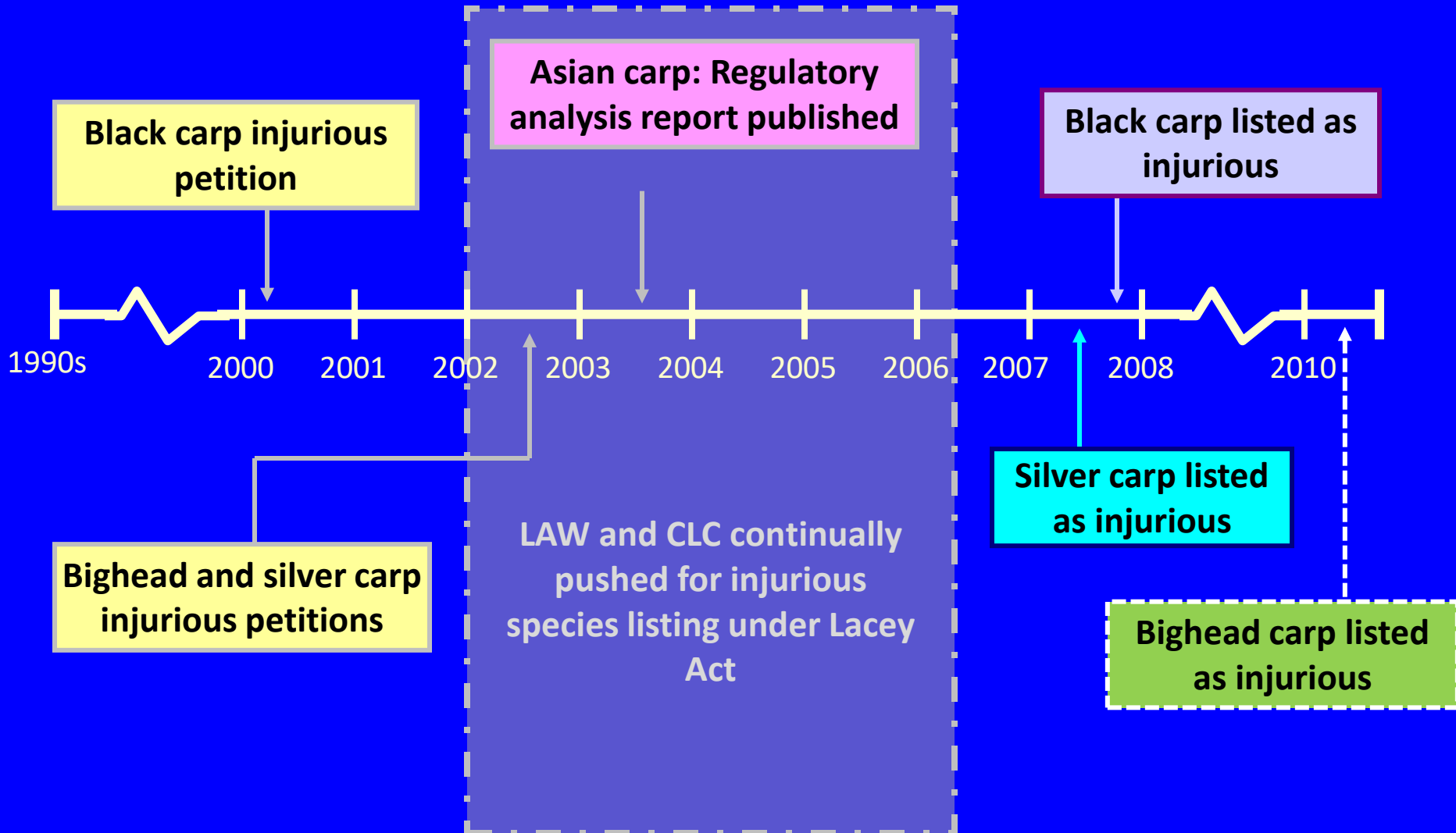
Bighead carp



Grass carp



# Chronology of Asian Carp Regulations





# Lacey Act:

## Injurious Wildlife Provision, Title 18

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“The importation into the U.S., any territory of the U.S., the District of Columbia, the Commonwealth of Puerto Rico, or any possession of the U.S., or any shipment between the continental U.S., the District of Columbia, Hawaii, the Commonwealth of Puerto Rico, or any possession of the U.S., of the [list of injurious species] and the offspring or eggs of any of the foregoing which the Secretary of the Interior may prescribe by regulation to be injurious to human beings, to the interests of agriculture, horticulture, forestry, or to wildlife or the wildlife resources of the U.S., is prohibited.” -- 18 U.S.C. 42 (a)(1)

- Strict liability violation = no mens rea requirement
- Penalties for individuals and organizations

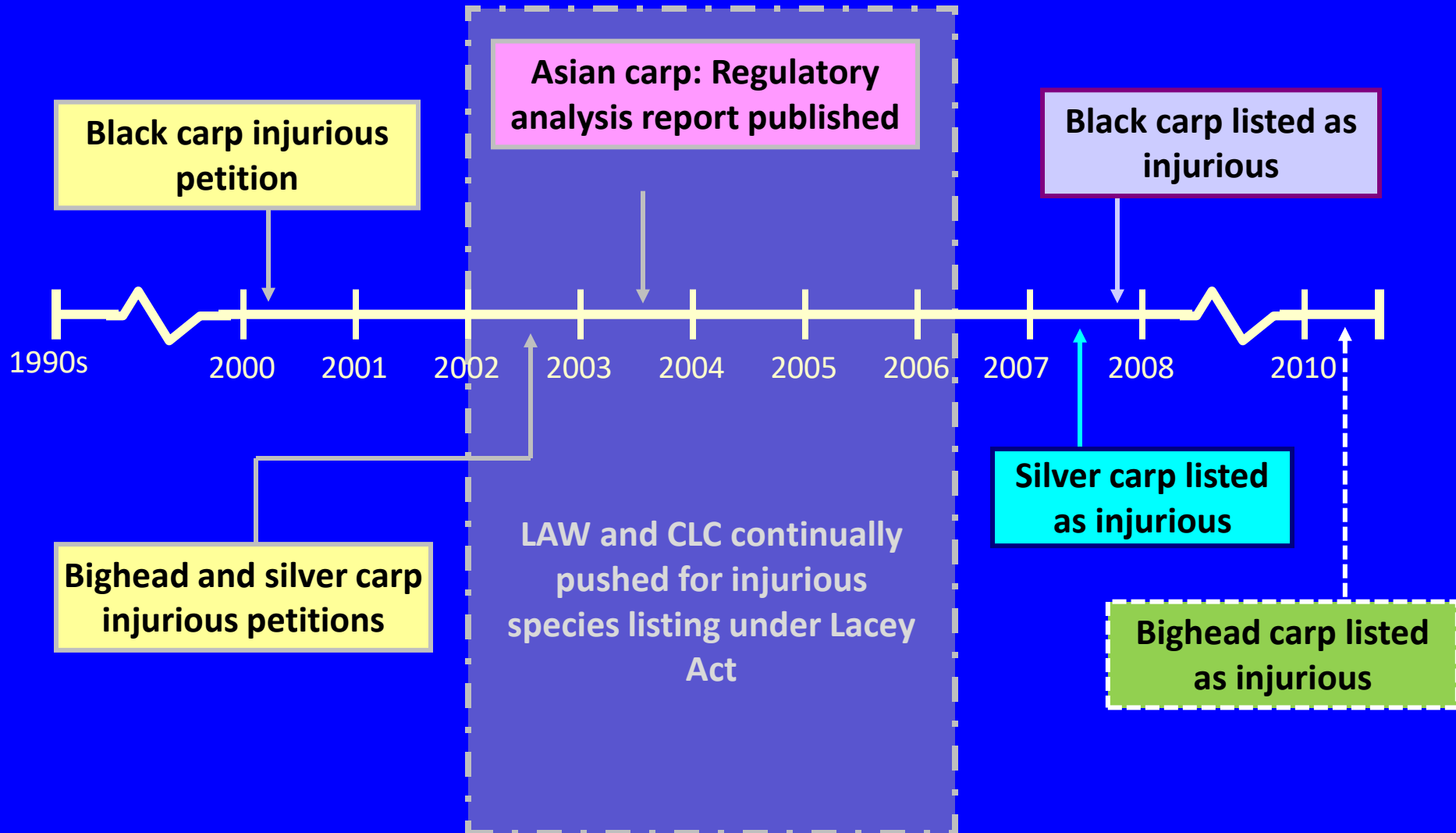
# Evolution of the Lacey Act:

## USARK (U.S. Association of Reptile Keepers) v. Zinke

- April 2017: D.C. Circuit Court of Appeal upheld May 2015 injunction; ruled 18 U.S.C. 42(a)(1) does not prohibit interstate transport:

“ARK’s interpretation of the shipment clause is mandated by the grammatical structure of the statute. When the word ‘between’ introduces multiple items, it ‘expresses one-to-one relations. While between, when used to introduce multiple times, therefore speaks to relationships between—i.e. across—the listed items, it ordinarily expresses nothing about relationships within any one of the listed items.”

# Chronology of Asian Carp Regulations

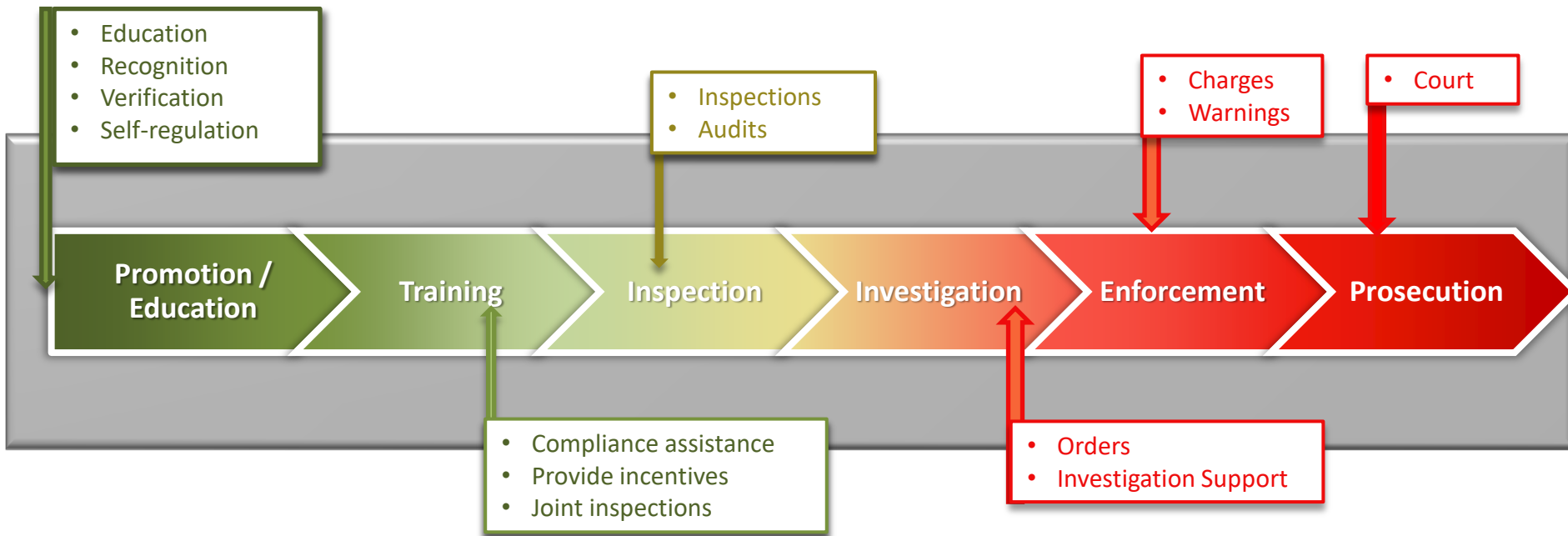


# Asian Carp Regulations in the Great Lakes Basin

	SILVER	BLACK	BIGHEAD	GRASS	
				DIPLOID	TRIPLOID
ILLINOIS	All activities banned	All activities banned	All activities banned	All activities banned	May be stocked in private ponds with Restricted Species Transportation Permit from DNR
INDIANA	All activities banned	All activities banned	All activities banned	May be possessed by aquaculture facilities to culture triploid forms	May be cultured, sold, and stocked in public/private waters with permit and reporting requirements
MICHIGAN	All activities banned	All activities banned	All activities banned	All activities banned	All activities banned
MINNESOTA	All activities banned	All activities banned	All activities banned	All activities banned	All activities banned
OHIO	All activities banned	All activities banned	All activities banned	All activities banned	May be cultured, sold, and stocked in public/private waters with certification requirements
PENNSYLVANIA	All activities banned	All activities banned	All activities banned	Live sale, culture and possession banned	Certified triploid can be cultured in waters (permit req'd) no lgr than 5 acres with no in- or outlet
NEW YORK	All activities banned	All activities banned	All activities banned	All activities banned	Certified triploid can be cultured in waters (permit req'd) no lgr than 5 acres with no in- or outlet
WISCONSIN	All activities banned	All activities banned	All activities banned	All activities banned	All activities banned
ONTARIO	Live sale, culture and possession banned	Live sale, culture and possession banned	Live sale, culture and possession banned	Live sale, culture and possession banned	Live sale, culture and possession banned



# Working Together to Achieve Compliance





# Ohio: Preventing Movement of Aquatic Invasive Species in the Bait Trade

- The Ohio Department of Natural Resources, Division of Wildlife
  - Pathway - Asian carp may enter inland waters/Great Lakes through transfer of live fish via bait trade
- **Surveillance** of live bait for AIS/specifically Asian carp, inspection of bait outlets in Ohio (to help prevent transfer of AIS to anglers buying bait, potential transfer to new waterbodies by dumping unused bait)
- **Education:** Providing bait outlets with educational material, including guide for identifying AIS that could potentially be in the bait trade
- **Outreach:** Implementation of public outreach material targeting anglers to not dump unused bait into public waterbodies



# Quick ID Features for Baitfish

DEALER EDITION

PUB 5487-D



Silver Carp



Young Bighead Carp

Gizzard Shad

Young Silver Carp



Young Bighead Carp



Bighead Carp

20

17

# Quick ID Features for Baitfish

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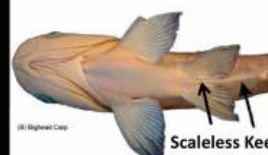
## Silver Carp, Bighead Carp and Golden Shiner

Silver  
Carp  
(Invasive)



Scaleless Keel

Bighead  
Carp  
(Invasive)



Scaleless Keel



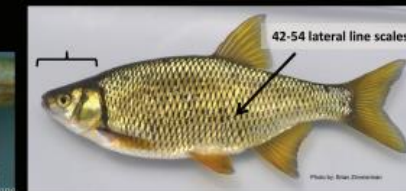
91-124 lateral line scales

85-100 lateral line scales

Golden  
Shiner  
(Native)  
Smaller head,  
larger scales for  
size of fish.



Scaleless Keel



42-54 lateral line scales

# Ohio: What Did They Find



- 2014, inspected 44 bait dealers, (8% of total)
  - 16 violations and 1 mosquitofish
- extensive training id'g bait fish/invasive species; purchased equipment; educational materials for bait dealers distributed
- 2015, 463 inspections, (83% of bait dealers)
  - 78 violations, 5 summonses and 73 warnings; some bait from as far away as Arkansas, Minnesota, Texas, and Wisconsin
- aquatic invaders not prevalent in Ohio's bait industry; (4 invasive fish - 507 inspections, 2 years)
- feel bait industry is now better educated about aquatic invasive species and rules necessary to stop them



# Ontario's Enforcement Approach



- pathways: border crossings, food fish markets
- Enforcement Branch supporting MNRF's regulatory framework: considerable effort towards outreach, investigations and enforcement



2010-11: 1669 hrs  
2011-12: 2035 hrs  
2012-13: 1002 hrs  
2013-14: 496 hrs



# Ontario's Enforcement Approach

Between 2005 – 2013:

- 20 convictions on 14 different entities
  - Greater Toronto Area work = \$105,500 in fines
  - Border Work = \$235,000 in fines
  - Asian Carp seized = 40,350 lbs
- 
- MNRF Enforcement Branch formed an Asian Carp Task Team
  - development of a Joint Forces Operation between MNRF and Canada Border Services Agency



# Other Activities

In 2017 LAW:

- partnered with the Conference of Great Lakes and St. Lawrence Governors and Premiers (the 'Conference') to develop a resolution to improve AIS regional law enforcement capabilities
- LAW members met with—and provided input to—the Conference in March of 2017 at the bi-annual LAW meeting held in Ypsilanti, MI
- LAW members continued to provide input to the Conference through the summer of 2017





**For Immediate Release**

October 20, 2017

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**GREAT LAKES AND ST. LAWRENCE GOVERNORS AND PREMIERS  
UNITED FOR GROWTH**

The Governors and Premiers today announced a series of ambitious actions to grow the region's \$6 trillion economy and protect the world's greatest freshwater system. Specific actions include:

- Creating an ambitious initiative to make the region a worldwide center for the development and deployment of connected and autonomous transportation, including ships.
- Opening export promotion offices in the Middle East, Southeast Asia and Korea, as well as initiating three joint missions for regional business leaders.
- Launching a U.S. regional tourism marketing program in China, the world's fastest growing market for tourists to North America.
- [Announcing a series of other actions related to transportation, trade, tourism and environmental protection.](#)



# This Resolution Includes:

**Harmonizing, where possible, the objectives of state and provincial regulations to address regulatory gaps including;**

1. Expanding the “least wanted” invasive species list
2. Expanding Michigan, Ontario and Ohio’s harmonization initiative
3. Within two years, LAW and Governors and Premiers ANS task force will develop a regional model framework to support consistent approaches to AIS prevention and enforcement throughout the basin



# Resolution continued

## **States and Provinces commit to joining MOU to improve:**

1. Regional cooperative enforcement operations
2. Information sharing
3. Development of consistent and routine reporting processes

\*This MOU currently includes Michigan, Ontario, USFWS, Minnesota, Ohio, New York and Environment Canada



# Resolution continued

- expanding the deployment of technologies and training to assist enforcement personnel in identifying and tracking AIS and offenders
- enhancing administrative and enforcement capacity (e.g. through development of AIS-specific enforcement units or specialists in each jurisdiction)



# Summary/Lessons Learned

- high risk of Asian carp entering Great Lakes basin prompted all non-federal jurisdictions to enact regulations prohibiting importation, exportation, transportation, sale, purchase, and acquisition of live Asian carp
- collective regional action enabled the states and tribal organizations to work effectively on a national scale to promulgate U.S. federal regulations forbidding interstate movement or sale of these fish
- **Case law can rear it's ugly head at any time**
- armed with strong regulations, officers monitored the international border for illegal shipments of Asian carp and have successfully prevented thousands of pounds of live Asian carp from being sold in Ontario markets
- **There is still more work to do**



# Acknowledgements



## Great Lakes Fishery Commission

