NATURAL RESOURCES COMMISSION
Information Bulletin #7 (Second Amendment)

SUBJECT: Petitions for Rule Change and for Nonrule Policy Document Change

I. HISTORY

The Natural Resources Commission in 1994 adopted a nonrule policy document to address petitions for rule change originating outside the Commission and the Department of Natural Resources. The policy was published in the July 1, 1994, issue of the Indiana Register (17 IR 2481) as Information Bulletin #7. In 2006, the policy was amended to include updated citations to reflect recodifications of rules and statutes that have taken place since 1994. Also, the scope of the document was expanded to include a petition to change a nonrule policy document. These amendments were posted in the Indiana Register on October 11, 2006, at DIN: 20061011-IR-312060443NRA. The document is again amended effective February 1, 2008, to reference petitions to exempt a "small lake" from the statutory speed limit, or to rescind or amend an existing exemption, under IC 14-15-3. The 2008 amendments also update the address of the Division of Hearings.

II. PURPOSE

The purpose for this information bulletin is to establish a process for the submission and consideration of petitions for rule change within areas subject to the jurisdiction of the Natural Resources Commission. Included is any rule proposal submitted by an individual, a corporation, an association, a local unit of government, another state agency, a federal agency, or another person. The person may seek the adoption of a new rule, an amended rule, a recodified rule, a rule repeal, or a similar action with respect to a nonrule policy document.

III. PROCESS

A person seeking action on a rule shall file a written petition at the following address:
Division of Hearings
Natural Resources Commission
Indiana Government Center-North
100 North Senate Avenue, Room N501
Indianapolis, IN 46204-2200

The petition shall provide the name and address of the person, or a representative of the person, who is seeking the action and a description of the action sought. The petition may include proposed wording for any new, amended, or recodified rule or a similar action with respect to a nonrule policy document.

Upon the receipt of the petition, the Division of Hearings shall assign an administrative cause number and deliver copies of the proposal to each deputy director of the Department of Natural Resources. The Division of Hearings shall identify the document as a rule petition or nonrule policy document petition and request that the director cause an investigation be performed into the merits of the proposal. A committee shall be established, with representation from interested divisions, to investigate the merits of the petition. As appropriate, the Historic Preservation Review Board, the Board of Trustees for the Division of State Museums and Historic Sites, and the Advisory Council shall be consulted.

After conclusion of any investigation, an informal report shall be presented to the secretary of the Commission, together with any recommendations regarding the proposal. The secretary of the Commission may give preliminary adoption to a rule proposal, may refer the matter to the Commission for consideration, or may elect not to proceed with a proposal. The secretary of the commission shall, within a responsible time, cause notice to be given to the petitioner as to the disposition of the petition. A record of the final disposition shall also be filed with the Division of Hearings.

IV. EXCEPTIONS

The process set forth in this information bulletin does not apply to a petition for rule change applicable to any of the following:

(1) IC 14-34 (surface coal mining). For rule petitions directed to surface coal mining and reclamation, see IC 14-34-2-7.

(2) IC 14-37 (oil and gas production). For rule petitions directed to oil and gas production and reclamation, see IC 14-37-3-16 and 312 IAC 16-2-3.

(3) IC 14-15-3-11 and IC 14-15-3-12. For a petition to exempt a "small lake" from the ten-mile-per hour speed limit established by IC 14-15-3-10, or to rescind or amend an exemption previously established for a small lake, the petitioner shall file the petition with the Division of Hearings. Upon receipt, the Division of Hearings shall refer the petition to the State Boating Law Administrator in the Department's Division of Law Enforcement to determine whether a "majority of the abutting property owners" have entered the petition. After the Division of Law Enforcement completes an investigation, the State Boating Law Administrator shall determine whether a sufficient number of abutting property owners have joined the petition and shall provide

notice of the determination to the petitioner and to any other affected persons under IC 4-21.5-3-5(a)(5). An affected person may seek administrative review to the Commission under IC 4-21.5 and 312 IAC 3-1. If the State Boating Law Administrator determines the petition includes sufficient signatures and no person seeks timely administrative review, or if administrative review is sought and following the completion of any proceeding there is a determination the petition includes sufficient signatures, the Division of Hearings and the Department shall process the petition as otherwise provided in the information bulletin. In conducting this process, the Department shall consider and make recommendations to the Commission based upon the factors described at IC 14-15-3-11(d)(2) or IC 14-15-3-12(c)(2). For the purposes of this paragraph, "small lake" has the meaning set forth in 312 IAC 5-2-33.

V. RETENTION OF AUTHORITY BY DIRECTOR AND COMMISSION

This information bulletin does not restrict the ability of the Director of the Department of Natural Resources or the Natural Resources Commission to take action with respect to any rule or nonrule policy document. See, also, 312 IAC 2-2-4 authorizing the Director to approve any rule of the Commission for preliminary adoption.

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