

Notice of Public Hearing

LSA Document #09-856

Notice of Public Hearing

Under [IC 4-22-2-24](#), notice is given that on June 18, 2010, at 11:00 a.m., at the DNR Northeast Regional Headquarters, 1353 South Governor's Drive, Columbia City, Indiana, the Natural Resources Commission will hold a public hearing on proposed amendments to [312 IAC 11](#), governing public freshwater lakes, to provide new standards pertaining to the placement of group piers. Also, to place a structure, an applicant who is not the riparian owner would be required to provide written approval, and not mere acquiescence, by the riparian owner. Potentially confusing and unnecessary language cross-referencing to navigable waters would be eliminated. Technical and clerical changes would be made.

[IC 4-22-2-24\(d\)\(3\)](#) Statement: The state of Indiana holds the waters of public freshwater lakes in trust for the citizens of Indiana. [IC 14-26-2-5](#). The Department of Natural Resources (DNR) is the agency charged with administering the trust. The DNR must seek to balance the rights of riparian landowners to use water frontage with the rights of the public to use the lakes. The public of Indiana has a vested right in the preservation, protection, and enjoyment of all the public freshwater lakes in their present state.

In recent years, the numbers of disputes among lake users and concerns for public safety have increased with respect to the size and placement of piers on public freshwater lakes. A particular subject of disputes and safety concerns has been group piers. Individual licenses are currently required for group piers, and these rules would establish standards for making and acting upon applications for licenses to place group piers. In the absence of standards, the resulting lack of predictability has contributed to costly civil and administrative litigation. Based upon the number of license applications received in the first three quarters of 2009, the DNR estimates that approximately 15 applications would be submitted annually.

The cost of preparing an application and accompanying plans may be increased as result of the additional information required by the rules. Each of the estimated 15 regulated entities (license applicants) would be required to expend between \$100 and \$200 to achieve regulatory compliance.

The costs imposed on each regulated entity by the amendments are reasonably required for public safety and otherwise for the protection of the public's vested right in the preservation, protection, and enjoyment of all the public freshwater lakes in the present state. In addition, the expectation is that the predictability accorded by standards will reduce the likelihood of disputes which result in expensive litigation.

Other amendments within the rule provide language clarifications are applied consistently with statutory definitions and existing practices and do not result in additional costs. Regulated entities which are not riparian owners would be required to obtain written permission, and could not rely upon silence as acquiescence, to use the zone of the riparian owner. This requirement is a modest imposition on the applicant and is appropriate to the protection of the interests of riparian owners.

Copies of these rules are now on file at the Indiana Government Center North, 100 North Senate Avenue, Room N501 and Legislative Services Agency, Indiana Government Center North, 100 North Senate Avenue, Room N201, Indianapolis, Indiana and are open for public inspection.

Bryan W. Poynter
Chairman
Natural Resources Commission

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