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TITLE 312 NATURAL RESOURCES COMMISSION

Proposed Rule

LSA Document #02-294

DIGEST

Amends 312 IAC 3-1-12 that governs oral arguments following objections to authorize the chair of the natural resources commission to form a committee to provide final agency relief for matters subject to IC 4-21.5-3-31. Places authority in the committee to provide other appropriate relief under IC 4-21.5-3-28 through IC 4-21.5-3-31. Effective 30 days after filing with the secretary of state.

312 IAC 3-1-12

SECTION 1. 312 IAC 3-1-12, AS READOPTED AT 26 IR 546, SECTION 1, IS AMENDED TO READ AS FOLLOWS:

312 IAC 3-1-12 Relief under IC 4-21.5-3-28 through IC 4-21.5-3-31, including disposition of objections to nonfinal orders of administrative law judge; commission objections committee

Authority: IC 14-10-2-4; IC 4-21.5-3-28

Affected: IC 4-21.5-1-6; IC 4-21.5-3; IC 14-10-1-1; IC 25

Sec. 12. (a) This section governs **relief under IC 4-21.5-3-28 through IC 4-21.5-3-31, including** the disposition of objections under IC 4-21.5-3-29.

(b) A party who wishes to contest whether objections provide reasonable particularity shall move, in writing, for a more definite statement. The administrative law judge may rule upon a motion filed under this subsection, and any other motion filed subsequent to the entry of the nonfinal order by the administrative law judge, and enter an appropriate order (including removal of an item from the commission agenda).

(c) If objections are timely filed, the objections shall be scheduled for argument before the commission **committee established by subsection (d)**, simultaneously with the presentation by the administrative law judge of findings, conclusions, and a nonfinal order. Unless otherwise ordered by the commission **committee**, argument shall not exceed ten (10) minutes for each party and twenty (20) minutes for each side.

(d) For the review of objections, and to consider any other appropriate relief under IC 4-21.5-3-28 through IC 4-21.5-3-31, the chair of the commission shall appoint a committee consisting of at least three (3) members of the commission. To the extent practicable, the chair shall include persons on the committee who are licensed to practice law in Indiana. The chair shall announce the members of the committee during the first meeting of the commission held in a calendar year. The chair may supplement or modify the membership of the committee, as needed for the efficient conduct of the proceedings, during the course of the year. A member of the committee may serve through a designate where a designate is authorized under IC 14-10-1-1. A final determination by the committee is a final agency action of the commission under IC 4-21.5-1-6.

(e) At least ten (10) days before oral argument is scheduled on objections filed under subsection (c), a nonparty may file a brief with the commission **committee**. A copy of the brief must be served upon each party. The brief must not be more than five (5) pages long and cannot include evidentiary matters outside the record. Unless otherwise ordered by the commission **committee**, a nonparty may also present oral argument for not more than five (5) minutes in support of the brief. If more than one (1) nonparty files a brief, the administrative law judge shall order the consolidation of briefs if reasonably

necessary to avoid injustice to a party. A nonparty who has not filed a brief at least ten (10) days before oral argument is first scheduled on objections may participate in the argument upon the stipulation of the parties.

(f) Upon the written request of a party filed at least forty-eight (48) hours before an oral argument to consider objections, the commission **committee** shall provide the services of a stenographer or court reporter to record the argument.

(g) If objections are not filed, the secretary of the commission as its designee under IC 4-21.5-3-28(b); may affirm the findings and nonfinal order. The secretary has exclusive jurisdiction to affirm, remand, or submit to the commission for final action, any findings and nonfinal order subject to this subsection. No oral argument will be conducted under this subsection unless ordered by the secretary.

(h) A party may move to strike all or any part of objections, a brief by a nonparty, or another pleading under this section that the party believes does not comply with this section. The administrative law judge shall act upon a motion filed under this subsection by providing relief ~~which~~ **that** is consistent with IC 4-21.5 and this rule. (*Natural Resources Commission; 312 IAC 3-1-12; filed Feb 5, 1996; 4:00 p.m.: 19 IR 1320; filed Oct 19, 1998, 10:12 a.m.: 22 IR 749; readopted filed Oct 2, 2002, 9:10 a.m.: 26 IR 546*)

Notice of Public Hearing

Under IC 4-22-2-24, notice is hereby given that on January 29, 2003 at 11:30 a.m., at the Indiana Department of Administration Conference Center, Indiana Government Center-South, 402 West Washington Street, Training Room C2, Indianapolis, Indiana the Natural Resources Commission will hold a public hearing on proposed amendments that govern oral arguments following objections to authorize the chair of the natural resources commission to form a committee to provide final agency relief for matters subject to IC 4-21.5-3-31. Places authority in the committee to provide other appropriate relief under IC 4-21.5-3-28 through IC 4-21.5-3-31. Copies of these rules are now on file at the Indiana Government Center-South, 402 West Washington Street, Room W272 and Legislative Services Agency, One North Capitol, Suite 325, Indianapolis, Indiana and are open for public inspection.

Michael Kiley
Chairman
Natural Resources Commission