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TITLE 312 NATURAL RESOURCES COMMISSION

Proposed Rule LSA Document #04-4

DIGEST

Amends 312 IAC 6-4-3, 312 IAC 8-2-13, and 312 IAC 11-4-1 concerning the construction and maintenance of marinas along or within public waters to clarify that the operators of marinas must maintain functioning watercraft pumpout facilities and to authorize the department's division of law enforcement to exempt marinas that only service watercraft without marine sanitation devices or those with qualified agreements to have pumpout services provided by a nearby marina or similar facility. Effective 30 days after filing with the secretary of state.

312 IAC 6-4-3
312 IAC 8-2-13
312 IAC 11-4-1

SECTION 1. 312 IAC 6-4-3, AS READOPTED AT 27 IR 286, SECTION 1, IS AMENDED TO READ AS FOLLOWS:

312 IAC 6-4-3 Sewage pumpout facilities for watercraft

Authority: IC 14-10-2-4; IC 14-15-7-3; IC 14-29-1-8

Affected: IC 14-29-1-8

Sec. 3. (a) ~~No~~ **Except as provided in subsection (c), a person shall must not** operate a marina unless the person **provides a pumpout that is in good working order and readily accessible to patrons of the marina and** secures and maintains one (1) of the following:

- (1) A license under 327 IAC 3-2 for the construction and operation of a wastewater treatment facility or sanitary sewer.
- (2) A license under 410 IAC 6-10 for the construction of a commercial on-site wastewater disposal facility.
- (3) An alternative written approval for wastewater disposal from an authorized governmental agency.

(b) The department shall require compliance with subsection (a) as a condition for the issuance of a license under section 2 of this rule.

(c) **A person may apply to the division of law enforcement for an exemption from this section. The exemption shall be granted, for a period not to exceed five (5) years, where the person demonstrates either of the following:**

- (1) **The marina is designed to serve exclusively watercraft that are neither required nor likely to be equipped with a marine sanitation device.**
- (2) **The operator of the marina has entered a binding agreement with another marina or similar facility along the waterway to provide pumpout services where the other marina or similar facility:**
 - (A) **maintains a lawful pumpout as described in subsection (a);**
 - (B) **is in proximity to the marina seeking the exemption so patrons to be served at a pumpout, which would otherwise be required at the exempted marina, would not be significantly inconvenienced; and**
 - (C) **has sufficient pumpout capacity and accessibility to effectively serve the patrons of both parties to the agreement.**

(Natural Resources Commission; 312 IAC 6-4-3; filed Sep 11, 1997, 8:50 a.m.: 21 IR 369; readopted filed Jul 28, 2003, 12:00 p.m.: 27 IR 286)

SECTION 2. 312 IAC 8-2-13 IS AMENDED TO READ AS FOLLOWS:

312 IAC 8-2-13 Marinas and wastewater holding facilities for watercraft

Authority: IC 14-10-2-4; IC 14-11-2-1

Affected: IC 14

Sec. 13. (a) As used in this section, "marina" means a structure that:

- (1) services simultaneously at least five (5) watercraft; and
- (2) provides, for a fee, one (1) or more of the following:
 - (A) Watercraft engine fuel.
 - (B) Docks.
 - (C) Watercraft repair.
 - (D) Watercraft sales or rental.

(b) ~~No~~ **Except as provided in subsection (d), a person shall must not** operate a marina unless the person **provides a pumpout that is in good working order and readily accessible to patrons of the marina and** secures and maintains one (1) of the following:

- (1) A license under 327 IAC 3-2 for the construction and operation of a wastewater treatment facility or sanitary sewer.
- (2) A license under 410 IAC 6-10 for the construction of a commercial on-site wastewater disposal facility.
- (3) An alternative written approval for wastewater disposal from an authorized governmental agency.

(c) The requirements of subsection (b) shall be made a condition for a license issued by the department to construct a new marina or to modify an existing marina.

(d) A person may apply to the division of law enforcement for an exemption from subsection (b). The exemption shall be granted, for a period not to exceed five (5) years, where the person demonstrates either of the following:

- (1) The marina is designed to serve exclusively watercraft that are neither required nor likely to be equipped with a marine sanitation device.**
- (2) The operator of the marina has entered a binding agreement with another marina or similar facility along the waterway to provide pumpout services where the other marina or similar facility:**
 - (A) maintains a lawful pumpout as described in subsection (b);**
 - (B) is in proximity to the marina seeking the exemption so patrons to be served at a pumpout, which would otherwise be required at the exempted marina, would not be significantly inconvenienced; and**
 - (C) has sufficient pumpout capacity and accessibility to effectively serve the patrons of both parties to the agreement.**

(Natural Resources Commission; 312 IAC 8-2-13; filed Oct 28, 1998, 3:32 p.m.; 22 IR 743, eff Jan 1, 1999)

SECTION 3. 312 IAC 11-4-1 IS AMENDED TO READ AS FOLLOWS:

312 IAC 11-4-1 Marinas

Authority: IC 14-10-2-4; IC 14-15-7-3; IC 14-26-2-23

Affected: IC 14-26-2

Sec. 1. (a) A written license under IC 14-26-2 and this rule is required to place a marina within a public freshwater lake.

(b) ~~No~~ **Except as provided in subsection (d), a person shall must not** operate a marina unless the person **provides a pumpout that is in good working order and readily accessible to patrons of the marina and** secures and maintains one (1) of the following:

- (1) A license under 327 IAC 3-2 for the construction and operation of a wastewater treatment facility or a sanitary sewer.
- (2) A license under 410 IAC 6-10 for the construction of a commercial on-site wastewater disposal facility.
- (3) An alternative written approval for wastewater disposal from an authorized governmental agency.

(c) The requirements of subsection (b) shall be made a condition for a license issued by the department to construct a new marina or to modify an existing marina.

(d) A person may apply to the division of law enforcement for an exemption from subsection (b). The exemption shall be granted, for a period not to exceed five (5) years, where the person demonstrates either of the following:

- (1) The marina is designed to serve exclusively watercraft that are neither required nor likely to be equipped with a marine sanitation device.**

(2) The operator of the marina has entered a binding agreement with another marina or similar facility along the lake to provide pumpout services where the other marina or similar facility:

(A) maintains a lawful pumpout as described in subsection (b);

(B) is in proximity to the marina seeking the exemption so patrons to be served at a pumpout, which would otherwise be required at the exempted marina, would not be significantly inconvenienced; and

(C) has sufficient pumpout capacity and accessibility to effectively serve the patrons of both parties to the agreement.

(Natural Resources Commission; 312 IAC 11-4-1; filed Feb 26, 1999, 5:49 p.m.: 22 IR 2225)

Notice of Public Hearing

Under IC 4-22-2-24, notice is hereby given that on April 26, 2004 at 12:30 p.m., at the Indiana Government Center-South, 402 West Washington Street, Room W272, Indianapolis, Indiana the Natural Resources Commission will hold a public hearing on proposed amendments concerning the construction and maintenance of marinas along or within public waters to clarify that the operators of marinas must maintain functioning watercraft pumpout facilities and to authorize the department's division of law enforcement to exempt marinas that only service watercraft without marine sanitation devices or those with qualified agreements to have pumpout services provided by a nearby marina or similar facility. 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