

Document: Final Rule, **Register Page Number:** 27 IR 3063

Source: July 1, 2004, Indiana Register, Volume 27, Number 10

Disclaimer: This document was created from the files used to produce the official CD-ROM Indiana Register.

TITLE 312 NATURAL RESOURCES COMMISSION

LSA Document #03-220(F)

DIGEST

Amends 312 IAC 2-2-1, 312 IAC 2-2-4, and 312 IAC 2-3-1 governing delegations and informal procedures of the commission and its boards by authorizing the director of the commission's division of hearings to give preliminary adoption to the readoption of rules, where no changes are proposed to existing language, modifying procedures for informal hearings held prior to those governed by IC 4-21.5 to address a hearing by an agency board, and removing an obsolete cross-reference to 310 IAC. Effective 30 days after filing with the secretary of state.

312 IAC 2-2-1

312 IAC 2-2-4

312 IAC 2-3-1

SECTION 1. 312 IAC 2-2-1 IS AMENDED TO READ AS FOLLOWS:

312 IAC 2-2-1 Applicability

Authority: IC 14-10-2-4

Affected: IC 14; IC 25

Sec. 1. (a) This rule governs delegation of authority by the commission.

(b) A delegation in this rule may be supplemented by a delegation in another article of this title. ~~or in 310 IAC.~~ *(Natural Resources Commission; 312 IAC 2-2-1; filed Jul 26, 1996, 1:00 p.m.: 19 IR 3339; readopted filed Oct 2, 2002, 9:10 a.m.: 26 IR 546; filed May 26, 2004, 3:15 p.m.: 27 IR 3064)*

SECTION 2. 312 IAC 2-2-4 IS AMENDED TO READ AS FOLLOWS:

312 IAC 2-2-4 Preliminary adoption of rules and readoption of rules

Authority: IC 14-10-2-4

Affected: IC 4-22-2-15; IC 4-22-2.5; IC 14; IC 25

Sec. 4. (a) The secretary of the commission may approve a rule for preliminary adoption.

(b) **Where no amendment is proposed, the director of the commission's division of hearings may, under IC 4-22-2.5, give preliminary adoption to rules for recodification by readoption.** *(Natural Resources Commission; 312 IAC 2-2-4; filed Jul 26, 1996, 1:00 p.m.: 19 IR 3340; readopted filed Oct 2, 2002, 9:10 a.m.: 26 IR 546; filed May 26, 2004, 3:15 p.m.: 27 IR 3064)*

SECTION 3. 312 IAC 2-3-1 IS AMENDED TO READ AS FOLLOWS:

312 IAC 2-3-1 Applicability of rule; late or incomplete license application; time for giving notice

Authority: IC 14-11-4-9

Affected: IC 4-21.5; IC 14-11-4-8; IC 14-21-1-17

Sec. 1. (a) This rule governs the conduct of a public hearing held on the question of the issuance, conditioning, or denial of an original or renewal license under IC 14-11-4-8.

(b) This rule also governs the conduct of a public hearing held under IC 14-21-1-17. However, sections 3 through 5 of this rule do not apply to a public hearing under this subsection.

(c) A person who conducts a public hearing before any agency action is taken by the director, ~~the historic preservation review~~ a board, or a delegate of the director or ~~historic preservation review~~ a board may apply this rule even if IC 14-11-4-8 is inapplicable. The hearing officer who applies this subsection shall announce at the beginning of the public hearing that this rule applies. **A board may appoint a person, a panel of persons, or the entirety of the board to serve as the hearing officer.** If this subsection is implemented, section 3 of this rule does not apply.

(d) This rule does not apply to a hearing that is governed by 312 IAC 2-1 or 312 IAC 3-1.

(e) The director or the delegate of the director may deny a license application that is not completed in a reasonable period of time. If an agency action to deny a license application is made because the application is incomplete, the application does not qualify for a public hearing under this rule, but that agency action is subject to administrative review under IC 4-21.5 and 312 IAC 3-1.

(f) The time period for giving notice begins upon mailing if a notice required by this rule or IC 14-11-4 is made by the United States mail. Three (3) days are added to the period required for a notice that is made by the United States mail. (*Natural Resources Commission; 312 IAC 2-3-1; filed Aug 20, 1997, 3:16 p.m.: 21 IR 26; readopted filed Oct 2, 2002, 9:10 a.m.: 26 IR 546; filed May 26, 2004, 3:15 p.m.: 27 IR 3064*)

LSA Document #03-220(F)

Notice of Intent Published: September 1, 2003; 26 IR 3906

Proposed Rule Published: January 1, 2004; 27 IR 1205

Hearing Held: January 29, 2004

Approved by Attorney General: May 11, 2004

Approved by Governor: May 25, 2004

Filed with Secretary of State: May 26, 2004, 3:15 p.m.

Incorporated Documents Filed with Secretary of State: None