

BEFORE THE  
NATURAL RESOURCES COMMISSION  
OF THE  
STATE OF INDIANA

IN THE MATTER OF:

READOPTION OF 312 IAC 7, ) Administrative Cause  
WHICH GOVERNS ) Number: 09-005T  
TRAILS AND SCENIC RIVERS ) (LSA Document #09-153(F))

RECOMMENDATION FOR FINAL ACTION ON READOPTION OF RULE

A. INTRODUCTION

For Commission consideration is the readoption of 312 IAC 7, which governs Indiana trails and scenic rivers. This article includes 312 IAC 7-1 (Snowmobile trails, seasons, prohibitions, and exceptions), and 312 IAC 7-2 (Natural, Scenic, and Recreational Rivers and Streams). The text of 312 IAC 7 can be accessed through the Legislative Services Agency Internet site at <http://www.in.gov/legislative/iac/T03120/A00070.PDF>.

In April 2002, the Natural Resources Commission approved delegations of authority with respect to readoptions. Where the rules are being readopted in their current form without amendments the Director of the Division of Hearings may approve preliminary action. However, the Commission retains authority to take final action on recodifications.

The rules codified under 312 IAC 7 are proposed for readoption without amendment. The Director of the Division of Hearings approved preliminary action on January 5, 2009. It is the standard practice to readopt rules by article, and 312 IAC 7 is now submitted for consideration as to final action.

B. READOPTION ANALYSIS REQUIRED UNDER IND. CODE § 4-22-2.5-3.1

On January 6, 2009, Steve Morris, Director of the Division of Outdoor Recreation, appointed Dale Brier as the Small Business Regulatory Coordinator for this rule readoption. Brier provided the following analysis of potential impacts to small business for the proposed readoption of 312 IAC 7:

**READOPTON OF RULES: SMALL BUSINESS IMPACT ANALYSIS**

LSA Document #09-153

**The continued need for the rule.**

312 IAC 7-1 governs Snowmobile use on state trails and enhances IC 14-16-1. It is needed to specifically set up procedures for when the snowmobile trail is eligible to be open, define the snowmobile season, and to prohibit the use of wheeled vehicles. This allows the Department of Natural Resources to prosecute those that trespass when the trail is closed or that misuse the trail.

312 IAC 7-2 defines and describes the rivers included in the Natural, Scenic, and Recreational River System. IC 14-29-6 is the governing statute, but does not contain a list of the rivers and streams in the Natural, Scenic, and Recreational River System. The list of natural, scenic, and recreational rivers and streams is codified at 312 IAC 7-2-2, 312 IAC 7-2-3, and 312 IAC 7-2-4.

**The nature of any complaints or comments received from the public, including small businesses, concerning the rule or the rule's implementation by the agency.**

The Division of Outdoor Recreation has not received any complaints from the public, including small businesses, concerning these rules or the Department's implementation of these rules.

**The complexity of the rule, including any difficulties encountered by:**

**(A) the agency in administering the rule;**

312 IAC 7-1 sets the snowmobile season, the process, and specifies that the Department will designate personnel to open and close any snowmobile trail according to specific criteria listed in 312 IAC 7-1-2. 312 IAC 7-1-3 prohibits wheeled vehicles from operating on the snowmobile trails. Department of Natural Resources, Law Enforcement conservation officers routinely write citations to persons in violation of this rule.

IC 14-29-6-8 provides the process for selection of rivers for inclusion into the Natural, Scenic, and Recreational River System. The Department director may study and periodically submit to the Commission proposals for the inclusion of a section of a river into the system. 312 IAC 7-2 simply lists the sections or waterways included in the Natural, Scenic, and Recreational River System.

**(B) small businesses in complying with the rule.**

312 IAC 7 should have no affect on small business.

**The extent to which the rule overlaps, duplicates, or conflicts with other federal, state, or local laws, rules, regulations, or ordinances.**

312 IAC 7-1 works in cooperation with IC 14-16-1.

312 IAC 7-2 defines the rivers that are affected by IC 14-29-6. There are no known federal rule conflicts or overlaps.

**The length of time since the rule was last reviewed under this section or otherwise evaluated by the agency, and the degree to which technology, economic conditions, or other factors have changed in the area affected by the rule since that time.**

These rules were readopted in 2003, and review under this section was not required.

**C. NOTICE OF INTENT TO READOPT AND RECOMMENDATION FOR FINAL ACTION**

On March 4, 2009, a “Notice of Intent to Readopt” 312 IAC 7 was posted to the *Indiana Register* at 20090304-IR-312090153RNA as anticipated by Ind. Code § 4-22-2.5-2 and Ind. Code § 4-22-2.5-4. The notice indicated the intention to readopt the entirety of 312 IAC 7 without changes. The notice also provided that a person had 30 days to submit a written request to the Natural Resources Commission, through the Small Business Regulatory Coordinator, seeking to have a particular section of the rule readopted separately. If such a request had been made, the Commission would have been required to complete the full rule adoption process for the section requested to be readopted separately.

In this instance, no written request has been received. The Commission may either submit the rule for filing with the Publisher under Ind. Code § 4-22-2-35 or elect the procedure for readoption under Ind. Code § 4-22-2. It is recommended that the Commission approve for readoption 312 IAC 7, without amendment, for subsequent filing with the Publisher.

Dated: April 9, 2009

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Jennifer M. Kane  
Hearing Officer