

**BEFORE THE  
NATURAL RESOURCES COMMISSION  
OF THE  
STATE OF INDIANA**

**IN THE MATTER OF:** ) **Administrative Cause**  
 ) **Number: 16-016P**  
**READOPTION OF 312 IAC 8:** )  
**PUBLIC USE OF NATURAL AND** )  
**RECREATIONAL AREAS** )  
 ) **[LSA Document #16-151(F)]**

**RECOMMENDATION FOR FINAL ACTION ON READOPTION OF RULE**

**A. INTRODUCTION**

For consideration is the readoption of 312 IAC 8 in its entirety, and without amendment. This article governs the public use of natural and recreational areas. 312 IAC 8 governs administration, definitions, general restrictions on the use of DNR properties, group boat docks and enforcement, penalties and other administrative actions. 312 IAC 8 can be accessed through the Indiana General Assembly’s website at:  
<http://www.in.gov/legislative/iac/T03120/A00080.PDF>.

Under 312 IAC 2-2-4(b), if rules are being readopted in their current form without amendments, the Director of the Division of Hearings may approve preliminary action. The Commission retained authority to take final action on readoptions.

The Director of the Division of Hearings approved preliminary action on February 3, 2016. The standard practice is to readopt rules by article, and 312 IAC 8 is now submitted for consideration as to final action.

**B. READOPTION ANALYSIS REQUIRED UNDER IC 4-22-2.5-3.1 AND IC 4-22-2.1-5**

Terry Coleman, Assistant Director, Division of State Parks, Department of Natural Resources was appointed Small Business Regulatory Coordinator for the rule readoption.

He provided the following analyses of potential impacts to small business for the proposed readoption of 312 IAC 8:

**REVIEW UNDER IC 4-22-2.1-5**

**The degree to which the factors analyzed in a previous economic impact statement have changed since the statement was prepared**

The Department of Natural Resources (“DNR”) has reviewed the economic impact statements for the 2010 readoption under LMA#10-37(F) and rule amendments under LSA#10 -566(F), LSA#10 -688(F), LSA#11-421(F), LSA#11-442(F), LSA#12-218(F) and LSA#13-294(F).

Factors analyzed by the DNR for Article 312 IAC 8 have not changed since the previous economic impact statements were prepared.

**Any regulatory alternatives included in the statement under IC 4-22-2.1-5(a)(5)**

No regulatory flexibility analysis of alternative methods was conducted by the DNR since the standards in 312 IAC 8 are atypical. They are not primarily directed to a regulatory program but are instead codifications of the DNR management of real estate within its care and control.

**Any regulatory alternatives not considered by the agency at the time the statement was prepared could be implemented to replace one (1) or more of the rule's existing requirements**

No regulatory alternatives were considered by the DNR.

**REVIEW UNDER IC 4-22-2.5-3.1**

**The continued need for the rule.**

312 IAC 8-1-1

This section applies to a person who uses a DNR property.

312 IAC 8-1-2

This section states 312 IAC 8 is administered by the DNR. Professionals within the DNR or Commission and contractors are exempted from the requirements in 312 IAC 8 when performing official duties.

312 IAC 8-1-3

The first part of this section provides the legal superstructure for entrance and use requirements on DNR properties. Under 14-10-2-4 and 14-11-2-1, the Commission writes rules to set fees, entrance locations and conditions on the public use of DNR properties. This section is the basis for all subsequent property rules governing DNR properties. Each property and division of DNR has different missions and objectives in managing these properties. The rules affecting how they are used mirrors the mission of each division. Some receive federal assistance while others may receive State funding or reliant on public user fees. Through the rules, the Commission recognizes the different divisions and their missions, goals and objectives. Through this section, the Commission sets terms for the property use that are defined to do the following:

- Protect the property for public preservation and use.
- Set conditions that meet the objectives for the management of the properties by the DNR and the State of Indiana.
- Set fees and prohibitions to ensure the long term protection and operation of these public lands for the people of Indiana.

Not having the ability to regulate the use of fees associated with these public lands and waters would adversely affect the long-term success of protecting and managing public lands and waters in the State of Indiana.

The second part of this section provides regulation on firewood brought into DNR properties. The DNR is charged with managing and conserving the natural and cultural resources of Indiana. There are 140 or more pests and pathogens currently identified that can potentially be moved in firewood. Some of these pests can, if introduced to a DNR property, devastate forested areas where popular hiking trails and hundreds of rare and unique species are located. There is also a large potential of greatly reducing shade in property campgrounds. Aside from the ecological ramifications, the additional costs of containing and managing such infestations are a concern.

DEPP no longer spends money to treat EAB. The rule is geared more toward the 140 other pests that may try to invade the forests of state properties. Millions of dollars are spent in Indiana to treat for invasive species to ensure that exotic pests that are here already are slowed down, or to eradicate small populations of pests that are discovered in time. Many of these pests are easily and inadvertently spread through firewood from area to area. This rule will prevent such from happening.

By readopting this rule, the artificial and natural spread of current and future forest pests can be slowed. It is hoped that science and research can progress in the meantime developing solutions to managing infestations effectively. By managing the artificial spread of pests and pathogens to state properties

through firewood, the citizens will have a higher likelihood of experiencing their natural heritage as intended for generations to come. This will also help maintain these state properties as desirable destinations

312 IAC 8-1.5

This rule provides definitions used in Article 8.

312 IAC 8-2-1

This section authorizes the use of posted signs to allow particular use of DNR property, set parameters for use or prohibit use. Violation of a sign is an infraction under the property use rules. The DNR consists of several divisions with different missions. Sometimes situations arise that may be temporary and allowing posting of a sign to address that change is more efficient and more appropriate than implementing the full rule promulgation process.

312 IAC 8-2-2

This section addresses trash, refuse and sanitation. It prohibits the disposal of trash, garbage, sewage, glass petroleum products or other material on a DNR property or maintaining such material in a manner that violates federal law. This section also permits the inspection of watercraft equipped with a toilet or galley by the DNR and limits where boats, vehicles, waste receptacles or personal items may be washed. This rule is needed to protect the resource and properties from contamination.

312 IAC 8-2-3

This section is needed to provide guidance on hunting, trapping and shooting activities on DNR properties including the use and possession of firearms on DNR properties. This section allows the DNR to protect and manage natural resources within DNR properties while ensuring the safety of the public.

312 IAC 8-2-4

This section provides guidance on fishing, cleaning and processing fishing on certain DNR properties. This section also provides regulations regarding the placement of fish attractors.

312 IAC 8-2-5

This section defines where alcohol is prohibited on DNR properties. In 2014 this section was amended to reflect the new lease to provide a full service restaurant and banquet facility in the pavilion and new building. The new language allows the consumption of alcohol beverages in the license premises of a pavilion authorized by IC 14-18-2-3. Alcohol is still prohibited at other areas of Indiana Dunes. New language was also added to prohibit alcohol in youth tent areas.

312 IAC 8-2-6

This section provides the requirements and restrictions when animals are brought onto DNR properties. This section was amended in 2014 allowing for a pet to be allowed of the lease at the Fort Harrison dog park or another area authorized by DNR.

This section establishes appropriate criteria for the subject addressed. These are required to provide the public and property officials with discernable standards to participate in or administer these activities while balancing the need to protect the environment and maintain an acceptable level of safety.

312 IAC 8-2-7

This section governs the use of fires and flammable liquids on DNR properties. The section is necessary to control and contain fires and flammable liquids within locations designated for this purpose and to prohibit them where appropriate. Illegal ground fires in undesignated areas pose hazards and are particularly vexing to public safety and resource protection when started in the evenings or in remote areas of the properties such as boat ramps. This section allows the DNR to enhance the safety of the public and protect the resources within DNR properties and surrounding private properties.

312 IAC 8-2-8

This section provides the minimum acceptable standards for the use of vehicles, trails, watercraft and aircraft at DNR properties. The section establishes an appropriate process for their operation. The rule is necessary to provide the public with a proper way to participate in these activities while balancing the need to protect the environment and maintain an acceptable level of safety.

312 IAC 8-2-9

The section is needed for public safety and to provide balanced usage of recreational activities on state properties including swimming, snorkeling, and scuba diving. Due to the wide spectrum of activities at properties it is necessary to protect users who are involved in these and other activities. Restricting the times and places these activities occur creates a safer and more enjoyable recreational environment. There is a continued need for this rule.

312 IAC 8-2-10

The DNR owns and manages over 500,000 acres of land for which it is charged with stewardship. Responsible stewardship entails use of wise management practices to ensure that plant, animal, geological and historical resources under its care will be conservatively used for current and future generations. Protecting these resources includes the establishment and implementation of rules and regulations governing use by the public. The

resource protection issues addressed in this section are important to the stewardship umbrella of DNR and there is a continued need for this rule.

#### 312 IAC 8-2-11

This section sets basic limits on camping and use of DNR properties for overnight use. This section is the foundation for camping polices and the central reservation policies for the DNR. This section is critical to the DNR as in absence of this section there would be many issues relating to improper use of camping areas, visitor conflicts and sanitation/safety concerns.

#### 312 IAC 8-2-12

This section provides restrictions on personal activities on a DNR property that may disrupt others, enhance users' safety and establishes a time for users to leave a DNR property. A time is set for guests to leave recreation areas except as described in subsection (a). It restricts the use of audible devices that may be loud and disturbing. This section provides for public safety by controlling the use of fireworks and public entry into caves and subsurface mines.

#### 312 IAC 8-2-13

This section governs the treatment of marinas on DNR properties and the need to have sufficient wastewater treatment, disposal and other alternatives for wastewater treatment. Marinas are locations where private boats are stored, anchored in a buoy or a slip. Many of these boats have intensive use by private individuals over extended periods of time away from land-based wastewater reception facilities. The requirements in this section parallel Commission rules applicable to other public waters. The parallel requirements are codified in 312 IAC 6-4 for navigable waterways and at 312 IAC 11-4-1 for public freshwater lakes.

#### 312 IAC 8-2-14

This section addresses private advertisements, solicitations and engaging in private business on DNR property. DNR properties could become overwhelmed by any kind of notice a camper or other individual would want to post. Many visitors come to DNR properties for solitude, recreation and "getting away from it all". Having properties littered with advertisements and solicitations would undermine this and would also not be environmentally conscious.

#### 312 IAC 8-2-15

This section governs the use by private organizations. This section is an effort to articulate a different balancing of interests among individuals using a DNR property, the protection of natural and cultural resources at a property and organized events which may have local or regional significance. This rule is needed to provide a balance and a reasonable level of agency predictability.

312 IAC 8-2-16

This section provides guidance on entry to Goose Pond Fish and Wildlife Area.

312 IAC 8-2-17

This section explains the safety regulations at Redbird SRA and Interstate SRA. The requirements are all safety related to protect the users of the property from injury and to protect the property from damage. By making users less likely to be injured, the rules also reduce the amount of financial exposure to the State.

312 IAC 8-4

This section addresses group docks located at DNR leased properties from the US Army Corp of Engineers. As part of a joint plan by the Army Corps and DNR, property owners were offered options for boat access through a set of boat docks. The docks were limited to specified locations and could not be expanded in size or in number without DNR approval. The Army Corps has developed “shoreline management plans” which include consideration if issues arising from group boat docks. Considerable time and effort by the DNR and private funding have gone into the development of group docks. For Monroe and Mississinewa Lakes, 312 IAC 8-4 governs the treatment of group docks.

If this section were allowed to expire, issues would arise over loss of control to lake access by these property owners. Included would be the potential loss of land values by property owners. The Army Corps could be forced to insert its authority as the property owner by implementing emergency regulations to deal with a potentially chaotic situation. The DNR’s legal ability to implement any standards would be jeopardized.

312 IAC 8-5

This section addresses enforcement, penalties and other administrative actions pertaining to the public use of DNR properties. The rule is probably most notable for its treatment of property ejections and the opportunity for the recipient of an ejection to obtain administrative review and judicial review. Before adoption of the rule in 1999, there were periodic questions concerning the bases for agency enforcement and concerning the rights of citizens who were the subject of enforcement. The rule is needed to identify enforcement mechanisms and their limitations.

**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.**

312 IAC 8-1-1

This section is introductory and does not impose any fiscal impact on small business. No complaints concerning the section have been identified.

312 IAC 8-1-2

This section is introductory and does not impose any fiscal impact on small business. No complaints concerning the section have been identified.

312 IAC 8-1-3

The antecedents to 312 IAC 8 were some of the earliest rules governing DNR responsibilities. A myriad of uses are considered among DNR properties that serve a multitude of issues. 312 IAC 8 provides a compendium which must be implemented in unique ways on unique properties. Property management must accommodate changing goals and changing user expectations. Complexities must be expected consequence of the management of a DNR property and difficulties an inevitable consequence of those complexities. 312 IAC 8 is frequently amended in an effort to protect the resources and accommodate changing uses. The most responsive strategy is to assure continued openness in rule reviews by the Commission. Frequent presentations are made to the Commission by agency professionals and the Commission has additionally implemented a process for individual citizens to petition rules changes. The DNR and Commission processes for individual citizens to petition rule changes. The DNR and Commission processes to address rule complexities and resulting difficulties are believed to be well-crafted and effective.

The DNR receives many questions regarding the firewood rule and very little complaints. Small businesses are able to obtain a compliance certificate from the State at no cost.

312 IAC 8-1.5

This section provides definitions for the rule and does not impose any fiscal impact on small business. No complaints concerning the section have been identified.

312 IAC 8-2-1

The DNR occasionally receives complaints or comments regarding the nature, location and specifics of signage. The agency has not otherwise received complaints or comments about this rule section from the public or small business.

312 IAC 8-2-2

No comments or complaints were received from small business or the public.

312 IAC 8-2-3

The DNR has received very few complaints about dog running events and no comments affecting small business.

312 IAC 8-2-4

The DNR is not aware of any public or small business complaints or comments concerning this rule.

312 IAC 8-2-5

The alcohol prohibitions have been in place for an extended period of time and visitors are aware of the rules.

There was local resident concerns regarding allowing the sale of alcohol at the Dunes State Park pavilion when the Lessee of the pavilion applied for their liquor license. The pavilion has not been renovated as of now and alcohol is currently not being served. The pavilion restaurant and banquet center plans to open in the spring of 2017.

312 IAC 8-2-6

DNR has received complaints and comments from the public concerning this rule. The majority of complaints are related to animal and user conflicts, inadequate oversight of service animals and enforcement of pet leash requirements. Animal owners are generally pleased to be allowed to bring their pets and horses onto DNR properties. Some would like horse areas expanded, some would like them reduced.

312 IAC 8-2-7

No comments or complaints were received from small business or the public.

312 IAC 8-2-8

DNR has received complaints from the public concerning this rule. The majority of complaints are about limitations on the operation of motorized vehicles, environmental impacts of motorized vehicles and conflicts resulting from multi-use trails. Persons have sought to use motorized vehicles off trails that were designated for this purpose. Comments are consistently appreciative about the safety and serenity of the property.

312 IAC 8-2-9

No comments or complaints were received from small business or the public.

312 IAC 8-2-10

There are some complaints from users of metal detectors who believe that they should be able to use these devices on other parts of DNR properties besides sand swimming beaches.

The DNR is not aware of complaints in this section from small businesses.

312 IAC 8-2-11

Most complaints result where the section has been violated and are not complaints directed to the strictures of this section. On less frequent occasions, persons would like to camp in areas prohibited by the DNR. The DNR also receives requests for additional camping areas such as backcountry sites.

Small business complaints are rare. Occasionally, the DNR receives complaints that campsite amenities have been added at a lower cost than what a small would offer for a private site.

312 IAC 8-2-12

Complaints have been received regarding increased restriction on access to caves which have resulted from agency concerns for the spread of white-nosed syndrome among bats. This issue was addressed by the Commission in amendments to the non-rule policy document, "Caves and Karst Resource Management on Properties Owned or Leased by the DNR", Informational Bulletin #25 (Third Amendment), Legislative Services Agency, amended May 16, 2016. Although the DNR must frequently enforce this section, the agency has not received formal complaints about its terms other than those related to karst management.

312 IAC 8-2-13

Marina concession operators have absorbed these costs by providing addition facilities for sanitary pumpouts if not previously available. In some instances, Federal funding has been available to assist with achieving compliance through the Clean Vessel Act Program administered through the Indiana Department of Environmental Management. No comments or complaints were received from small business or the public.

312 IAC 8-2-14

The DNR has not received any complaints or comments from small business or the public about this section. Small businesses that operate on a property as a concessionaire comply with the rule unless otherwise directed under their contract with the State. Every concession opportunity is advertised and open to any small business to bid on.

312 IAC 8-2-15

A primary purpose of this section to balance interests and to equitably address complaints arising from competing users of DNR properties. Individuals and families may be disappointed by the occurrence of activities of private organizations which impact the ability of the individual or family to enjoy a DNR property. Private organizations may support legitimate local or community needs and in some situations the activities of a private organization may support local or State economic needs. Private

organizations may complain their needs have not been accommodated or have not accommodated to the extent they believe appropriate.

312 IAC 8-2-16

The DNR have received no complaints regarding this section. The DNR has received inquiries as to why one must obtain a permit card and when staff provide explanation, those inquiring have been accepting of the explanation.

312 IAC 8-2-17

The DNR is unaware of any complaints about this section.

312 IAC 8-4

Over the years, private individuals and businesses have pushed for additional slips on current docks or for new docks as rental facilities and condominiums have been built above land owned by the Army Corp and leased to the DNR. Some current group dock associations or corporations have sought to add slips or boats to existing dock space. Several years ago, litigation was threatened or initiated.

312 IAC 8-5

No one is pleased with becoming the subject of an enforcement action as a result of a violation of a statute or rule. For property objections, an opportunity is identified for administrative review and in several instances individuals have availed themselves of the opportunity. During administrative review, the DNR and the recipient of the objection have often received a settlement regarding the level of the sanction, most commonly resulting in a reduction of the duration or geographic scope of ejection. To date, no one is believed to have pursued the remedy of judicial review.

**The complexity of the rule, including any difficulties encountered by:  
(A) the agency in administering the rule; or  
(B) small businesses in complying with the rule.**

312 IAC 8-1-1

This section is introductory and does not impose any fiscal impact on small business.

312 IAC 8-1-2

This section is introductory and does not impose any fiscal impact on small business.

312 IAC 8-1-3

Commission decisions such as approving a master plan for a particular property could affect small business. For example, there may be indirect financial consequences for a private campground in the vicinity of a DNR

property. The intent of creating rules, conditions, fees and access to DNR properties is to offer protection, wise use and management of public lands and waters for the people of Indiana.

It is difficult to determine a small business cost as there are many unknowns involved as well as intangible ecological values. Though there is no way to know exactly how many firewood retailers there are, the annual cost to them is estimated to be \$720.00.

312 IAC 8-1.5

This section provides definitions for the rule. There are no problems administering the rule or problems with small business.

312 IAC 8-2-1

The DNR has not encountered difficulties in administering the rule or small businesses complying. Posted signs must follow a DNR process that includes approval by applicable division staff and the DNR's Law Enforcement Division. The use of a posted sign is generally limited by the department as county prosecutors vary in their willingness to enforce or pursue criminal prosecutions based only upon signage.

312 IAC 8-2-2

Difficulties experienced by the DNR are the result of people not following the rule. Illegal dumping, particularly at remote sites, can be a problem. Certain divisions have a "carry in-carry out" policy. Certain dumpsters are provided but people are required to take their trash with them after visiting a property. Difficulties have occurred with boats, particularly at marinas. Those issues are addressed further in detail in 312 IAC 8-2-13.

This section does not impose any fiscal impact on small business.

312 IAC 8-2-3

Administering this section of the rule requires sufficient staff and time to ensure compliance but is not otherwise complex. This section does not impose any impact on small business.

312 IAC 8-2-4

Administering this section requires sufficient staff and time to ensure compliance but is not otherwise complex. This section does not impose any impact on small business.

312 IAC 8-2-5

DNR's division of law enforcement and other law enforcement agencies work diligently to enforce this section. The rule is not complex. Enforcement is a continuing but manageable undertaking. This section does not impose any impact on small business.

312 IAC 8-2-6

The challenge DNR has in implementation of this rule is in balancing the public desire to bring animals onto DNR properties without compromising others' enjoyment and the integrity of the natural environment. DNR must make reasonable efforts to protect the safety of customers. The deep attachment to one's pets can make for emotionally charged situations. This rule helps with issues in an objective manner.

The DNR is not aware of any conflicts with small business.

312-IAC 8-2-7

This section provides for management of fire and flammable liquid use while on DNR properties. This rule is not complex. Apart from challenges inherent to the limited number of personnel available for observing DNR properties, particularly those in remote areas, the agency has not encountered difficulties in administering the section. Small businesses have not identified difficulties in complying.

312 IAC 8-2-8

The challenge DNR has in the implementation of this section is in balancing the need of the public to access various parts of the properties without compromising another's enjoyment. DNR must make reasonable efforts to protect the safety of customers as well as maintain the natural environment.

There are no know difficulties with small business.

312 IAC 8-2-9

It is a continuing challenge to the agency to contain regulatory language that is applicable to the latest recreational activities. A dynamic approach is needed to balance the competing demands of recreational users and provide reasonable environmental protection of the DNR properties.

No small business difficulties have been identified in achieving compliance.

312 IAC 8-2-10

The rule is not complex and entails few difficulties in administration.

There is no difficulty for small business to comply.

312 IAC 8-2-11

Administering this section requires sufficient staff and time to ensure compliance, particularly during peak-use periods. The DNR central reservation system requires acceptance and compliance during the reservation process and prior to arrival. Prohibiting private subleasing of campsites is sometimes an issue and is very difficult to enforce unless an ID check is conducted for each arrival. In general, the section is relatively

simple to follow and is not overly complex. This section does not affect small businesses.

312 IAC 8-2-12

This section is not complex and is relatively easy to enforce. Customer complaints are the best measuring factor for what constitutes “disturb”. This section is directed to individual enjoyment of a user of a DNR property and does not affect small business.

312 IAC 8-2-13

The section suffers the complexities generally associated with environmental controls directed to sanitation and water quality protection. A flexible regulatory approach is implemented and a marina operator may apply either Indiana Department of Environmental Management standards (327 IAC 3-2) or State Health Department standards (410 IAC 6-10) to achieve compliance.

Leased marina operators must meet the standards for waste removal from their facilities if no adequate facility previously was available for operation. The section has not generated complaints from small business because marina operators acknowledge the environmental benefits of having pump out facilities onsite. Also, there is an expectation that marinas have these facilities available in the usual course of operations.

312 IAC 8-2-14

If property personnel encounter someone violating this rule the person is told to remove the advertisement or solicitation. There is normally willing compliance with this directive; ejection from the property does not normally occur but is an option. Items that have been posted without authorization are removed by property personnel. The DNR is not aware of any difficulties encountered by small businesses in complying with this rule.

312 IAC 8-2-15

Any effort to balance legitimate needs among private organizations, ordinary individual and family use and the protection of cultural and natural resources at a DNR property or facility is inherently complex. Property managers and law enforcement officials can be particularly challenged by the interfacing of competing users during an event sponsored by a private organization. Small businesses may be impeded in what they would perceive as an ideal environment for their activities.

312 IAC 8-2-16

Administering this rule requires sufficient staff and time to ensure compliance. This section does not impose any fiscal impacts on small business.

312 IAC 8-2-17

The Division of Outdoor Recreation doesn't have any difficulty administering the rules for Redbird and Interlake. The toughest challenge is making sure people have helmets for the ORVs when they come through the gate, which really isn't an issue.

The rules don't affect small business, they are written for visitors to Outdoor Recreation motorized properties.

312 IAC 8-4

This section can be difficult to administer, especially at Monroe Lake. The large number of Lake users and increased development of private real estate above Army Corps ownership brings social and financial pleasures. Developments above the lake can have many more property owners that group dock policy permits. There is a large disparity in property values between property owners who have access to group dock and those who don't. This rule requires the DNR to inspect whether the use of docks is compliant, but budgetary restrictions limit the frequency of inspections.

Small business impacts are minimal unless the association ownership of the dock is an issue. An association which could expand the number of slips would improve its net worth, but the increase would compromise the ability of the lakes to provide dependable public water supply and to afford flood control, primary purposes for the formation of the lakes. Adding slips would also limit the recreation values of lakes that are already crowded with boats, particularly on weekends and holidays in the summer.

312 IAC 8-5

Determining the level of sanction appropriate to an individual's violation of statute or rule in use of a DNR property is always a challenge. The rule does not pose particular difficulties in its administration however. The rule does not establish new substantive requirements and so does not pose any additional burdens on small businesses or other persons in term of compliance.

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

312 IAC 8-1-1

The section does not overlap, duplicate or conflict with other federal, state or local laws, rules, regulations or ordinances.

312 IAC 8-1-2

The section does not overlap, duplicate or conflict with other federal, state or local laws, rules, regulations or ordinances.

312 IAC 8-1-3

312 IAC 8-1-3 conditions, fees and entrance access requirements are specific to DNR properties. They do not supersede state or local laws, rules, regulations or ordinances. The State of Indiana does lease public lands from the Un Government most notably the US Army Corps of Engineers, and lands within DNR properties may have been purchased with Federal funds. The DNR and Commission seek to draft provision within 312 IAC 8 in incorporate Federal requirements. If a conflict is identified the rule is amended.

312 IAC 8-2-1

The section does not overlap, duplicate or conflict with other federal, state or local laws, rules, regulations or ordinances.

312 IAC 8-2-2

The section does not overlap, duplicate or conflict with other federal, state or local laws, rules, regulations or ordinances.

312 IAC 8-2-3

The portion of this section related to possession of handguns is in compliance with IC 35-47-2 and in compliance with Federal standards for those DNR lands leased from the Army Corps.

312 IAC 8-2-4

The section does not overlap, duplicate or conflict with other federal, state or local laws, rules, regulations or ordinances.

312 IAC 8-2-5

The section does not overlap, duplicate or conflict with other federal, state or local laws, rules, regulations or ordinances.

312 IAC 8-2-6

The Americans with Disabilities Act (ADA) requires access to programs for persons with disabilities. As guidance is received for the application of the ADA, the rule would be amended to maintain consistency.

312 IAC 8-2-7

The section does not overlap, duplicate or conflict with other federal, state or local laws, rules, regulations or ordinances.

312 IAC 8-2-8

The Americans with Disabilities Act (ADA) requires access to programs for persons with disabilities. As guidance is received for the application of the ADA, the rule would be amended to maintain consistency.

312 IAC 8-2-9

The section does not overlap, duplicate or conflict with other federal, state or local laws, rules, regulations or ordinances.

312 IAC 8-2-10

In the case where plants and animals on properties managed by the DNR are state or federally listed as rare, threatened or endangered, there is an overlap with state and federal laws, rules, regulations or ordinances. Otherwise, there is no know overlap.

312 IAC 8-2-11

With exception of sanitation issues under subsection (g) and subsection (j) these rules are unique to DNR. The sanitation provisions mirror almost all public health agency standards relating to sanitation and are not in conflict.

312 IAC 8-2-12

This section does not duplicate other State laws. Many local governments have sound ordinances that vary greatly among one another.

312 IAC 8-2-13

The US Coast Guard has regulations which govern the use of marine sanitation devices on boats. While these regulations do not conflict or overlap with this section there is a degree of public confusion. This confusion is most palpable regarding the consequences and appropriate locations for the use of Type I Marine Sanitation Devices. The Commission has sought to alleviate the confusion through the adoption of a non-rule policy document, "Type I and Type II Marina Sanitation Devices on Navigable Waters of Indiana", Information Bulletin #35, Legislative Services Agency (February 14, 2007) 20070214-IR-31207008NRA. The document is also available on the Commission's website.

312 IAC 8-2-14

The section does not overlap, duplicate or conflict with other federal, state or local laws, rules, regulations or ordinances.

312 IAC 8-2-15

The section does not overlap, duplicate or conflict with other federal, state or local laws, rules, regulations or ordinances.

312 IAC 8-2-16

The section does not overlap, duplicate or conflict with other federal, state or local laws, rules, regulations or ordinances.

312 IAC 8-2-17

This section does not overlap, duplicate, or conflict with other federal, state, or local laws, rules, regulations, or ordinances. Some of the rules were based on federal laws, but they didn't apply to the property

312 IAC 8-4

The DNR and the Army Corps partner in the management of the lakes. Although the partnership requires continued attention, the arrangement has generally worked effectively with the inevitable differences with the inevitable differences of perspective successfully resolved.

312 IAC 8-5

The section does not overlap, duplicate or conflict with other federal, state or local laws, rules, regulations or ordinances.

**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.**

312 IAC 8-1-1

This section was last reviewed in 2010.

312 IAC 8-1-2

This section was last reviewed in 2010.

312 IAC 8-1-3

This section was last reviewed in 2012.

312 IAC 8-1.5

This section was last reviewed in 2011.

312 IAC 8-2-1

This section was last reviewed in 2010.

312 IAC 8-2-2

This section was last reviewed in 2010.

312 IAC 8-2-3

This section was last reviewed in 2012.

312 IAC 8-2-4

This section was last reviewed in 2012.

312 IAC 8-2-5

This section was last reviewed in 2013.

312 IAC 8-2-6

This section was last reviewed in 2013

312 IAC 8-2-7

This section was last reviewed in 2010.

312 IAC 8-2-8

This section was last reviewed in 2013

312 IAC 8-2-9

This section was last reviewed in 2012.

312 IAC 8-2-10

This section was last reviewed in 2013

312 IAC 8-2-11

This section was last reviewed in 2010.

312 IAC 8-2-12

This section was last reviewed in 2010.

312 IAC 8-2-13

This section was last reviewed in 2010.

312 IAC 8-2-14

This section was last reviewed in 2010.

312 IAC 8-2-15

This section was last reviewed in 2010.

312 IAC 8-2-16

This section was last reviewed in 2010.

312 IAC 8-2-17

This section was last reviewed in 2011.

312 IAC 8-4

This section was last reviewed in 2010.

312 IAC 8-5

This section was last reviewed in 2010.

Executive Order 13-03 requires agencies to “suspend rulemaking action on any proposed rules”. The Director of the Office of Management and Budget determined the moratorium set forth in Executive Order 13-03 was not applicable to readoptions.<sup>1</sup>

As specified by Executive Order 2-89 and Financial Management Circulars 2010-4 and 2015-1, fiscal analyses of the rule readoption proposal were submitted, along with a copy of the proposed rule language and a copy of the posted Notice of Intent to Readopt a Rule, to the Office of Management and Budget and the Legislative Council on July 21, 2016. In a letter dated August 19, 2016, the Director of the State Budget Agency recommended the proposed rule readoption be approved.

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

On April 13, 2016, the “Notice of Intent to Readopt” 312 IAC 8 was posted to the *Indiana Register* at <http://www.in.gov/legislative/iac/20160413-IR-312160151RNA.xml.html>, as anticipated by IC 4-22-2.5-2 and IC 4-22-2.5-4. The notice indicated the intention to readopt the entirety of 312 IAC 8 without changes. The notice also provided that a person had 30 days to submit a written request to the Commission, through the Small Business Regulatory Coordinator, seeking to have a particular section of the rule readopted separately. If 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. No request was made.

The Commission may submit the rule for filing with the Publisher under IC 4-22-2-35 or elect the procedure for readoption under IC 4-22-2. The hearing officer recommends the Commission approve for readoption 312 IAC 8, without amendment, for subsequent filing with the Publisher.

Dated: August 23, 2016

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Dawn Wilson  
Hearing Officer

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<sup>1</sup> Indiana State Budget Agency email dated May 2, 2013, to state head of state agencies.