

NATURAL RESOURCES COMMISSION
Information Bulletin #42
(First Second Amendment)
Subject: AOPA Committee

SUBJECT: AOPA Committee

1. Purpose

The purpose of this information bulletin is to assist with the administration of a committee of the Natural Resources Commission to be known as the "AOPA Committee." The AOPA Committee was established by amendments to [312 IAC 3-1-12](#) that became effective on June 26, 2003. [312 IAC 3-1-12](#) authorized the AOPA Committee to grant final agency relief for matters controlled by [IC 4-21.5](#) (commonly referred to as the "Administrative Orders and Procedures Act" or "AOPA") within [IC 4-21.5-3-28](#) through [IC 4-21.5-3-31](#). Perhaps most prominently, the AOPA Committee reviews and acts upon objections filed by a party to findings of fact, conclusions of law, and a nonfinal order of an administrative law judge. The AOPA Committee also provides guidance to the Commission's Division of Hearings to support the effective and appropriate implementation of [IC 4-21.5](#) and [312 IAC 3-1](#).

The AOPA Committee provides a forum that is fully supportive of the legal responsibilities set forth in the Administrative Orders and Procedures Act. These responsibilities must be administered with an understanding of the scientific and technical nature of the Department of Natural Resources, the Historic Preservation Review Board, and their allied boards and agencies.

The AOPA Committee shall take all reasonable measures to assure a process that is transparent and consistent with the Open Door Law. Members shall not violate the prohibitions in AOPA against unlawful ex parte communications.

2. Appointment

As soon as practicable following the annual election required by [IC 14-10-1-5](#), the Chair of the Natural Resources Commission shall appoint the AOPA Committee and the Chair of the AOPA Committee from the members of the Commission. The AOPA Committee shall consist of not fewer than three (3) persons, and a majority of those appointed constitute a quorum. To the extent practicable, the Chair shall include persons on the AOPA Committee who are licensed to practice law in Indiana. The Chair may supplement or modify the membership of the AOPA Committee, as needed for the efficient conduct of the proceedings, during the course of the year. A member of the AOPA Committee may serve through a designate where a designate is authorized under [IC 14-10-1-1](#). The Chair may serve on the AOPA Committee in a capacity other than as Committee Chair.

The AOPA Committee will sometimes conduct proceedings where a member of the Commission enjoys particular scientific or technical expertise but where the person is not a member of the AOPA Committee. In these instances, the Committee Chair may appoint that person as a special advisor. A special advisor is governed by the requirements of AOPA that pertain to a member of the AOPA Committee, including the prohibition on unlawful ex parte communications.

The Director of the Department of Natural Resources is a member of the Natural Resources Commission and provides invaluable insight and guidance to its policy making functions, particularly for rule adoption and property management. The AOPA Committee was formed with an understanding, however, that adjudicatory functions present special challenges to the Director. If the Director is to enjoy the full benefits of legal and technical advice from the Department, the Director may become disqualified from serving in an adjudicatory role under AOPA. For this reason, and to prevent any appearance of impropriety, the Director will not serve on the AOPA Committee or as a special **advisory advisor** to the AOPA Committee.

3. Division of Hearings

The Division of Hearings shall provide logistical and technical support to the AOPA Committee and to the Committee Chair. These responsibilities include:

- Assistance in the conduct of meetings.
- Assistance with drafting orders and other entries.
- Providing updates with respect to statutory changes and reported decisions that may bear upon the responsibilities of the AOPA Committee.
- Assisting with the organization and presentation of workshops to consider crucial legal issues.
- Performing other duties assigned by the Committee Chair.

4. Application and Modification

The terms of this information bulletin shall be liberally construed to implement its stated purposes and those of [IC 4-21.5](#) and [312 IAC 3-1](#). The Division of Hearings shall place the information bulletin on the agenda for

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periodic review. The Chair or the Committee Chair may cause the information bulletin to be reviewed at any meeting of the Natural Resources Commission.

5. History

~~This Information Bulletin #42 became effective on~~ was first published on January 20, 2004, and was published at (27 IR 2116). ~~As directed in the original Information Bulletin, the Division of Hearings caused it to be placed on the Commission agenda for review before December 31, 2006. During the meeting of November 14, 2006, the Commission reviewed and affirmed this Information Bulletin. The Information Bulletin was reviewed~~ **After review by the Commission on November 14, 2006, the First Amendment, posted at 20161213-IR-312060568NRA, affirmed the original Information Bulletin.**

After additional review on May 16, 2023, the Commission again affirmed the original Information Bulletin and made technical corrections in this Second Amendment.