
TITLE 312 NATURAL RESOURCES COMMISSION

Proposed Rule
LSA Document #22-76

DIGEST

Amends [312 IAC 3-1-7](#) governing a party's filing and service of documents. Adds [312 IAC 3-1-7.5](#) governing a party's time to file pleadings or responses. Repeals [312 IAC 3-1-8](#). Effective 30 days after filing with the Publisher.

[IC 4-22-2.1-5 Statement Concerning Rules Affecting Small Businesses](#)

[312 IAC 3-1-7](#); [312 IAC 3-1-7.5](#); [312 IAC 3-1-8](#)

SECTION 1. [312 IAC 3-1-7](#) IS AMENDED TO READ AS FOLLOWS:

[312 IAC 3-1-7](#) Filing and service of pleadings and documents

Authority: [IC 14-10-2-4](#)

Affected: [IC 1-1-9-1](#); [IC 4-21.5-3-1](#); [IC 4-21.5-3-29](#); [IC 4-21.5-5](#); [IC 14](#); [IC 23-1-20-15](#); [IC 25](#)

Sec. 7. (a) Pleadings and documents must be filed with the commission and served on all other parties.

(b) The filing of a pleading or document may be performed by any of the following:

(1) Personal delivery.

(2) United States mail under any of the following categories:

(A) First class.

(B) Certified.

(C) Express.

(D) Priority.

(3) Private carrier.

(4) State interdepartmental mail.

(5) Except as required by [IC 4-21.5-3-1\(e\)](#), Electronic mail delivered to nrcaopa@nrc.in.gov.

(c) If an attorney or another authorized representative represents a party, service of a pleading or document must be made upon the attorney or other authorized representative. If an individual appears without separate representation, service must be made upon the individual.

(d) Filing with the commission is complete on the earliest of the following dates:

(1) The date on which the pleading or document is delivered by personal delivery or state interdepartmental delivery under subsection (b)(1) and (b)(4).

(2) For pleadings and documents sent by electronic mail under subsection (b)(5), ~~upon transmission. Except, filing occurring:~~

~~(A) on a Saturday or Sunday;~~

~~(B) on a legal holiday identified at [IC 1-1-9-1](#);~~

~~(C) on a day the commission is closed; or~~

~~(D) after 4:30 p.m. local time of the commission;~~

~~shall be deemed complete the next day the commission is open.~~ **the date of the electronic submission containing the document.**

(3) The date of the postmark on the envelope containing the pleading or document if the pleading or document is sent by a category of United States mail described in subsection (b)(2) and is properly addressed.

(4) For a document or pleading sent by a private carrier as described in subsection (b)(3), the date on which the pleading or document is deposited with a private carrier, as shown by a receipt issued by the carrier, if the pleading or document is sent by a private carrier and is properly addressed.

(5) The date of receipt of the pleading or document sent under subdivision (2) or (3), if the date of deposit or postmark cannot be determined.

~~(e) Where the date of filing is determined by the date of receipt, a document or pleading delivered after 4:30~~

~~p.m. local time of the commission will be deemed to have been received on the next day the commission is open.~~

~~(f)~~ **(e)** This section does not modify the time in which a party may file objections under [IC 4-21.5-3-29](#) or a petition for judicial review under [IC 4-21.5-5](#).

~~(g)~~ **(f)** [IC 4-21.5-3-1](#)(d) and [IC 4-21.5-3-1](#)(e) govern service by publication.

~~(h)~~ **(g)** As used in this section, "private carrier" means a person, other than the United States Postal Service, that delivers mail as defined in [IC 23-1-20-15](#).

(Natural Resources Commission; [312 IAC 3-1-7](#); filed Feb 5, 1996, 4:00 p.m.: 19 IR 1319; readopted filed Oct 2, 2002, 9:10 a.m.: 26 IR 546; filed May 4, 2005, 1:15 p.m.: 28 IR 2660; readopted filed Jul 21, 2008, 12:16 p.m.: [20080813-IR-312080052RFA](#); errata filed Jun 20, 2011, 12:23 p.m.: [20110629-IR-312110377ACA](#); readopted filed May 20, 2014, 9:48 a.m.: [20140618-IR-312140027RFA](#); filed Sep 6, 2018, 11:30 a.m.: [20181003-IR-312170553FRA](#); readopted filed Jul 21, 2020, 4:07 p.m.: [20200819-IR-312200206RFA](#))

SECTION 2. [312 IAC 3-1-7.5](#) IS ADDED TO READ AS FOLLOWS:

[312 IAC 3-1-7.5](#) Deadlines for filing of pleadings and responses

Authority: [IC 14-10-2-4](#)

Affected: [IC 4-21.5-3-1](#), [IC 4-21.5-3-23](#); [IC 14](#); [IC 25](#)

Sec. 7.5. (a) An adverse party shall have the following:

- (1) Thirty (30) days after service of a motion to dismiss to serve a response.**
- (2) Twenty (20) days after service of any procedural motion other than a motion for continuance or extension of time to serve a response.**
- (3) Five (5) business days after service of a motion for continuance or extension of time to file a response.**

(b) The deadlines may be shortened or extended with leave of the presiding administrative law judge.

(Natural Resources Commission; [312 IAC 3-1-7.5](#))

SECTION 3. [312 IAC 3-1-8](#) IS REPEALED.

[Notice of Public Hearing](#)

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