NATURAL RESOURCES COMMISSION

Information Bulletin #7 (Fifth Amendment)
Effective May 31, 2017

SUBJECT: Petitions for Rule Change and for Nonrule Policy Document Change

I. PURPOSE

The purpose for this information bulletin is to establish a process for the submission and consideration of petitions for rule change within areas subject to the jurisdiction of the Natural Resources Commission (Commission). Included is any rule proposal submitted by an individual, a corporation, an association, a local unit of government, another state agency, a federal agency, or another person. The person may seek the adoption of a new rule, an amended rule, a recodified rule, a rule repeal, or a similar action with respect to a nonrule policy document.

II. PROCESS

A person seeking action on a rule shall file a written petition at one (1) of the following addresses:
(1) Division of Hearings
Natural Resources Commission
Indiana Government Center North
100 North Senate Avenue, Room N103
Indianapolis, IN 46204-2273; or
(2) nrcrules@nrc.in.gov.

The petition shall provide**:**
(1) the name and address of the person, or a representative of the person submitting the petition;
(2) a description of the action sought; and
(3) justification or an explanation of the reason for the sought action.

The petition may include proposed wording for any new, amended, or recodified rule or a similar action with respect to a nonrule policy document.

Upon the receipt of the petition, the Commission's Division of Hearings shall assign an administrative cause number and deliver copies of the proposal to the director and each deputy director of the Department of Natural Resources (Department). The Division of Hearings shall identify the document as a rule petition or nonrule policy document petition and request that the director establish a committee to conduct an investigation into the merits of the proposal. As appropriate, the committee may consult the Historic Preservation Review Board and the Advisory Council.

After concluding its investigation, the committee shall prepare an informal report together with recommendations regarding the proposal for presentation to the Commission. The Division of Hearings shall, within a responsible time, deliver a copy of the committee's report to the petitioner and notify the petitioner of the date and time the Commission will consider the committee's report.

A petition seeking an amendment to a rule or nonrule policy document involving a topic that has been considered by the Department within the previous twenty-four (24) months may be addressed by the Commission, in consultation with the Department, without conducting an investigation into the merits of the proposal.

A record of the final disposition shall also be filed with the Division of Hearings.

III. EXCEPTIONS

The process set forth in this information bulletin does not apply to a petition for rule change applicable to any of the following:
(1) IC 14-34 (surface coal mining). For rule petitions directed to surface coal mining and reclamation, see IC 14-34-2-7.
(2) IC 14-37 (oil and gas production). For rule petitions directed to oil and gas production and reclamation, see IC 14-37-3-16 and 312 IAC 16-2-3.
(3) IC 14-15-3-11, IC 14-15-3-12, and IC 14-15-3-12.5. For a petition regarding exemption of a "small lake" from the ten mile per hour speed limit established by IC 14-15-3-10 see "Small Lakes (Exemptions from

Speed Limits)", Commission Information Bulletin #67, Indiana Register, 20110601-IR-312110314NRA (June 1, 2011).

IV. RETENTION OF AUTHORITY BY DIRECTOR AND COMMISSION

This information bulletin does not restrict the ability of the Department or the Commission to take action with respect to any rule or nonrule policy document. See, also, 312 IAC 2-2-4 authorizing the Secretary of the Commission to approve any rule for preliminary adoption.

V. HISTORY

The Commission in 1994 adopted a nonrule policy document to address petitions for rule change originating outside the Commission and the Department. The policy was published in the July 1, 1994, issue of the Indiana Register (17 IR 2481) as Information Bulletin #7. In 2006, the policy was amended to include updated citations to reflect recodifications of rules and statutes that have taken place since 1994. Also, the scope of the document was expanded to include a petition to change a nonrule policy document. These amendments were posted in the Indiana Register on October 11, 2006, at 20061011-IR-312060443NRA. The document was amended effective February 1, 2008, to reference petitions to exempt a "small lake" from the statutory speed limit, or to rescind or amend an existing exemption, under IC 14-15-3. The 2008 amendments also updated the address of the Division of Hearings. Effective October 1, 2011, the document was amended again to recognize a separate nonrule policy document that addresses "small lake" petitions, to remove an obsolete reference to the DNR's former Museum Board of Trustees, and to acknowledge the document does not supersede any law requiring Commission consideration of a citizen's petition for rule change. The fourth amendment (20160323-IR-312160098NRA) clarified that a petitioner must provide an explanation or justification for the proposed action, and to allow the Commission and the Department to defer to a previous investigation when addressing the merits of a petition. Other amendments were made to more closely align the prescribed processes to current practices. The fifth amendment to this bulletin updates the contact information for the Commission and its Division of Hearings.

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