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TITLE 312 NATURAL RESOURCES COMMISSION

Proposed Rule LSA Document #02-329

DIGEST

Adds 312 IAC 20-5 to assist the historic preservation review board in the administration of the register of Indiana historic sites and historic structures. Effective 30 days after filing with the secretary of state.

312 IAC 20-5

SECTION 1. 312 IAC 20-5 IS ADDED TO READ AS FOLLOWS:

Rule 5. Indiana Register

312 IAC 20-5-1 Applicability of rule for Indiana register of historic sites and structures

Authority: IC 14-21-1-31

Affected: IC 14-9; IC 14-21-1-9

Sec. 1. This rule governs matters pertaining to the register of Indiana historic sites and historic structures established under IC 14-21-1-9. (*Natural Resources Commission; 312 IAC 20-5-1*)

312 IAC 20-5-2 Criteria for eligibility on the register

Authority: IC 14-21-1-31

Affected: IC 14-9; IC 14-21-1

Sec. 2. A site, district, building, structure, or object is eligible for inclusion in the Indiana register if it does each of the following:

- (1) Possesses local, state, or national significance in Indiana history, architecture, archaeology, engineering, or culture.
- (2) Demonstrates sufficient integrity of location, setting, design, workmanship, and materials. Feeling and association are factors that may be considered.
- (3) Satisfies at least one (1) of the following:
 - (A) Is associated with events who have made a significant contribution to national, state, or local history.
 - (B) Is associated with individuals who have made significant contribution to the nation, state, or local community.
 - (C) Embodies distinctive characteristics of a type, period, or method of construction.
 - (D) Represents the work of a master.
 - (E) Possesses high artistic values.
 - (F) Has yielded, or will likely yield, information important in the archaeological knowledge of the prehistory or history of the state or nation.

(*Natural Resources Commission; 312 IAC 20-5-2*)

312 IAC 20-5-3 Eligibility exemptions

Authority: IC 14-21-1-31

Affected: IC 14-9; IC 14-21-1

Sec. 3. (a) Except as provided in subsection (b), a structure or site cannot be included in the Indiana register if the structure is any of the following:

- (1) Moved from its original location.

- (2) A reconstructed historic building.
- (3) Primarily commemorative in nature.
- (4) An archaeological site where the contextual integrity is significantly altered.
- (5) A structure or site where the significance was achieved within the past fifty (50) years.

(b) A structure or site otherwise disqualified under subsection (a) may be included in the Indiana register if it is either of the following:

- (1) An integral part of a district that meets the criteria described in section 2 of this rule.
- (2) Falls into at least one (1) of the following categories:
 - (A) A building or structure removed from its original location but that is a rare surviving resource associated with an historical person or event.
 - (B) A reconstructed building that is accurately executed in a suitable environment and presented in a dignified manner.
 - (C) A property primarily commemorative in intent, if design, age, tradition, or symbolic value has invested it with its own historical significance.
 - (D) A property that has achieved significance within the past fifty (50) years if it is of exceptional significance in the historic, architectural, archaeological, or cultural development of the state or nation.
 - (E) An archaeological site where the contextual integrity has been altered by natural forces or human activity but which may yield pertinent or quality cultural, biological, fauna, and floral data regarding cultural patterns, processes, or activities significant in our past.

(Natural Resources Commission; 312 IAC 20-5-3)

312 IAC 20-5-4 Listing and removal of properties from the Indiana register

Authority: IC 14-21-1-31

Affected: IC 4-21.5; IC 14-9; IC 14-21-1-17

Sec. 4. (a) Additions and removals from the Indiana register are governed by IC 14-21-1-17, 312 IAC 2-3-1, and this section.

(b) The Indiana register includes any site listed by the board:

- (1) on the effective date of this rule; or
- (2) under this section.

(c) A property included on the National Register after the effective date of this rule is also automatically listed on the Indiana register unless:

- (1) the board or division otherwise specifies; or
- (2) the listing is made unilaterally by the federal government without approval by the board.

(d) This subsection governs petitions to list a property on the Indiana register, including the following:

(1) A person may, in writing, petition the division to list a site on the Indiana register. The petition must include adequate photographic and written documentation to support listing, including the significance of the property and its current physical condition.

(2) If the division determines the property meets the minimum criteria for listing, the division will issue a letter to indicate the property is being considered for listing and providing at least thirty (30) days for comment or objections to the following persons:

- (A) The property owner.
- (B) The chief elected official.
- (C) The board of county commissioners.
- (D) Any other person who requests notification.

(3) If an objection is not received within the comment period, without intervention of the board, the division shall list the property on the Indiana register and notify the persons described in subdivision (2).

(4) If timely objections are received, a designated member or members of the board will conduct a hearing under 312 IAC 2-3-1 to consider the objections. The board shall consider the recommendations of any hearing officer before determining whether to list the property.

(e) A property may be removed from the Indiana register if it either:

- (1) ceases to demonstrate the characteristics that originally made the property eligible for the Indiana register; or**
- (2) was listed as a result of a procedural error during the listing process.**

(f) Administrative review of a determination under subsection (b) is governed by IC 4-21.5 and 312 IAC 3-1. *(Natural Resources Commission; 312 IAC 20-5-4)*

Notice of Public Hearing

Under IC 4-22-2-24, notice is hereby given that on May 27, 2003 at 9:00 a.m., at the Natural Resources Commission, Division of Hearings, Indiana Government Center-South, 402 West Washington Street, Room W272, Indianapolis, Indiana the Natural Resources Commission will hold a public hearing on proposed new rules to assist the historic preservation review board in the administration of the register of Indiana historic sites and historic structures. Copies of these rules are now on file at the Indiana Government Center-South, 402 West Washington Street, Room W272 and Legislative Services Agency, One North Capitol, Suite 325, Indianapolis, Indiana and are open for public inspection.

Michael Kiley
Chairman
Natural Resources Commission