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TITLE 312 NATURAL RESOURCES COMMISSION

Proposed Rule LSA Document #03-296

DIGEST

Amends 312 IAC to update cross-references to other laws, to incorporate emergency rules already in effect as permanent rules, and to include definitions that clarify the current administration of programs. Effective 30 days after filing with the secretary of state.

312 IAC 1-1-19.5 **312 IAC 10-2-33.5**
312 IAC 1-1-27.5 **312 IAC 11-5-2**
312 IAC 1-1-29.3 **312 IAC 19-1-3**

SECTION 1. 312 IAC 1-1-19.5 IS ADDED TO READ AS FOLLOWS:

312 IAC 1-1-19.5 “Includes” defined

Authority: IC 14-10-2-4

Affected: IC 14; IC 25

Sec. 19.5. “Includes” means includes, but is not limited to. *(Natural Resources Commission; 312 IAC 1-1-19.5)*

SECTION 2. 312 IAC 1-1-27.5 IS ADDED TO READ AS FOLLOWS:

312 IAC 1-1-27.5 “State plane coordinate” or “SPC” defined

Authority: IC 14-10-2-4

Affected: IC 14; IC 32-19-1-1

Sec. 27.5. “State plane coordinate” or “SPC” has the meaning set forth in IC 32-19-1-1. *(Natural Resources Commission; 312 IAC 1-1-27.5)*

SECTION 3. 312 IAC 1-1-29.3 IS ADDED TO READ AS FOLLOWS:

312 IAC 1-1-29.3 “Universal transverse mercator” or “UTM” defined

Authority: IC 14-10-2-4

Affected: IC 14

Sec. 29.3. “Universal transverse mercator” or “UTM” means UTM Zone 16, NAD 83, in meters. *(Natural Resources Commission; 312 IAC 1-1-29.3)*

SECTION 4. 312 IAC 10-2-33.5 IS ADDED TO READ AS FOLLOWS:

312 IAC 10-2-33.5 “Reconstruction” defined

Authority: IC 14-10-2-4; IC 14-28-1-5

Affected: IC 14-28-1

Sec. 33.5. “Reconstruction”, for the purposes of IC 14-28-1-10, IC 14-28-1-24, and IC 14-28-1-25, means an activity that rehabilitates or restores the structural elements of a building, including replacing floors or working on an element needed to support the structure. The term does not, however, include any of the following:

- (1) **Painting.**
- (2) **Replacing floor coverings.**
- (3) **Replacing doors.**
- (4) **Replacing windows.**
- (5) **Cleaning.**
- (6) **Performing similar activities.**

(Natural Resources Commission; 312 IAC 10-2-33.5)

SECTION 5. 312 IAC 11-5-2 IS AMENDED TO READ AS FOLLOWS:

312 IAC 11-5-2 Nonconforming uses; nuisances; modifications

Authority: IC 14-10-2-4; IC 14-15-7-3; IC 14-26-2-23

Affected: IC 4-21.5-3-8; IC 4-21.5-4; IC 14-26-2

Sec. 2. (a) A structure or facility that was lawfully placed before the effective date of a section of **312 IAC 11-3, 312 IAC 11-4, or** this rule (including a structure or facility lawfully placed under a section of 310 IAC 6-2 before its repeal), which would be unlawful if placed after that date, is a lawful nonconforming use.

(b) ~~The director or the director's designee may order the removal of~~ a lawful nonconforming use ~~under subsection (a) may be ordered to be removed or modified by the director, or the director's designee,~~ if the structure or facility is either of the following:

- (1) A nuisance that adversely affects public safety, natural resources, natural scenic beauty, or ~~the~~ water level of a public freshwater lake.
- (2) Modified in a manner for which a license is required under IC 14-26-2 or this rule.

(c) An order issued under subsection (b) is controlled by IC 4-21.5-3-8 unless an emergency exists, in which event IC 4-21.5-4 may be applied.

(d) Nothing in this rule affects the department's right to seek injunctive or other relief under IC 14-26 or another applicable law.
(Natural Resources Commission; 312 IAC 11-5-2; filed Feb 26, 1999, 5:49 p.m.: 22 IR 2228)

SECTION 6. 312 IAC 19-1-3 IS AMENDED TO READ AS FOLLOWS:

312 IAC 19-1-3 Application for license; fee

Authority: IC 14-31-3-14

Affected: IC 14-31-3

Sec. 3. As prerequisites to the issuance of a ginseng dealer's license, a person must file with the division both of the following:

- (1) A completed application for ginseng dealer's license.
- (2) A fee payable to the department in the amount of ~~twenty-five~~ **one hundred** dollars (~~(\$25)~~ **(\$100)**).

(Natural Resources Commission; 312 IAC 19-1-3; filed Jul 10, 1998, 10:29 a.m.: 21 IR 4193)

Notice of Public Hearing

Under IC 4-22-2-24, notice is hereby given that on February 26, 2004 at 9:30 a.m., at the Indiana Government Center-South, 402 West Washington Street, Room W272, Indianapolis, Indiana the Natural Resources Commission will hold a public hearing on proposed amendments to update cross-references to other laws, to incorporate emergency rules already in effect as permanent rules, and to include definitions that clarify the current administration of programs. 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