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## TITLE 312 NATURAL RESOURCES COMMISSION

### **Proposed Rule** LSA Document #04-263

#### DIGEST

Amends 312 IAC 3-1-7, which governs the filing and service of pleadings and documents with the natural resources commission under IC 4-21.5, to conform the rule section to IC 4-21.5 with respect to private carriers, to authorize filing and service to be made by U.S. priority or express mail, and to recognize notice and service by publication. Makes other technical changes. Effective 30 days after filing with the secretary of state.

### **312 IAC 3-1-7**

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 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** ~~shall~~ **must** be filed with the administrative law judge and served on all other parties.

(b) The filing of a **pleading or** document with the administrative law judge may be performed by **any of the following:**

(1) Personal delivery.

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

(A) First class. ~~mail;~~

(B) Certified. ~~mail;~~

(C) Express.

(D) Priority.

(3) **Private carrier.**

(4) Interoffice mail. ~~fax, or~~

(5) **Facsimile mail.**

(6) Electronic mail.

(c) If ~~a party is represented by~~ 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 or service is complete ~~upon deposit in~~ **on the earliest of the following dates:**

(1) **The date on which the pleading or document is delivered.**

(2) **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. and first class or certified post prepaid; filing or service by another method is complete upon receipt.**

(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.**

(4) **The date of receipt of the pleading or document, if the date of deposit or postmark cannot be determined.**

(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.

**(f) IC 4-21.5-3-1(d) and IC 4-21.5-3-1(e) govern service by publication.**

**(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)*

***Notice of Public Hearing***

*Under IC 4-22-2-24, notice is hereby given that on January 26, 2005 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 a proposed amendment concerning the filing and service of pleadings and documents with the natural resources commission under IC 4-21.5 to conform the rule section to IC 4-21.5 with respect to private carriers, to authorize filing and service to be made by U.S. priority or express mail, and to recognize notice and service by publication. 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