

**BEFORE THE  
NATURAL RESOURCES COMMISSION  
OF THE  
STATE OF INDIANA**

<b>IN THE MATTER OF:</b>	)	<b>Administrative Cause</b>
	)	<b>Number: 21-OG-005</b>
<b>READOPTION OF 312 IAC 17</b>	)	
<b>GOVERNING OTHER PETROLEUM</b>	)	
<b>REGULATION</b>	)	<b>(LSA Document #21-111(F))</b>

**RECOMMENDATION FOR FINAL ACTION ON READOPTION OF RULES**

**A. INTRODUCTION**

For consideration is the re adoption of 312 IAC 17 in its entirety, and without amendment. This article provides standards for Other Petroleum Regulation. 312 IAC 17 can be accessed through the Indiana General Assembly’s website at:

<http://iac.iga.in.gov/iac//T03120/A00170.PDF>

If rules are readopted in their current form without amendments 312 IAC 2-2-4(b) authorizes the Director of the Division of Hearings to approve preliminary adoption. The Commission retains authority to take final action on readoptions. The Director of the Division of Hearings approved preliminary adoption on January 5, 2021. The standard practice is to readopt rules by article, and 312 IAC 17 is now submitted for consideration as to final action.

**B. READOPTION ANALYSIS REQUIRED UNDER IC 4-22-2.5-3.1 AND IC 4-22-2.1-5**

Executive Order 13-03 requires agencies to “suspend rulemaking action on any proposed rules”. The Director of the Office of Management and Budget (OMB) determined the moratorium set forth in Executive Order 13-03 was not applicable to readoptions.<sup>1</sup>

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<sup>1</sup> Indiana State Budget Agency email dated May 2, 2013, to heads of state agencies. OMB’s determination caused Financial Management Circular 2015-1 to be equally inapplicable to readoptions.

The OMB determined that the fiscal analyses, as specified in Financial Management Circulars 2010-4, are not required to be submitted to the OMB for State Budget Agency's approval if those analyses have been submitted to the OMB in a previous rule adoption or amendment.<sup>2</sup>

James AmRhein (*AmRhein*), Assistant Director with the Department of Natural Resources, Division, Division of Oil and Gas, was appointed Small Business Regulatory Coordinator for this rule readoption. AmRhein provided to the Hearing Officer the following analyses as required for the proposed readoption of 312 IAC 17:

Review under IC 4-22-2.5-3.1(c)

**The continued need for the rule.**

**The rule is necessary for the continued implementation of the regulatory programs administered by the Department of Natural Resources, Division of Oil and Gas, authorized under the statutory authority of IC 14-38.**

312 IAC 17-1; This section provides for the Administration of the Exploration for, and Production of, Oil and Gas from Public Land, and specifically addresses;

- definitions with applicability to IC 14-38 and 312 IAC 17-1.
- Classification of public lands for exploration or leasing purposes
- Permit applications and public notice requirements
- Protection of private rights
- Bonding
- Competitive bidding process
- Unitization of state lands for common development, exploration and operation
- the extent of development of an oil and gas field
- Royalties and rental fees

312 IAC 17-2; Test Holes for Fluid Disposal Investigation, Engineering Projects Investigation, and Geologic Investigation. This section governs the following:

- definitions applicable to IC 14-38 and 312 IAC 17-2
- General provisions which include the drilling, operation and bonding of test holes
- Prevention of waste
- defines the agency and division which administers the rule
- Addresses inspection powers
- Bonding
- Informal Hearings process
- Plugging and abandonment of test wells
- Protection of other commercial minerals

**The nature of any complaints or comments received from the public, including small businesses, concerning the rule or the rule's implementation by the agency.**

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<sup>2</sup> OMB emails dated March 16 and March 24, 2017. OMB's determination effectively renders Executive Order 2-89 inapplicable to readoptions.

The nature of complaints from landowners: None have been received since the last re-adoption of 312 IAC 17. This article has been in existence for many years and we believe the operators that utilize the rules have a very good understanding of how they are administered.

**The complexity of the rule, including any difficulties encountered by:  
(A) the agency in administering the rule; or**

The division has administered this rule for several years and consequently, experience very few difficulties in actually managing programs governed by the regulation. Although the rule is quite complex, the division employs staff with experience and specialized knowledge required to properly administer this rule.

**(B) small businesses in complying with the rule.**

As mentioned earlier, because the rule has been in effect for many years, small businesses have learned to follow the requirements when leasing public lands or applying for test hole permits. Compliance with, or difficulties in interpreting the rule is generally not an issue.

**The extent to which the rule overlaps, duplicates, or conflicts with other federal, state, or local laws, rules, regulations, or ordinances.**

There are no overlapping or conflicting rules at the local, state, or federal levels.

**The length of time since the rule was last reviewed under this section or otherwise evaluated by the agency, and the degree to which technology, economic conditions, or other factors have changed in the area affected by the rule since that time.**

The division continually reviews 312 IAC 17 as a matter of business and to ensure its overall effectiveness. There have been no changes to the rule since the last time it was re-authorized.

On March 17, 2021, the analyses required under IC 4-22-2.5-3.1, was forwarded to the Legislative Council as required by IC 4-22-2-28(i).

**C. NOTICE OF INTENT TO READOPT AND RECOMMENDATION FOR FINAL ACTION**

On March 17, 2021, the “Notice of Intent to Readopt” 312 IAC 17 was posted to the Indiana *Register* at 20210317-IR-312210111RNA as anticipated by IC 4-22-2.5-4. The notice indicated the intention to readopt the entirety of 312 IAC 17 without changes. The notice also provided that a person had 30 days to submit a written request to the Commission, through the Small Business Regulatory Coordinator, seeking to have a particular section of the rule readopted separately. If a request had been made, the Commission would have been required to complete the full rule adoption process for the section requested to be readopted separately. No request was made.

The hearing officer recommends the Commission approve for readoption 312 IAC 17, without amendment, for subsequent filing with the Publisher under IC 4-22-2-35 as authorized at IC 4-22-2.5-4(c)(1).

Dated: May 18, 2021



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Billie J. Franklin  
Hearing Officer