

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

IN THE MATTER OF:)	Administrative Cause
)	Number: 21-FO-004
READOPTION OF 312 IAC 15)	
GOVERNING FOREST AND)	
RESOURCE MANAGEMENT)	(LSA Document #21-112(F))

RECOMMENDATION FOR FINAL ACTION ON READOPTION OF RULES

A. INTRODUCTION

For consideration is the readoption of 312 IAC 15 in its entirety, and without amendment. This article provides standards for Forest and Resource Management. 312 IAC 15 can be accessed through the Indiana General Assembly’s website at:

<http://iac.iga.in.gov/iac//T03120/A00150.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 15 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.¹

¹ 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.²

Brenda Huter (*Huter*), Stewardship Coordinator with the Department of Natural Resources, Division of Forestry, was appointed Small Business Regulatory Coordinator for this rule readoption. Huter provided to the Hearing Officer the following analyses as required for the proposed readoption of 312 IAC 15:

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

The continued need for the rule.

The rule provides guidance for the Classified Forest & Wildlands Program (IC 6-1.1-6). The rule provides definitions, minimum standards for management as referenced in IC 6-1.1-6-16(a), and options for developing descriptions of land being enrolled in the program as referred to in 6-1-1-6-9(c). The Classified Forest & Wildlands Program began in 1921 and remains one of the premier conservation programs in the nation. There are currently 837,807 acres in 17,086 tracts enrolled in the program. The program is growing at 15,000 new acres enrolled per year.

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.

No complaints or comments received by the Division of Forestry regarding the rule.

The complexity of the rule, including any difficulties encountered by:

(A) the agency in administering the rule; or

(B) small businesses in complying with the rule.

There have not been any difficulties encountered administering or complying with the rule.

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

This rule is specific to the Classified Forest & Wildlands Program. No duplication or conflict with other laws, rules, regulations, or ordinances has been identified.

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 rule was reviewed under this section in 2015. There has been little change in the technology, economic conditions and/or other factors in the area affected by the rule since the last review.

² OMB emails dated March 16 and March 24, 2017. OMB's determination effectively renders Executive Order 2-89 inapplicable to reoptions.

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 5 was posted to the *Indiana Register* at 20210317-IR-312210112RNA as anticipated by IC 4-22-2.5-4. The notice indicated the intention to readopt the entirety of 312 IAC 15 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 15, 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



Billie J. Franklin
Hearing Officer