



State of Indiana

Eric J. Holcomb, Governor



Office of Management and Budget
102 State House
Indianapolis, IN 46204

State Budget Agency
212 State House
Indianapolis, IN 46204

July 10, 2024

David C. Bausman
General Counsel
Indiana Department of Natural Resources
402 W. Washington Street, Room W-256
Indianapolis, Indiana 46204

Dear Mr. Bausman,

Pursuant to the provisions of IC 4-22-2-22.8, the Office of Management and Budget and State Budget Agency have reviewed the proposed rule that amends 312 IAC 4-4-6, 312 IAC 4-5-2, and 312 IAC 4-5-3 (OMB #2024-30R) which you submitted on May 8, 2024. After reviewing the proposed rule, the recommendation of OMB and SBA is that the rule changes be approved. Indiana Department of Natural Resources is authorized to commence the public comment period(s).

Furthermore, if you revise the proposed rule after this approval, you must resubmit the rule and obtain a new approval pursuant to IC 4-22-2-22.8(e).

IDNR may proceed with the rule proposed in its submission.

Cristopher R. Johnston
OMB Director

Date: 7/5/2024

Joe Habig
Acting SBA Director

Date: 7/10/2024

Proposed Final Rule
LSA Document #XX-XXX

DIGEST

Amends 312 IAC 4-4-6 to remove the provision permitting the return of a conservation officer who receives a spot appointment to the conservation officer's permanent grade before the spot appointment at the will of the director of the division of law enforcement (division director) and subject to the approval of the director of the department of natural resources (department). Amends 312 IAC 4-4-6 to remove the definition of a "spot appointment". Amends 312 IAC 4-5-2 to: (1) remove the requirement that an individual who applies to become a conservation officer achieve an associate's degree, at least two years toward a bachelor's degree, or at least four years of full time active duty military service with honorable discharge; and (2) adds the requirement that a person who applies to become a conservation officer achieve a high school diploma or a general education diploma (GED). Amends 312 IAC 4-5-3 to require the division director to select an individual to become a conservation officer based on indicators the individual will excel in a career in conservation law enforcement, including the individual's life experiences and interest in and commitment to natural resources. Effective on the date and time that the interim final rule is accepted for filing with the Publisher.

HISTORY

Notice of First Public Comment Period: *[date in regular type]*, Indiana Register (DIN: 20XX IR XXXX).
Notice of First Public Hearing: *[date published]*, Indiana Register (DIN: 20XX IR XXXX).
Date of First Public Hearing: *[date]*.

SUMMARY/RESPONSE TO COMMENTS

[Agency name] requested public comment from *[date]*, through *[date]*, and during the public hearing on *[date of hearing or dates of hearings]*. **[Alt 1]:** *[Agency name]* received no comments in response to the Notice of First Public Comment Period. **[Alt 2]:** *[Agency name]* received comments from the following parties by the comment period deadline:*[summarizes the comments and response to comments]*.

PROPOSED PERMANENT RULE

SECTION 1. 312 IAC 4-4-6 IS AMENDED TO READ AS FOLLOWS:

312 IAC 4-4-6 Review of actions resulting in termination, demotion, or suspension of a conservation officer

Authority: **IC 14-10-2-1; IC 14-10-2-4; IC 14-9-8-3**

Affected: IC 4-21.5-5; IC 14-9-8

Sec. 6. (a) Except as provided in subsection (c), a conservation officer:

(1) whose employment is terminated; or

(2) who is demoted or suspended;

~~as a result of~~ **due to** a final determination by the division director, or ~~a person designated by~~ the division director's **designee**, may seek administrative review from the commission under IC 4-21.5 and 312 IAC 3-1.

(b) ~~Through the issuance of a general order,~~ The division director may establish a board to provide informal review of ~~any~~ a disciplinary action **by issuing a general order**. A determination:

(1) that is subject to administrative review under subsection (a); and

(2) for which informal review is available under this subsection;

is not a final determination until the board completes the **informal** review and makes a written report of its findings.

(c) ~~Without~~ **Absent** charges ~~being made~~ **filed** under section 5 of this rule and without a predisciplinary meeting,

(1) a probationary employee may be terminated.

~~(2) At the will of the division director and subject to approval of the director, an officer who received a spot appointment may be returned to the officer's permanent grade before the spot appointment.~~

~~An A termination~~ action under this subsection does not entitle a ~~person~~ **an individual** to administrative review under subsection (a) or to ~~an~~ informal review under subsection (b).

~~(d) As used in this section, "spot appointment" means a temporary elevation in grade to captain, major, or lieutenant colonel that:~~

~~(1) is granted in writing at the discretion of the division director, subject to the approval of the director;~~

~~(2) states the permanent grade to which the officer would return; and~~

~~(3) takes effect after July 1, 2014.~~

~~(e) (d) An party individual~~ who is aggrieved by a final agency action of the commission **under this section** may seek judicial review under IC 4-21.5-5. *(Natural Resources Commission; 312 IAC 4-4-6; filed Aug 3, 2001, 11:07 a.m.: 24 IR 3937; readopted filed May 29, 2007, 9:49 a.m.: 20070613-IR-312070145RFA; readopted filed Sep 19, 2013, 10:13 a.m.: 20131016-IR-312130170RFA; filed Oct 14, 2014, 3:29 p.m.: 20141112-IR-312130448RFA; readopted filed Jul 18, 2019, 8:40 a.m.: 20190814-IR-312190290RFA)*

SECTION 2. 312 IAC 4-5-2 IS AMENDED TO READ AS FOLLOWS:

312 IAC 4-5-2 Prerequisites; ~~for a~~ conservation officer applicant

Authority: IC 14-9-8-3; IC 14-10-2-4

Affected: IC 14-9-8

Sec. 2. ~~A person~~ **An individual** who ~~wishes to apply~~ **applies** to become a conservation officer ~~must~~ **shall** meet ~~each~~ of the following requirements ~~in order~~ to be favorably considered:

(1) ~~Be~~ **Provide proof the individual is** a United States citizen; **including:**

(A) a copy of the individual's birth certificate; or

(B) a copy of the individual's:

(i) naturalization certificate;

(ii) certificate of citizenship;

(iii) United States Passport; or

(iv) Consular Report of Birth Abroad (FS-240).

(2) ~~Possess~~ **Demonstrate** the strength and agility needed to complete the physical conditioning and psychomotor skills requirements established by the Indiana law enforcement training board under 250 IAC 2-3.

(3) ~~Have achieved one (1) of the following:~~

~~(A) An associate's degree (two (2) year program), evidenced by a certified transcript, from a college or university accredited by an organization recognized by the United States Secretary of Education at 34 CFR 602.2.~~

~~(B) Completion of at least two (2) years toward a bachelor's degree (four (4) year program), evidenced by a certified transcript, from a college or university accredited by an organization recognized by the United States Secretary of Education at 34 CFR 602.2.~~

~~(C) Four (4) years of full time active duty United States military service with honorable discharge.~~

Achieve a high school diploma or a general education diploma (GED).

(4) Be at least twenty-one (21) years of age on the date of appointment.

(5) Possess a valid driver's license to operate an automobile.

(6) ~~Be willing, if appointed,~~ **Attest the individual is willing** to reside and serve ~~any place within Indiana as~~ **in any location** designated by the division director **in a form and manner prescribed by the department.**

(7) Demonstrate an ability to:

(A) swim one hundred (100) yards without stopping; and

(B) tread water for at least five (5) minutes.

~~(8) Successfully complete physical agility testing.~~

~~(9) If requested by the division, submit to and satisfy the following:~~

~~(A) Standard psychological testing.~~

~~(B) A polygraph examination.~~

(Natural Resources Commission; 312 IAC 4-5-2; filed Aug 3, 2001, 11:07 a.m.: 24 IR 3938; readopted filed May 29, 2007, 9:49 a.m.: 20070613-IR-312070145RFA; readopted filed Sep 19, 2013, 10:13 a.m.: 20131016-IR-

312130170RFA; filed Oct 14, 2014, 3:29 p.m.: 20141112-IR-312130448FRA; errata filed Oct 17, 2014, 2:14 p.m.: 20141112-IR-312130448ACA; filed Jul 11, 2016, 3:33 p.m.: 20160810-IR-312150343FRA; readopted filed Jul 18, 2019, 8:40 a.m.: 20190814-IR-312190290RFA)

SECTION 3. 312 IAC 4-5-3 IS AMENDED TO READ AS FOLLOWS:

312 IAC 4-5-3 **Conservation officer applicant**; additional standards ~~established by division director~~

Authority: IC 14-9-8-3

Affected: IC 14-9-8

Sec. 3. **(a)** The division director shall establish additional ~~written~~ standards for the recruitment, selection, training, and promotion of a conservation officer.

(b) If requested by the division, submit to and satisfy the following:

(1) Standard psychological testing.

(2) A polygraph examination.

(c) The division director shall select an individual to become a conservation officer based on indicators the individual will excel in a career in conservation law enforcement, including the individual's:

(1) life experiences; and

(2) interest in and commitment to natural resources.

(Natural Resources Commission; 312 IAC 4-5-3; filed Aug 3, 2001, 11:07 a.m.: 24 IR 3938; readopted filed May 29, 2007, 9:49 a.m.: 20070613-IR-312070145RFA; readopted filed Sep 19, 2013, 10:13 a.m.: 20131016-IR312130170RFA; readopted filed Jul 18, 2019, 8:40 a.m.: 20190814-IR-312190290RFA)

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LSA Document #XX-XXX

Notice of First Public Comment Period: [DIN]

Public Hearing Held: [date]

Notice of Second Public Comment Period: [DIN] [if applicable]

Public Hearing Held: [date] [if applicable]

Approved by Attorney General: [date]

Approved by Governor: [date]

Filed with Publisher: [date]

Documents Incorporated by Reference: [references received by publisher]

Small Business Regulatory Coordinator: [contact information]