

# INDIANA FIRE PREVENTION AND BUILDING SAFETY COMMISSION

Monday, June 28, 2021  
By Electronic Mail

Brian Hudson  
Petitioner  
Mr. Fireworks, Inc.  
1240 East Gano Street  
Kokomo, IN 46901

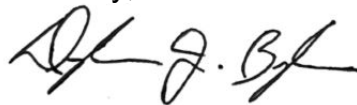
John Brooke  
Attorney for the Petitioner  
Brooke Stevens, PC  
112 East Gilbert Street  
Muncie, IN 47305  
[jbrooke@brooke-stevens.com](mailto:jbrooke@brooke-stevens.com)

**Re: Petition for Administrative Review – IDHS Notice of Violations Order No. FB2A-B0DD – Mr. Fireworks, Inc.**

Dear Mr. Hudson and Mr. Brooke:

The Indiana Fire Prevention and Building Safety Commission (Commission) is in receipt of your petition for administrative review of Indiana Department of Homeland Security (IDHS Notice of Violations Order No. FB2A-B0DD – Mr. Fireworks, Inc., dated 6/26/2021. The petition for administrative review will be discussed at the next tentatively scheduled meeting of the Commission – currently scheduled to begin at 9:00 a.m. EDT on Wednesday, July 7, 2021. Notice and details regarding this meeting will be posted to the Commission's web page (<http://www.in.gov/dhs/2375.htm>) in advance of the meeting. The Commission will determine if you qualify for administrative review of this order in accordance with the requirements of Indiana Code § 4-21.5-3-7.

Sincerely,



Douglas J. Boyle, Director  
Indiana Fire Prevention and Building Safety Commission  
Indiana Department of Homeland Security  
Indiana Government Center South, Room E-208  
302 W. Washington Street  
Indianapolis, IN 46204  
[dboyle@dhs.in.gov](mailto:dboyle@dhs.in.gov)

Enclosure

cc: Philip A. Gordon, Deputy Attorney General and Legal Counsel to the Indiana Fire Prevention and Building Safety Commission (by electronic mail)  
Justin K. Guedel, IDHS Deputy General Counsel – Attorney for the Respondent (by electronic mail)  
Bryston Sprecher, Administrative Assistant to the Indiana Fire Prevention and Building Safety Commission (by electronic mail)

**From:** [DHS Legal Mailbox](#)  
**To:** [Guedel, Justin K](#); [Boyle, Douglas J \(DHS\)](#); [Sprecher, Bryston](#)  
**Subject:** FW: Petition for Review  
**Date:** Saturday, June 26, 2021 10:18:56 AM  
**Attachments:** [68379161\\_Report\\_of\\_Violation\\_for\\_store\\_at\\_1240\\_E.\\_Gano\\_St.\\_Kokomo.pdf](#)

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**From:** noreply@formstack.com <noreply@formstack.com>  
**Sent:** Saturday, June 26, 2021 2:18:43 PM (UTC+00:00) Monrovia, Reykjavik  
**To:** DHS Legal Mailbox <Legal@dhs.IN.gov>  
**Subject:** Petition for Review

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## Formstack Submission For: **petition for review**

Submitted at 06/26/21 10:18 AM

<b>Individual Name:</b>	brian hudson
<b>Business Name: :</b>	Mr. Fireworks, INC.
<b>Phone Number:</b>	(765) 741-1375
<b>Email Address:</b>	jbrooke@brooke-stevens.com
<b>Mailing Address:</b>	112 East Gilbert St. Muncie, IN 47305
<b>Are you represented by an attorney?:</b>	Yes
<b>Attorney Name:</b>	John Brooke
<b>Firm:</b>	Brooke Stevens, PC
<b>Phone Number:</b>	7657411375

<b>Email Address:</b>	jbrooke@brooke-stevens.com
<b>Mailing Address:</b>	112 East Gilbert St. Muncie, IN 47305
<b>Order Number:</b>	-1
<b>Facility   Device   Boiler ID:</b>	fr11733c
<b>Date Order Received:</b>	Jun 10, 2021
<b>How did you receive the Order? :</b>	Hand Delivery
<b>Entity Issuing Order:</b>	Other
<b>Entity Name:</b>	State Fire Marsha
<b>Upload Order:</b>	<a href="#">View File</a>
<b>Was this order specifically directed to you?:</b>	Yes
<b>Explain:</b>	this notice of violation was provided to my fireworks store
<b>Explain:</b>	
<b>Have you been aggrieved or adversely affected by the order?:</b>	Yes
<b>Explain:</b>	the storage containers on the property have been present for over 20 years and were not cited as a violation in the past
<b>Explain:</b>	
<b>If the order was not specifically directed to you and you have not been aggrieved or adversely affected by the order, are you entitled to review under some other law? :</b>	

<b>What law?:</b>	
<b>I request review of the entire order described above:</b>	Yes
<b>If you are not requesting review of the entire order, what is the scope of your request?:</b>	
<b>I request a stay of effectiveness:</b>	Yes
<b>What is the basis of your challenge? :</b>	the notice of violation is incorrect as these storage containers pre-date the adoption of the regulation
<b>What is your desired outcome? :</b>	rescind the notice of violation
<b>Additional information in support of my request:</b>	
<b>Additional Attachments:</b>	
<b>Additional Attachments:</b>	
<b>Additional Attachments:</b>	

## Report of Inspection

Indiana Department of Homeland Security  
302 W. Washington Street, Room E208 Indianapolis, IN 46204  
Phone: 317-232-2222

State Number	Inspection Number
FR11733C	FB2A-B0DD

Visit us at: <http://www.in.gov/dhs>

<b>Date</b>	06/10/2021 10:31AM	<b>Type</b>	Initial
<b>Results</b>	Notice of Violations		
<b>Location</b>		<b>Owner</b>	
Name	MR FIREWORKS INC	Name	MR FIREWORKS
Street	1240 E Gano St	Street	1240 E GANO ST
City	Kokomo	City	KOKOMO
Zip	46901	Zip	46901
		Contact	BRIAN HUDSON - (765) 432-3589
<b>Inspector</b>		<b>Item</b>	
Name	Alvin Fry III	State Number	FR11733C
Email	AFry@dhs.IN.gov	Type	n/a
Phone	(317) 670-1517	<b>CDRs</b>	

## Notice Of Violations

#	Code	Description	Order	Correct By	Fee
1	Sec. 6.4.1 2006 Edition NFPA 1124	Consumer fireworks shall be stored only in the following buildings or structures, provided that the building or structure does not exceed one story in height and does not contain a basement: (1) Buildings or structures constructed in accordance with the building code enforced by the AHJ (2) Buildings or structures constructed in accordance with 6.4.2 (3) Magazines meeting the requirements in Chapter 4 (4) Trailers, semitrailers, and metal shipping containers that are separated by at least 20 ft (6.1 m) from any building or structure other than trailers, semitrailers, or metal shipping containers	Storage containers need to be at least 20 ft. From the buildings.	07/10/2021	n/a

If you are receiving this document, property that you own or have control over, has been, or was attempted to be, inspected by the Indiana Department of Homeland Security (Department). Depending on the outcome of this inspection, one of five different **RESULTS** was notated. See the first page for the **RESULT** of this inspection. The following describes what each **RESULT** means:

### 1. INSPECTION NOT POSSIBLE

This report is to notify you that the Department attempted to perform an inspection of your property, but was unable to for some reason. If you have not already spoken with your inspector regarding this, please contact him or her immediately.

### 2. NO VIOLATIONS FOUND

This report is to notify you that the Department performed an inspection of your property, and no violations were found to exist. However, please be aware that obtaining a **RESULT** of "no violations found" does not mean that no violations exist on your property or may be found during a later inspection.

### 3. EMERGENCY OR TEMPORARY ORDER

This report is to notify you that the Department has determined that conduct or a condition of property:

1. presents a clear and immediate hazard of death or serious bodily injury to any person other than a trespasser;
2. is prohibited without a permit, registration, certification, release, authorization, variance, exemption, or other license and the license has not been issued; or
3. will conceal a violation of law.

This order must immediately be complied with, up to and until such time that: (1) it expires; (2) an order is issued by an administrative law judge voiding, terminating, modifying, or staying its effectiveness; or (3) the Department terminates its effectiveness. If you desire administrative review of this order, you must submit your request by one of the methods provided for in the **administrative review** section mentioned below.

#### 4. NOTICE OF VIOLATIONS

This report is to notify you that violations are believed to exist on your property. However, if you enter into a corrective plan and correct these violations by the correction date provided in this report, no enforcement actions or sanctions will commence. If you fail to enter into a corrective plan, the Department will move forward with enforcement of this order and the imposition of sanctions.

If you would like to enter into a corrective plan, you must notify your inspector, in writing, within five (5) days of receiving this report.

Terms of corrective plan:

1. I agree to correct the violations contained on this report by the date provided.
2. I understand my failure to correct these violations by the correction date will result in the enforcement of this report and sanctions, including, but not limited to, a fine of \$250 per day per violation.
3. I understand no extensions of time are permitted unless they are granted in writing by the Department.
4. I understand that entering into this corrective plan is not an admission that a violation has occurred.
5. I agree to protect the safety and property of other persons as outlined by the Department while corrections are underway.
6. I agree to notify the Department, by the compliance date, that all violations have been corrected, and I am aware that my failure to do so may result in sanctions being ordered.
7. I understand that in order for the Department to determine compliance, an additional inspection may be performed and the Department must notify me of the determination of my compliance within thirty (30) days following the earlier of: (a) the correction date contained in this report; or (b) the date the Department is provided notice that the violations have been corrected.

If you do not enter into a corrective plan or receive a determination modifying or reversing this report, the requirements of this report are effective fifteen (15) days after service and must be complied with until such time that: (1) this order is overturned on review; (2) an administrative law judge issues a stay of enforcement; or (3) the Department consents to the request for a stay in writing. To request an **informal review** or **administrative review** of this report, you must comply with the information provided below.

#### 5. SANCTIONS

This report is to notify you that sanctions are being imposed due to violation(s) of the law. For information on how to request an **informal review** or **administrative review**, see below.

## INFORMAL REVIEW

To request an informal review of your order by the **Department**, complete the informal review form located at <https://www.in.gov/dhs/4149.htm>. Following receipt of this form, the **Department** will review your request and may modify or reverse the report, and will attempt to respond to your request within five (5) business days, however, a request for an informal review does not extend the deadline for filing a petition for administrative review which must be filed to initiate formal administrative proceedings under IC 4-21.5.

## ADMINISTRATIVE REVIEW

If you desire administrative review of this order by the **Fire Prevention and Building Safety Commission**, you must comply with the requirements of Indiana Code § 4-21.5-3-7 and file a written petition for review within fifteen (15) days after receiving notice of these violations. Your petition for review must state facts demonstrating that you are: (1) a person to whom the order is specifically directed; (2) aggrieved or adversely affected by the order; or (3) entitled to review under any law. You must submit your petition by one of the following methods:

### U.S. MAIL OR PERSONAL SERVICE

Indiana Department of Homeland Security  
Fire Prevention and Building Safety Commission  
302 W. Washington Street, Rm. E208  
Indianapolis, IN 46204

### ONLINE

By completing the form at  
<https://www.in.gov/dhs/4148.htm>

If your petition qualifies for review, it will be assigned to an administrative law judge who will initiate proceedings under IC 4-21.5. For additional information about the administrative review process and other options that may be available to you, visit the following link <https://www.in.gov/dhs/appeals.htm>.