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**TITLE 357 INDIANA PESTICIDE REVIEW
BOARD**

LSA Document #02-292

May 1, 2003

Chairman
c/o George Angelone
Administrative Rules Oversight Committee
302 Statehouse
Indianapolis, Indiana 46204

RE: 357 IAC 1-10

Dear Mr. Chairman:

In 1975 Ind. Code 15-3-3.6-6.4 and Ind. Code 15-3-3.6-24 became law. These sections provided that the Indiana Pesticide Review Board may adopt rules prescribing policies and procedures relating to the use and application of pesticides and may adopt rules governing the storage and disposal of pesticides or pesticide containers. A variety of rules regarding pesticide use, application, and storage have been adopted and amended by the board since that time.

During 2002 it was determined that there was a need to develop additional pesticide use, storage and disposal regulations to support and remain consistent with the ground water protection provisions established by the Water Pollution Control Board and the Indiana Department of Environmental Management in their community public water supply system wellhead protection program rule. The Indiana Pesticide Review Board worked cooperatively with the Indiana Department of Environmental Management to develop 357 IAC 1-10 to address this need.

The Indiana Pesticide Review Board adopted 357 IAC 1-10, a rule to establish pesticide use, application, storage and disposal requirements near community public water supply wells on February 26, 2003. Currently the rule has been reviewed by the Attorney General's office and is being considered for final rule promulgation.

Under Ind. Code 4-22-2-19 an agency that adopts a rule must begin the rulemaking process not later than sixty (60) days after the effective date of the statute that authorizes the rule. In the case of this rule we could not comply with this statute because the general rulemaking statute that authorizes this rule was effective many, many years ago. The necessity for this rule did not arise until this past year when the board became aware of the need for it and took immediate action.

While the board believes that the circumstances of the adoption of this rule do not fall within the intent of Ind. Code 4-22-2-19, the board is providing this written notification to the committee explaining why this rule could not be adopted within the timeframe specified in Ind. Code 4-22-19.

If you need additional information please contact David Scott at (765) 494-1587 or scottde@purdue.edu.

Sincerely,

David E. Scott, Secretary
Indiana Pesticide Review Board

cc: Gordon White, Office of the Indiana Attorney General