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IN THIS ISSUE

INDIANA REGISTER

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RELATION OF THE INDIANA REGISTER TO THE INDIANA ADMINISTRATIVE CODE

The Indiana Register is an official monthly publication of the state of Indiana. The Indiana Legislative Council publishes the full text of proposed rules, final rules, and other documents, such as executive orders and attorney general's opinions, in the Indiana Register in the order in which the Indiana Legislative Council receives the documents.

The Indiana Administrative Code is an official annual publication of the state of Indiana. It codifies the current general and permanent rules of state agencies in subject matter order.

The Indiana Register acts as a source of information about the rules being proposed by state agencies and acts as an "advance sheet" to the Indiana Administrative Code. With few exceptions, an agency may not adopt a rule, i.e., a policy statement having the force of law, without publishing a substantially similar proposed version in the Indiana Register. Although a rule becomes effective without publication in the Indiana Register, an agency must file an adopted and approved rule with the Indiana Legislative Council. The Council publishes these final rules in the Indiana Register.

RETENTION SCHEDULE

A person must consult the following publications to find the current rules of state agencies:

(1) 2003 Indiana Administrative Code (CD-ROM version).

(2) Volume 26 of the Indiana Register (CD-ROM version).

The Indiana Administrative Code and Indiana Register are distributed in CD-ROM format only. Both are also accessible at www.in.gov/legislative/ic_iac/.

The 2001 Edition of the Indiana Administrative Code, the 2002 Supplement, and other volumes of the Indiana Register may be discarded. (Please consider recycling.)

Introduction

JUDICIAL NOTICE AND CITATION FORM

IC 4-22-9 provides for the judicial notice of rules published in the Indiana Register or the Indiana Administrative Code. Subject to any errata notice that may affect a rule, the latest published version of a final rule is prima facie evidence of that rule's validity and content.

Cite to a current general and permanent rule by Indiana Administrative Code citation, regardless of whether it has been published in a supplement to the Indiana Administrative Code. For example, cite the entire current contents of title 312 as "Title 312 of the Indiana Administrative Code," cite the entire current contents of the third article in title 312 as "312 IAC 3," cite the entire current contents of the fourth rule in article three as "312 IAC 3-4," and cite part or all of the current contents of the second section in rule four as "312 IAC 3-4-2." IC 4-22-9-6 provides that a citation in this form contains later adopted amendments. Cite a noncodified rule provision by LSA document number, SECTION number, and Indiana Register citation to the page at which the cited text begins. If a reference to a particular version of a rule or a page in the Indiana Register is appropriate, cite the volume, page, and year of publication as "25 Ind. Reg. 120 (2002)." A shorter Indiana Register citation form is "25 IR 120."

PRINTING CODE

This style type is used to indicate that substantive text is being inserted by amendment into a rule, and ~~this style type~~ is used to indicate that substantive text is being eliminated by amendment from a rule. ~~This style type~~ is replaced by a single large "X" to show the elimination of a form or other piece of artwork. **This style type** is used to indicate a rule is being added. *This style type* and **this style type** also are used to highlight nonsubstantive annotations to a rule and to indicate that an entry in a reference table or the index concerns a final rule.

REFERENCE TABLES AND INDEX

The page location of rules and other documents printed in the Indiana Register may be found by using the tables and index published in the Indiana Register. A citation listing of the general and permanent rules affected in a volume and a cumulative index are published in each issue. Cumulative tables that cite executive orders, attorney general's opinions, and other nonrule policy documents printed in a calendar year are published quarterly.

FILING AND PUBLISHING SCHEDULE

NOTICE AND PUBLICATION SCHEDULE. The Legislative Services Agency publishes documents filed by 4:45 p.m. on the tenth day of a month (no later than the twelfth day of a month, excluding holidays or weekends) in the following month's Indiana Register according to the schedule below:

PUBLICATION SCHEDULE

Closing Dates:	Publication Dates:	Closing Dates:	Publication Dates:
July 10, 2003	August 1, 2003	February 10, 2004	March 1, 2004
August 11, 2003	September 1, 2003	March 10, 2004	April 1, 2004
September 10, 2003	October 1, 2003	April 8, 2004	May 1, 2004
October 10, 2003	November 1, 2003	May 10, 2004	June 1, 2004
November 10, 2003	December 1, 2003	June 10, 2004	July 1, 2004
December 10, 2003	January 1, 2004	July 9, 2004	August 1, 2004
January 9, 2004	February 1, 2004	August 10, 2004	September 1, 2004

Documents will be accepted for filing on any business day from 8:00 a.m. to 4:45 p.m.

AROC NOTICES: Under IC 2-5-18-4, the Administrative Rules Oversight Committee is established to oversee the rules of any agency not listed in IC 4-21.5-2-4. As a result, certain notices to the AROC are required and are printed in the Indiana Register.

CORRECTIONS: IC 4-22-2-38 authorizes an agency to correct typographical, clerical, or spelling errors in a final rule without initiating a new rulemaking procedure. Correction notices are printed on errata pages in the Indiana Register.

EFFECTIVE DATE: IC 4-22-2-36 provides that, unless a later date is specified in the rule, a rule becomes effective thirty (30) days after filing with the Secretary of State.

EMERGENCY RULES: IC 4-22-2-37.1 provides summary rulemaking procedures for certain specified categories of rules.

INCORPORATION BY REFERENCE: IC 4-22-2-21 requires that a copy of matters that are incorporated by reference into a rule must be filed with the Attorney General, the Governor, and the Secretary of State along with the text of the incorporating final rule.

NONRULE POLICY DOCUMENTS: IC 4-22-7-7 requires that any nonrule document that interprets, supplements, or implements a statute and that the issuing agency may use in conducting its external affairs must be filed with the Legislative Services Agency and published in the Indiana Register.

NOTICE OF INTENT TO ADOPT A RULE: IC 4-22-2-23 requires an agency to publish a Notice of Intent to Adopt a Rule at least thirty (30) days before publication of the proposed rule.

PROMULGATION PERIOD: In order to be effective, the final version of an adopted rule must be approved by the Attorney General and the Governor within one (1) year after the date that the notice of intent is published. The final rule must then be filed with the Secretary of State.

PUBLIC HEARINGS: IC 4-22-2-24 requires that the public hearing on a proposed rule be scheduled at least twenty-one (21) days after a notice of the hearing is published in the Indiana Register and in a newspaper of general circulation in Marion County.

RULES READOPTION: IC 4-22-2.5 provides that a rule adopted under IC 4-22-2 expires January 1 of the seventh year after the year in which the rule takes effect, unless the rule contains an earlier expiration date.

State Agencies

ALPHABETICAL LIST

†Agency's rules are entirely repealed, transferred, or otherwise voided.

NUMERICAL LIST

TITLE NUMBER

GENERAL GOVERNMENT

10 Office of Attorney General for the State
11 Consumer Protection Division of the Office of the Attorney General
†15 State Election Board
18 Indiana Election Commission
20 State Board of Accounts
25 Indiana Department of Administration
†30 State Personnel Board
31 State Personnel Department
33 State Employees' Appeals Commission
35 Board of Trustees of the Public Employees' Retirement Fund
40 State Ethics Commission
45 Department of State Revenue
50 Department of Local Government Finance
52 Indiana Board of Tax Review
55 Department of Commerce
58 Enterprise Zone Board
60 Oversight Committee on Public Records
62 Office of the Public Access Counselor
65 State Lottery Commission
68 Indiana Gaming Commission
†70 Indiana Horse Racing Commission
71 Indiana Horse Racing Commission
75 Secretary of State
80 State Fair Commission
85 Budget Agency

TRANSPORTATION AND PUBLIC UTILITIES

†100 Department of Transportation
105 Indiana Department of Transportation
†110 Aeronautics Commission of Indiana
†120 Department of Highways
130 Indiana Port Commission
135 Indiana Transportation Finance Authority
140 Bureau of Motor Vehicles
145 Reciprocity Commission of Indiana
†150 Office of Traffic Safety
†160 Department of Vehicle Inspection
170 Indiana Utility Regulatory Commission

CORRECTIONS, POLICE, AND MILITARY

205 Indiana Criminal Justice Institute
207 Coroners Training Board
210 Department of Correction
220 Parole Board
†230 Indiana Clemency Commission
240 State Police Department
250 Law Enforcement Training Board
260 State Department of Toxicology
270 Adjutant General
280 Public Safety Training Institute
290 State Disaster Relief Fund

NATURAL RESOURCES, ENVIRONMENT, AND AGRICULTURE

305 Indiana Board of Licensure for Professional Geologists
307 Indiana Board of Registration for Soil Scientists
310 Department of Natural Resources
†311 State Soil and Water Conservation Committee
312 Natural Resources Commission
315 Office of Environmental Adjudication
†320 Indiana Environmental Management Board
†320.1 Solid Waste Management Board
323 Indiana Hazardous Waste Facility Site Approval Authority
†325 Air Pollution Control Board of the State of Indiana
†325.1 Air Pollution Control Board
326 Air Pollution Control Board
327 Water Pollution Control Board
328 Underground Storage Tank Financial Assurance Board
329 Solid Waste Management Board
†330 Stream Pollution Control Board of the State of Indiana
†330.1 Water Pollution Control Board
†340 Commissioner of Agriculture
341 Indiana Standardbred Board of Regulations
345 Indiana State Board of Animal Health
350 Agricultural Experiment Station
355 State Chemist of the State of Indiana
357 Indiana Pesticide Review Board
360 State Seed Commissioner
365 Creamery Examining Board
370 State Egg Board
375 Indiana Organic Peer Review Panel

HUMAN SERVICES

405 Office of the Secretary of Family and Social Services
407 Office of the Children's Health Insurance Program
410 Indiana State Department of Health
412 Indiana Health Facilities Council
415 Commission on Forensic Sciences
430 Developmental Disabilities Residential Facilities Council
431 Community Residential Facilities Council
440 Division of Mental Health and Addiction
†450 Department on Aging and Community Services
460 Division of Disability, Aging, and Rehabilitative Services
470 Division of Family and Children
480 Violent Crime Compensation Division
490 Interdepartmental Board for the Coordination of Human Service Programs

EDUCATION AND LIBRARIES

†510 Commission on General Education
511 Indiana State Board of Education
515 Professional Standards Board
†520 Commission on Textbook Adoptions
†530 Commission on Teacher Training and Licensing
540 Indiana Education Savings Authority
550 Board of Trustees of the Indiana State Teachers' Retirement Fund
560 Indiana Education Employment Relations Board
570 Indiana Commission on Proprietary Education
†572 Indiana Commission on Vocational and Technical Education
575 State School Bus Committee
580 Indiana Medical and Nursing Distribution Loan Fund Board of Trustees
585 State Student Assistance Commission
590 Indiana Library and Historical Board
595 Library Certification Board

LABOR AND INDUSTRIAL SAFETY

610 Department of Labor
615 Board of Safety Review
620 Occupational Safety Standards Commission
†630 Industrial Board of Indiana
631 Worker's Compensation Board of Indiana
†635 Wage Adjustment Board
†640 Indiana Unemployment Insurance Board
†645 Department of Employment and Training Services
646 Department of Workforce Development
650 State Fire Marshal
655 Board of Firefighting Personnel Standards and Education
†660 Administrative Building Council of Indiana
†670 Elevator Safety Board
675 Fire Prevention and Building Safety Commission
680 Boiler and Pressure Vessel Rules Board
685 Regulated Amusement Device Safety Board

BUSINESS, FINANCE, AND INSURANCE

710 Securities Division
750 Department of Financial Institutions
760 Department of Insurance
762 Indiana Political Subdivision Risk Management Commission
770 Indiana Agricultural Development Corporation

OCCUPATIONS AND PROFESSIONS

804 Board of Registration for Architects and Landscape Architects
808 State Boxing Commission
812 Indiana Auctioneer Commission
816 Board of Barber Examiners
820 State Board of Cosmetology Examiners
824 Indiana Grain Buyers and Warehouse Licensing Agency
825 Indiana Grain Indemnity Corporation
828 State Board of Dentistry
830 Indiana Dietitians Certification Board
832 State Board of Funeral and Cemetery Service
836 Indiana Emergency Medical Services Commission
839 Social Worker, Marriage and Family Therapist, and Mental Health Counselor Board
840 Indiana State Board of Health Facility Administrators
844 Medical Licensing Board of Indiana
845 Board of Podiatric Medicine
846 Board of Chiropractic Examiners
848 Indiana State Board of Nursing
852 Indiana Optometry Board
856 Indiana Board of Pharmacy
857 Indiana Optometric Legend Drug Prescription Advisory Committee
858 Controlled Substances Advisory Committee
860 Indiana Plumbing Commission
862 Private Detectives Licensing Board
864 State Board of Registration for Professional Engineers
865 State Board of Registration for Land Surveyors
868 State Psychology Board
872 Indiana Board of Accountancy
876 Indiana Real Estate Commission
880 Speech-Language Pathology and Audiology Board
884 Board of Television and Radio Service Examiners
888 Indiana Board of Veterinary Medical Examiners
†892 Indiana State Board of Examiners in Watch Repairing
896 Board of Environmental Health Specialists
898 Indiana Athletic Trainers Board

MISCELLANEOUS

905 Alcohol and Tobacco Commission
910 Civil Rights Commission
915 Veterans' Affairs Commission
920 Indiana War Memorials Commission
925 Meridian Street Preservation Commission
930 Indiana Housing Finance Authority

†Agency's rules are entirely repealed, transferred, or otherwise voided.

TITLE 80 STATE FAIR COMMISSION

LSA Document #02-200(F)

DIGEST

Amends 80 IAC 4-3-3 to include an electric personal assistive mobility device within the definition of a motorized cart. Amends 80 IAC 4-3-5 to exclude a person who uses such a device upon the fairgrounds from certain proof of insurance requirements. Effective 30 days after filing with the secretary of state.

80 IAC 4-3-3
80 IAC 4-3-5

SECTION 1. 80 IAC 4-3-3 IS AMENDED TO READ AS FOLLOWS:

80 IAC 4-3-3 Definitions
Authority: IC 15-1.5-2-8; P.L.143-2002
Affected: IC 15-1.5-2

Sec. 3. **(a) As used in this rule, "electric personal assistive mobility device" means a self-balancing, two (2) nontandem wheeled device that is designed to transport only one (1) person and that has the following:**

(1) An electric propulsion system with average power of seven hundred fifty (750) watts or one (1) horsepower.

(2) A maximum speed of less than twenty (20) miles per hour when operated on a paved level surface, when powered solely by the propulsion system referred to in subdivision (1), and when operated by an operator weighting *[sic., weighing]* **one hundred seventy (170) pounds.**

~~(a)~~ **(b)** As used in this rule, "motorized cart" means any conveyance that is motor driven, either by gas or electricity, and is used to carry passengers or equipment, and **that** is smaller than normal road type vehicles such as cars, recreational vehicles, or trucks. Motorized carts may be characterized as golf carts, utility carts, or similar forms of vehicles. **Motorized cart includes an electric personal assistive mobility device.**

~~(b)~~ **(c)** The definition of motorized cart in subsection (a) *[sic., subsection (b)]* does not apply to motorcycles, motor scooters, mopeds, motorized bicycles, or three-wheel or four-wheel off-road type vehicles. *(State Fair Commission; 80 IAC 4-3-3; filed Aug 9, 1993, 10:00 a.m.: 16 IR 2813; readopted filed Sep 11, 2001, 2:45 p.m.: 25 IR 528; filed Jul 7, 2003, 3:30 p.m.: 26 IR 3536)*

SECTION 2. 80 IAC 4-3-5 IS AMENDED TO READ AS FOLLOWS:

80 IAC 4-3-5 Procedures for the annual state fair
Authority: IC 15-1.5-2-8; P.L.143-2002
Affected: IC 15-1.5-2

Sec. 5. (a) The procedures in this section will be utilized during the period of the annual state fair period.

(b) All users of motorized carts shall make application for the acquisition and utilization of motorized carts, whether procured by the administration or privately leased or owned, directly to the executive director of the state fair commission. The executive director shall determine the validity of such applications and shall either approve or disapprove the application.

(c) Fair departments must make application through their respective fair board director. Applications will be forwarded from the fair board director through the fair board coordinator for approval by the fair board president prior to approval by the executive director.

(d) Motorized carts that are to be leased from a commercial source or are privately owned must have a certificate of insurance submitted with the application for registration. The certificate of insurance shall show coverage of motorized carts for personal liability and property damage. **Pursuant to P.L.143-2002, SECTION 10, a person who uses an electric personal assistive mobility device upon the fairgrounds shall be excluded from the insurance requirement of this subsection.**

(e) Applications by vendors, purveyors, concessionaires, and all exhibitors must forward applications along with proof of insurance through the fairgrounds director of concessions prior to approval of the executive director. **Pursuant to P.L.143-2002, SECTION 10, a person who uses an electric personal assistive mobility device upon the fairgrounds shall be excluded from the insurance requirement of this subsection.**

(f) If the application is approved by the executive director, all approved motorized carts must be registered with the procurement department and shall have a certificate of registration affixed to the front of each approved motorized cart. All motorized carts, whether leased or privately owned, must be registered in this fashion. No certificate of registration will be issued by the procurement department without prior approval of the executive director.

(g) The fair board coordinator will coordinate with the procurement department for the unloading, storage, and assignment of motorized carts. The procurement department shall assign motorized carts as directed by the fair board coordinator issued according to the schedule established by the fair board coordinator.

(h) Each applicant will be held responsible for the safe operation of each motorized cart and for ensuring compliance with the provisions of this rule. Any operator found in violation of this rule shall not be allowed to operate any cart for the remainder of the event. *(State Fair Commission; 80 IAC 4-3-5; filed Aug 9, 1993, 10:00 a.m.: 16 IR 2813;*

readopted filed Sep 11, 2001, 2:45 p.m.: 25 IR 528; filed Jul 7, 2003, 3:30 p.m.: 26 IR 3536)

LSA Document #02-200(F)
Notice of Intent Published: 25 IR 3808
Proposed Rule Published: November 1, 2002; 26 IR 420
Hearing Held: December 19, 2002
Approved by Attorney General: June 23, 2003
Approved by Governor: July 2, 2003
Filed with Secretary of State: July 7, 2003, 3:30 p.m.
Incorporated Documents Filed with Secretary of State: None

TITLE 80 STATE FAIR COMMISSION

LSA Document #02-243(F)

DIGEST

Adds 80 IAC 4-4 regarding the regulation or prohibition of alcohol, weapons, and unauthorized animals at the Indiana state fair. Effective 30 days after filing with the secretary of state.

80 IAC 4-4

SECTION 1. 80 IAC 4-4 IS ADDED TO READ AS FOLLOWS:

Rule 4. Items Prohibited at the Annual State Fair

80 IAC 4-4-1 Policy
Authority: IC 15-1.5-2-8
Affected: IC 15-1.5-2; IC 15-1.5-5

Sec. 1. (a) The purpose of this rule is to enhance the security of and to protect the health, safety, and welfare of all persons and animals at the fairgrounds during the annual state fair.

(b) Unless otherwise set forth in this rule or other applicable statute, this rule applies to all visitors, guests, invitees, vendors, concessionaires, purveyors, exhibitors, state fair and fair commission employees, contractors, and agents.

(c) Exceptions to this rule may be made on a case-by-case basis with the advance written approval of the executive director of the state fair commission. The executive director shall maintain a file of all such approvals. *(State Fair Commission; 80 IAC 4-4-1; filed Jul 7, 2003, 3:15 p.m.: 26 IR 3537)*

80 IAC 4-4-2 Definitions
Authority: IC 15-1.5-2-8
Affected: IC 15-1.5-2; IC 15-1.5-5; IC 35-47-1-5; IC 35-47-8-1; IC 35-47-8-3

Sec. 2. The following definitions apply throughout this rule:

(1) "Alcoholic beverage" means a liquid or solid that:
(A) is, or contains, one-half percent (0.5%) or more alcohol by volume;
(B) is fit for human consumption; and
(C) is reasonably likely, or intended, to be used as a beverage.

(2) "Deadly weapon" means any of the following:
(A) A loaded or unloaded firearm (as defined in IC 35-47-1-5).
(B) A destructive device, weapon, device, taser (as defined in IC 35-47-8-3), or electronic stun weapon (as defined in IC 35-47-8-1), equipment, including knives, chemical substance, or other material, that, in the manner it is used, or could ordinarily be used, or is intended to be used, is readily capable of causing serious bodily injury.
(C) A biological disease, virus, or organism that is capable of causing serious bodily injury.
The term does not include equipment or implements necessary and appropriate for use by commission personnel, contractors, authorized representatives, concessionaires, and exhibitors in the conduct of business related to the fair.

(3) "Law enforcement animal" means an animal that is owned or used by a law enforcement agency for the principal purposes of:
(A) aiding in the detection of criminal activity, the enforcement of laws, and the apprehension of offenders; and
(B) ensuring the public welfare.
The term includes, but is not limited to, a horse, an arson investigation dog, a bomb detection dog, a narcotic detection dog, a patrol dog, a search and rescue dog, or a tracking dog.

(4) "Possession" means on or about a person's body or clothing, or in any purse, backpack, cooler, sack, carrier, or other container carried by the person or under that person's direct and immediate control.

(5) "Service animal" means an animal that a person who is impaired by:
(A) blindness or any other visual impairment;
(B) deafness or any other aural impairment;
(C) a physical disability; or
(D) a medical condition;
relies on for navigation, assistance in performing daily activities, or alert signals regarding the onset of the person's medical condition.

(State Fair Commission; 80 IAC 4-4-2; filed Jul 7, 2003, 3:15 p.m.: 26 IR 3537)

80 IAC 4-4-3 Alcoholic beverages prohibited
Authority: IC 15-1.5-2-8
Affected: IC 15-1.5-2; IC 15-1.5-5

Sec. 3. (a) This rule does not apply to alcoholic beverages

that are displayed in an exhibit or stored in a manner approved or sanctioned by the fair board or the state fair commission.

(b) No person in possession of an alcoholic beverage shall be permitted onto or be permitted to remain on the fairgrounds during the annual state fair.

(c) Any alcoholic beverage found in the possession of a person while on the fairgrounds during the annual state fair is subject to immediate confiscation by and forfeiture to law enforcement officers or other persons designated by the executive director of the state fair commission. *(State Fair Commission; 80 IAC 4-4-3; filed Jul 7, 2003, 3:15 p.m.: 26 IR 3537)*

80 IAC 4-4-4 Deadly weapons prohibited
Authority: IC 15-1.5-2-8
Affected: IC 15-1.5-2; IC 15-1.5-5

Sec. 4. (a) This rule does not apply to a federal, state, or local law enforcement officer or to a person who has been employed or authorized by the state fair commission to provide security protection and services during the annual state fair.

(b) No person in possession of a deadly weapon shall be permitted onto or be permitted to remain on the fairgrounds during the annual state fair.

(c) Any deadly weapon found in the possession of a person while on the fairgrounds during the annual state fair is subject to immediate confiscation by law enforcement officers or other persons authorized by the executive director of the state fair commission.

(d) Any person properly licensed to carry a firearm must secure the firearm in a locked compartment of his or her vehicle, and it shall not be visible to passersby. *(State Fair Commission; 80 IAC 4-4-4; filed Jul 7, 2003, 3:15 p.m.: 26 IR 3538)*

80 IAC 4-4-5 Unauthorized animals prohibited
Authority: IC 15-1.5-2-8
Affected: IC 15-1.5-2; IC 15-1.5-5

Sec. 5. (a) The only animals permitted on the fairgrounds during the annual state fair are the following:
(1) Animals registered, boarded, or entered for, or that will be registered, boarded, or entered for, exhibition, show, or other competition at the annual state fair.
(2) Animals that will be used in a scheduled performance or to perform work at the annual state fair.
(3) Law enforcement animals.
(4) Service animals.

(b) No person in possession of or having control over an unauthorized animal shall be permitted onto or be permitted to remain on the fairgrounds during the annual state fair. *(State Fair Commission; 80 IAC 4-4-5; filed Jul 7, 2003, 3:15 p.m.: 26 IR 3538)*

LSA Document #02-243(F)
Notice of Intent Published: 25 IR 4130
Proposed Rule Published: April 1, 2003; 26 IR 2398
Hearing Held: April 23, 2003
Approved by Attorney General: June 23, 2003
Approved by Governor: July 2, 2003
Filed with Secretary of State: July 7, 2003, 3:15 p.m.
Incorporated Documents Filed with Secretary of State: None

TITLE 210 DEPARTMENT OF CORRECTION

LSA Document #02-259(F)

DIGEST

Amends 210 IAC 1-6 concerning the collection, maintenance, and release of offender and juvenile records. Adds 210 IAC 1-10 to establish the offender tort claim process. Amends 210 IAC 5 concerning release authority for juveniles. Effective 30 days after filing with the secretary of state.

210 IAC 1-6-1	**210 IAC 1-6-7**
210 IAC 1-6-2	**210 IAC 1-10**
210 IAC 1-6-3	**210 IAC 5-1-1**
210 IAC 1-6-4	**210 IAC 5-1-2**
210 IAC 1-6-5	**210 IAC 5-1-3**
210 IAC 1-6-6	**210 IAC 5-1-4**

SECTION 1. 210 IAC 1-6-1 IS AMENDED TO READ AS FOLLOWS:

Rule 6. Collection, Maintenance, and Release of Offender and Juvenile Records

210 IAC 1-6-1 Definitions
Authority: IC 11-8-5-2
Affected: IC 4-1-6; IC 11-8-5-1

Sec. 1. **The following** definitions ~~Data Subject shall mean an individual about whom personal information is indexed or may be located under his name, personal number, or other identifiable particulars in a personal information system. For record keeping purposes of the Department of Correction the data subject shall be referred to as an "offender".~~ **apply throughout this article:**

(1) "Department" ~~shall mean~~ **means** the department of correction.

(2) "Juvenile" means a person who is adjudged delinquent by a juvenile court and committed to and under the legal control of the department.

(3) "Offender" ~~shall mean a person~~ **means an adult** committed to and under the legal control of the department ~~This shall include probationers whose records are handled through the interstate compact administrator in the department. (See Data Subject)~~ **for committing a criminal offense.**

(4) "Official record" ~~shall mean~~ **means** the record prepared and maintained by the department for each offender **and juvenile** received into the ~~actual~~ **physical** care and custody of the department. ~~and which provides the source of all~~ **The record shall include, but is not limited to,** written, printed, or ~~mimeographic~~ **electronic** materials, **documents, or data** pertaining to services, ~~program,~~ **programs,** and all other official actions performed on behalf of that offender **or juvenile.** These records are identified by the same offender **or juvenile** name as received on the commitment order, ~~and are~~ assigned a department number as an identifier, **and compiled and maintained as part of an offender/juvenile packet.**

(Department of Correction; Offender Records, Art I; filed Jul 30, 1979, 2:25 pm: 2 IR 1199; readopted filed Nov 15, 2001, 10:42 a.m.: 25 IR 1269; filed Jun 17, 2003, 9:25 a.m.: 26 IR 3538)

SECTION 2. 210 IAC 1-6-2 IS AMENDED TO READ AS FOLLOWS:

210 IAC 1-6-2 Classification of information

Authority: IC 11-8-5-2
Affected: IC 11-8-5-2

Sec. 2. ~~Classification.~~ The department shall collect, maintain, and use only that offender **or juvenile** personal information that is relevant and necessary to accomplish the statutory ~~purpose~~ **purposes** of the agency. All offender **or juvenile** information collected and retained by the department shall be ~~identified according to~~ **classified in** the following ~~classifications:~~ **manner:**

~~(A)~~ **(1)** Unrestricted information shall include only information pertaining to ~~the~~ **an** offender ~~which~~ **that** is considered by law ~~or court order as~~ **to be** public information. Certain information normally considered **restricted or** confidential may be considered unrestricted ~~or public~~ information if there is a compelling public interest ~~consistent with the conditions set forth~~ in ~~IC 4-1-6-1.~~ **disclosure. Unrestricted information is accessible by any person upon specific request, with the exception of offenders to whom the information does not pertain or any juvenile.**

(2) Restricted information shall include, but is not limited, to the following:

(A) Education, medical, sex offender, substance abuse, disciplinary, criminal, and employment records.

(B) Finger and voice prints.

(C) Photographs.

(D) Institutional summaries.

(E) Psychiatric and psychological reports.

(F) Social history reports.

(G) Progress reports.

(H) Educational and vocational reports.

~~(B)~~ **(3)** Confidential information shall include, ~~personal or private information concerning the offender including,~~ but **is** not limited to, ~~his education, medical history, criminal or employment records, finger and voice prints, photographs of his presence, institutional summaries, social history reports, progress reports, educational, vocational and diagnostic~~ **the following:**

(A) Offender diagnostic/classification reports. ~~Confidential information shall, also, include medical, psychiatric and psychological reports,~~

(B) Criminal intelligence information. ~~and information of clinical reports emanating from an approved drug or substance abuse program consistent with prevailing law or promulgated regulations.~~

(C) Information that, if disclosed, might result in physical harm to that person or other persons.

(D) Information obtained upon promise of confidentiality.

(E) Internal investigation information.

(F) All juvenile records.

(G) Any other information required by law or promulgated rule to be maintained as confidential.

(4) All offender information obtained from other agencies, organizations, or sources shall be held to the same degree of confidentiality as that designated by the generating source.

(Department of Correction; Offender Records, Art II; filed Jul 30, 1979, 2:25 pm: 2 IR 1199; readopted filed Nov 15, 2001, 10:42 a.m.: 25 IR 1269; filed Jun 17, 2003, 9:25 a.m.: 26 IR 3539)

SECTION 3. 210 IAC 1-6-4 IS AMENDED TO READ AS FOLLOWS:

210 IAC 1-6-4 Inspection rights of offenders and juveniles

Authority: IC 11-8-5-2
Affected: IC 4-1-6-3; IC 4-1-6-8

Sec. 4. ~~Right of Inspection by an Offender.~~ (a) An offender or a person designated **in writing** by an offender as his **or her** agent may inspect those portions of the **offender's own** official record classified as ~~confidential with the following exceptions:~~

~~(1) Medical, psychological, psychiatric data, or clinical data produced as a consequence of the offender's involvement in a substance abuse program, may not be released to the offender or his agent. These records may be released to a physician, psychologist or psychiatrist designated in writing by the offender.~~

~~(2) Criminal intelligence information including reports or statements of witnesses concerning institutional conduct or conduct while on parole wherein appear names of or identifying information concerning witnesses may be withheld consistent with provisions in law. Information so classified shall be subject to periodic review by the official responsible~~

~~for the maintenance of these records to determine if grounds still exist for their retention.~~

~~(B) An offender or a person designated by an offender as his agent may inspect his official record~~ **unrestricted and restricted** consistent with the following:

(1) The requestor shall provide ~~proper~~ **a valid picture** identification ~~upon request to the person authorizing the release.~~

~~(2) If the requestor is other than the offender, the request shall be accompanied by~~ **and** a ~~notarized statement by~~ **signed authorization from** the **appropriate** offender identifying the person acting as his **or her** agent **and specifying the documents to be released to the agent.**

~~(3) An offender~~ **(2) A person** committed to or under the legal control of the department or on probation to a court may not act as an offender's agent. If doubt exists as to the identity of the offender's agent or the validity of the release, the offender shall be contacted for verification when possible.

(3) The cost of copying records under this section shall be assessed to the requestor and shall be consistent with approved schedules.

(4) If the offender's ~~notarized letter of release~~ **signed authorization** is not on file with the ~~institution or~~ facility or is not presented upon making the request, the requestor shall be advised that he **or she** may obtain such consent from the offender or file a formal request for access **to records** with the department.

(5) The requestor shall be advised in the event the request is denied to direct ~~the~~ **his or her** appeal to the ~~executive director, as appropriate,~~ **deputy commissioner** of ~~the~~ adult ~~or Youth Authority,~~ **operations,** who shall notify the requestor of his **or her** decision within thirty (30) days. If the ~~executive director~~ **deputy commissioner** disapproves the request, an appeal may be taken within thirty (30) days to the commissioner of ~~Corrections,~~ **the department** who shall review the request and notify the requestor of his **or her** decision within thirty (30) days.

~~(C) The above restrictions do not preclude access by authorized department personnel who have an official interest in an offender's records as a consequence of statutory functions or responsibilities of the department.~~

(b) Release of juvenile records shall comply with the following:

(1) A juvenile may not access his or her own records or the records of other juveniles or offenders.

(2) Juvenile records may be released to a parent or legal guardian upon specific written request unless the release of such record or records is contrary to the health, welfare, or safety of the juvenile or others.

(3) A parent or legal guardian committed to or under the legal control of the department or on probation to a court may not access a juvenile's record. If doubt exists as to the identity of the juvenile's parent or legal guardian or the validity of the request, the juvenile and his or her parent or legal guardian shall be contacted for verification.

(4) The cost of copying records under this section shall be assessed to the requestor and shall be consistent with approved schedules.

(5) In the event a request for access to records is denied, the requestor shall be advised to direct his or her appeal to the deputy commissioner of juvenile services who shall notify the requestor of his or her decision within thirty (30) days. If the deputy commissioner disapproves the request, an appeal may be taken within thirty (30) days to the commissioner of the department who shall review the request and notify the requestor of his or her decision within thirty (30) days.

(Department of Correction; Offender Records, Art IV; filed Jul 30, 1979, 2:25 pm: 2 IR 1200; readopted filed Nov 15, 2001, 10:42 a.m.: 25 IR 1269; filed Jun 17, 2003, 9:25 a.m.: 26 IR 3539)

SECTION 4. 210 IAC 1-6-5 IS AMENDED TO READ AS FOLLOWS:

210 IAC 1-6-5 Challenge of information by offender; investigation; change of record

Authority: IC 11-8-5-2
Affected: IC 4-1-6-5

Sec. 5. ~~Challenge of Information by the Offender. (A) The~~ **An** offender ~~must give a notice to the department that he wishes to~~ **may** challenge, correct, or explain information contained within his **or her** record **in accordance with IC 4-1-6-5.**

~~(B) The challenge must pertain to specific documents and/or issues within that record.~~

~~(C) An investigation shall be made under the authorization of the facility or division head to determine the status or content of such reports as alleged by the challenger. The investigator shall determine if the reports challenged are properly a part of the record and in fact do contain the elements that are challenged and ascertain the source of the challenged information.~~

~~(D) If the challenged data was generated or received by other sources than the department, the offender should then be advised to direct his request to change or delete such information to the contributing agency, and the offender in turn should be advised of the last known address of the contributing agency or person.~~

~~(E) If after such an investigation, such information is found to be incomplete, inaccurate, not pertinent, not timely or not necessary to be retained for statutory responsibilities or related services, it shall be promptly corrected or deleted from the offender's record.~~

~~(F) When such a change in the record does occur each~~

~~division or facility holding or retaining a duplicate record of such information shall be advised to correct those copies or duplicates accordingly.~~

~~(G) If a dispute concerning information in an offender record is not resolved by the investigation the offender shall be so notified and must be advised that he may file a statement of not more than two hundred (200) words setting forth his position.~~

~~(H) If there is an addition, deletion or statement of offender's position, the department official responsible for maintaining that record shall then advise the offender of any previous recipient and supply the previous recipient a copy of the addition, deletion or offender's statement of position, in accordance with provisions of IC 4-1-6-5.~~

~~The department official notifying any previous recipient shall require an acknowledgement that the additions, deletions or offender's statement of position has been received.~~ *(Department of Correction; Offender Records, Art V; filed Jul 30, 1979, 2:25 pm: 2 IR 1200; readopted filed Nov 15, 2001, 10:42 a.m.: 25 IR 1269; filed Jun 17, 2003, 9:25 a.m.: 26 IR 3540)*

SECTION 5. 210 IAC 1-6-6 IS AMENDED TO READ AS FOLLOWS:

210 IAC 1-6-6 Access to information

Authority: IC 11-8-5-2
Affected: IC 4-1-6-8; IC 4-1-6-8.6

Sec. 6. ~~Access to or Release of Confidential Information to Persons Other than the Offender or His Agent.~~ (a) Courts and personnel authorized by a court shall have access to ~~the department's~~ offender **and juvenile** records consistent with the following:

(1) All ~~specific~~ court orders pertaining to ~~individual documents or the entire~~ offender ~~record~~ **and juvenile records** shall cause ~~the record, in whole or part, as appropriate,~~ **such records** to be copied or released by the ~~record~~ **records** supervisor immediately pursuant to ~~those orders.~~ **the terms of the court order and the following:**

(A) The record repository shall reflect in a manner prescribed by the department the whereabouts of records so removed and when they were removed and the name of the employee authorizing the transfer of the record from the department to the court.

(B) No offender **or juvenile** record or documents contained therein shall be altered or omitted prior to or during the transmittal of the official record to the court.

~~(2) Probation officers preparing pre-sentence reports shall have access to an offender's record but may not remove the record from the immediate record storage area. Copies of the record may be made available consistent with price schedules approved by the Department of Administration. Probation officers may have access to "confidential" sections of the offender's record excluding medical, psychological, or psychiatric data, or clinical data produced as a consequence of the offender's involvement in a substance abuse program, and criminal intelligence information in the absence of a specific court order.~~

~~(3)~~ **(2)** If access to an offender's **or juvenile's** record was granted under compulsory legal process other than that initiated by the offender ~~himself,~~ **or juvenile**, reasonable effort shall be made to notify the offender **or juvenile** prior to release of the information.

(b) ~~Attorneys~~ **An attorney** representing ~~offenders~~ **an offender, juvenile, or a juvenile's parent or legal guardian** may have access to ~~an offender's file~~ **a client's records** consistent with the following procedures:

(1) If the attorney is requesting a review and copies of the official record, ~~as the offender's agent~~ then the attorney ~~is to~~ **shall** be charged for the cost of reproductions consistent with approved schedules.

(2) The attorney may have access to ~~all confidential material~~ **unrestricted and restricted information** in the offender's record ~~except medical, psychological or psychiatric data, or clinical data produced as a consequence of the offender's involvement in a substance abuse program. These records may be released to a physician, psychologist or psychiatrist designated in writing by~~ **to the same extent as** the offender. **An attorney representing a juvenile or the parent or legal guardian of a juvenile shall have access to any information in the juvenile's official record unless release of such information is contrary to the health, welfare, or safety of the juvenile.**

(3) Access by an attorney to ~~the~~ confidential ~~section of~~ **records in** the ~~packet~~ **offender's official record** shall ~~occur if~~ **be** accompanied by a court order ~~to that effect.~~ **specifying the documents to be released.**

~~(4) An attorney representing an offender may designate in writing a physician, psychologist, or psychiatrist to whom confidential medical, psychological, or psychiatric information may be released.~~

~~(5) In the absence of a specific court order to the contrary a charge shall be made for reproductions of records requested by an attorney consistent with approved schedules. In the event the request is made by the Public Defender's Office at the State level such charges may be "I.D." (Inter-Departmental) billed consistent with established procedures for such billing.~~

(c) Release to a person or agency providing a lawful service **on behalf of the department, or** related to or on behalf of ~~the~~ **an** offender **or juvenile in response to a written request,** shall be limited to those documents related to the service performed and shall include confidential **and restricted** information consistent with ~~these rules~~ **this rule** or ~~unless~~ **as** otherwise ~~prohibited~~ **permitted** by law, **including the following:**

(1) Upon release of such information or the providing of duplicate copies, the material shall be clearly marked as to how the information is classified.

(2) A record shall be made by the ~~record~~ **records** supervisor of all such inspections noting the **following:**

(A) The requestor's name, agency, or function represented.

(B) The purpose of the request.

(C) The date access was granted. ~~and~~

(D) The name of the person granting access.

This record shall be then made a part of the offender's record.

(3) Such access shall be limited to law enforcement agencies performing a criminal investigation or agencies providing a lawful service to the ~~agency~~ **department** or offender **or juvenile** wherein the direct benefit to the offender **or juvenile** is clearly indicated.

(d) **Unless otherwise previously specified in this rule,** release ~~to persons other than the~~ **of** offender ~~his agent or attorney of information~~ **records** shall be restricted to information classified as ~~"Public Information"~~ **unrestricted** unless there is a compelling public interest in releasing specific portions of the material classified **restricted or** confidential. Such a request shall be immediately forwarded to the division ~~head~~ or facility **head** responsible for ~~the~~ keeping ~~of~~ these records for the final decision to release information so classified. A written notice of such a release shall be incorporated into the offender's **or juvenile's** record in the same manner prescribed in the prior section.

(e) All authorized department personnel or contract personnel who have an official interest in an offender's or juvenile's records as a consequence of statutory functions or department responsibilities, delegated or otherwise, shall have appropriate access to offender and juvenile records. *(Department of Correction; Offender Records, Art VI; filed Jul 30, 1979, 2:25 pm: 2 IR 1201; readopted filed Nov 15, 2001, 10:42 a.m.: 25 IR 1269; filed Jun 17, 2003, 9:25 a.m.: 26 IR 3541)*

SECTION 6. 210 IAC 1-6-7 IS AMENDED TO READ AS FOLLOWS:

210 IAC 1-6-7 Research purposes; request for access to information

Authority: IC 11-8-5-2
Affected: IC 4-1-6-8.6

Sec. 7. ~~Disclosures of Offender Information for Research Purposes.~~ All requests for access to offender **or juvenile** records ~~to provide~~ for research **purposes** shall be made ~~known~~ to the ~~appropriate Executive~~ director of ~~the Department of Correction~~ **planning services** in written form. Such requests shall include the name of the agency or organization performing the research, the names of the ~~staff~~ persons directly responsible for **the following:**

(1) Conducting such research.

(2) The purpose of such research.

(3) How the research is to be performed. ~~and~~

(4) What measures will be taken to assure the proper protection of classified information.

Approval of such requests will then be granted or denied consistent with provisions of IC 4-1-6-8.6 **and department procedures.** *(Department of Correction; Offender Records, Art VII; filed Jul 30, 1979, 2:25 pm: 2 IR 1202; readopted filed Nov 15, 2001, 10:42 a.m.: 25 IR 1269; filed Jun 17, 2003, 9:25 a.m.: 26 IR 3542)*

SECTION 7. 210 IAC 1-10 IS ADDED TO READ AS FOLLOWS:

Rule 10. Offender Tort Claim Process

210 IAC 1-10-1 Personal property tort claims

Authority: IC 34-13-3-7
Affected: IC 34-13-3

Sec. 1. (a) This rule applies only to tort claims filed by offenders either currently committed to the department and confined in a department facility or who were committed to and confined in a department facility and who have alleged a loss of personal property due to actions or omissions by the department.

(b) Only those claims where an offender is attempting to recover compensation, either monetary compensation or replacement of property, for the loss of personal property are subject to this rule. This loss must be alleged to have occurred during the offender's confinement as a result of an act or omission of the department or any of its agents, officers, employees, or contractors. For the purpose of this rule, "personal property" means any property that offenders are allowed to possess, excluding state-issued property and contraband, in accordance with the department's administrative procedures for Policy 02-01-101, "offender personal property". *(Department of Correction; 210 IAC 1-10-1; filed Jun 17, 2003, 9:25 a.m.: 26 IR 3542)*

210 IAC 1-10-2 Time limit for filing a claim

Authority: IC 34-13-3-7
Affected: IC 34-13-3

Sec. 2. An offender must file a claim pursuant to this rule no later than one hundred eighty (180) days after the date of the alleged loss. Claims filed after this time frame has elapsed shall not be considered and shall be returned to the offender. *(Department of Correction; 210 IAC 1-10-2; filed Jun 17, 2003, 9:25 a.m.: 26 IR 3542)*

210 IAC 1-10-3 Claim filing

Authority: IC 34-13-3-7
Affected: IC 34-13-3

Sec. 3. (a) In those cases where an offender alleges that the department or its agents have lost, damaged, or destroyed personal property belonging to the offender, the

offender may file a claim for compensation. The offender shall complete the NOTICE OF LOSS OF PROPERTY–TORT CLAIM form. Each facility shall ensure that copies of this form are made available in the offender law library, offender housing units, or other suitable location. The offender also may obtain this form from his or her counselor.

(b) The offender will be required to complete this form by providing as much information as possible when describing the item lost and the manner in which it was lost. The offender shall attach any supporting documents or information to this form. When the form is completed, the offender shall submit the form to the facility head. The offender shall also send a copy of the claim, including all supporting documents, to the department's Tort Claim Administrator, Division of Legal Services, Indiana Government Center-South, 302 West Washington Street, E334, Indianapolis, Indiana 46204. *(Department of Correction; 210 IAC 1-10-3; filed Jun 17, 2003, 9:25 a.m.: 26 IR 3542)*

210 IAC 1-10-4 Claim investigation
Authority: IC 34-13-3-7
Affected: IC 34-13-3

Sec. 4. (a) The facility head shall designate a staff person to act as the facility's tort claims investigator. The tort claims investigator shall have access to all areas of the facility in order to investigate claims and make recommendations for settlement if applicable.

(b) The duties of the facility tort claims investigator shall include the following:

(1) Receiving the NOTICE OF LOSS OF PROPERTY–TORT CLAIM form from the facility head.

(2) Reviewing this form and any accompanying documentation.

(3) Investigating the claim made by the offender, including the following:

(A) Interviewing staff and the offender as necessary.

(B) Reviewing all pertinent documents, including personal property inventories, and commissary requests.

(C) Completing any other actions necessary to make a recommendation on the claim.

(4) Making a recommendation concerning the settlement of the claim and complete the tort claims investigator's section of the RECOMMENDATION ON TORT CLAIM form.

(5) Submitting the RECOMMENDATION ON TORT CLAIM form to the department's tort claims administrator.

(6) Maintaining files of all property loss tort claims filed by offenders at the facility.

(Department of Correction; 210 IAC 1-10-4; filed Jun 17, 2003, 9:25 a.m.: 26 IR 3543)

210 IAC 1-10-5 Claim administration
Authority: IC 34-13-3-7
Affected: IC 34-13-3

Sec. 5. (a) The commissioner of the department shall appoint a staff person within the division of legal services to act as the tort claims administrator for all claims regarding loss of property by offenders. This staff person shall report to the director of the division of legal services.

(b) The duties of the tort claims administrator shall include the following:

(1) Receiving copies of the NOTICE OF LOSS OF PROPERTY–TORT CLAIM form submitted by offenders.

(2) Assigning a sequential case number to each notice received.

(3) Advising the facility tort claims investigator and the offender as to the case number assigned to the claim.

(4) Receiving copies of the RECOMMENDATION ON TORT CLAIM form from the facility tort claims investigator.

(5) Reviewing all documents and forms received from the offender and the facility tort claims investigator.

(6) Requesting additional information from the facility or the offender, as necessary.

(7) Making a recommendation to the office of the attorney general concerning settlement of the claims, including the following:

(A) Completing the AMENDMENT TO TORT CLAIM form in cases where the claim appears appropriate but the amount requested is not correct.

(B) Forwarding the AMENDMENT TO TORT CLAIM form to the facility tort claims investigator as necessary.

(C) Receiving the completed AMENDMENT TO TORT CLAIM form from the facility tort claims investigator.

(D) Completing the tort claims administrator section of the RECOMMENDATION ON TORT CLAIM form.

(8) Submitting all documentation to the office of the attorney general.

(9) Maintaining a file on all property loss tort claims filed in the department.

(10) Serving as the department liaison with the office of the attorney general for property loss tort claims.

(Department of Correction; 210 IAC 1-10-5; filed Jun 17, 2003, 9:25 a.m.: 26 IR 3543)

210 IAC 1-10-6 Claim settlement
Authority: IC 34-13-3-7
Affected: IC 34-13-3

Sec. 6. (a) All checks for payment of property loss claims shall be sent to the offender at his or her housing facility.

(b) In those cases where the offender has been released from the department prior to the settlement of the claim, the tort claims administrator shall provide the attorney general with

the offender's last known address. *(Department of Correction; 210 IAC 1-10-6; filed Jun 17, 2003, 9:25 a.m.: 26 IR 3543)*

SECTION 8. 210 IAC 5-1-1 IS AMENDED TO READ AS FOLLOWS:

ARTICLE 5. RELEASE AUTHORITY FOR JUVENILES

Rule 1. Release Procedure

210 IAC 5-1-1 Definitions; administrative procedures
Authority: IC 11-13-6-2
Affected: IC 11-8-2-5; IC 11-13-6

Sec. 1. (a) The following definitions and administrative procedures shall be applicable in the operation of the ~~paroling~~ **releasing** authority for juveniles:

~~"Commissioner" means the chief executive of the department.~~

(1) "Administrative review committee" shall make all decisions relating to the release of juveniles to community supervision.

(2) "Chairperson" means the chairperson of the ~~juvenile parole~~ **administrative review** committee **or the community supervision revocation committee.**

(3) "Commissioner" means the chief executive of the department.

(4) "Commitment" means an order of a juvenile court placing a juvenile ~~offender~~ in the care, custody, and wardship of the department. ~~of correction.~~

(5) "Community supervision" means the conditional release of a juvenile before the time of a mandatory and unconditional discharge from a commitment.

(6) "Community supervision revocation committee" ~~means the juvenile parole committee.~~ **shall conduct all community supervision revocation hearings.**

(7) "Community supervision revocation hearing" means a formal hearing afforded by the department to determine if a violation of the conditions of community supervision has occurred.

(8) "Community supervision violation" means noncompliance with a condition of community supervision by the juvenile.

(9) "Community supervision violator" means a juvenile who has violated a condition of community supervision.

(10) "Department" means the department of correction.

(11) "Director, juvenile transition program" means the person responsible for the day-to-day casework monitoring of all juveniles in the community, approving all special conditions of the community supervision release agreement, and the commissioner's designee to release all juveniles from contract facilities.

(12) "Discharge" means an unconditional release of ~~an offender~~ **a juvenile** from a commitment.

(13) "Field staff" means department employees who supervise juveniles in the community.

(14) "Hearing officer" means the administrative officer who conducts a preliminary hearing.

~~"Offender"~~ **(15) "Juvenile"** means a delinquent ~~offender,~~ **child,** which is a person who is adjudged delinquent by a juvenile court and committed to the department of correction. This definition shall be deemed to include status ~~offenders.~~ **juveniles.**

~~"Parole" means the conditional release of an offender to community supervision before the time of a mandatory and unconditional discharge from a commitment.~~

~~"Parole revocation hearing" means a formal hearing afforded an offender by the department to determine if a violation of the conditions of parole has occurred.~~

~~"Parole violation" means non-compliance to a condition of parole by an offender.~~

~~"Parole violator" means an offender who has violated a condition of parole.~~

(16) "Placement" means the place of residence of the juvenile upon release.

(17) "Preliminary hearing" means a hearing to determine whether probable cause exists to believe that a violation of a ~~parole~~ **community supervision** condition has occurred.

~~"Regular parole applicant" means an offender who has completed all institutional requirements as approved by the commissioner.~~

(18) "Review" means a hearing granted by the ~~parole~~ **administrative review** committee ~~to an offender~~ **for a juvenile** who has not met institutional criteria for release recommendation.

~~"Special parole applicant" means an offender who has completed all institutional requirements as approved by the commissioner, but who was committed to the department for an offense against a person.~~

(b) ~~(1)~~ The **requirements for the administrative review** committee shall be **as follows:**

(1) The administrative review committee shall be comprised of ~~three (3)~~ **four (4)** members. The chairperson shall be ~~from~~ the ~~parole services section~~ **facility superintendent or designee** and the other ~~two (2)~~ **three (3)** members shall be from the ~~institution where the committee is meeting.~~ **education department, treatment department, and custody department as designated by the commissioner.**

~~(2) The commissioner shall appoint the chairperson; and the superintendent of the institution shall appoint the institutional members.~~

~~(3) The committee shall make all decisions relating to:~~

~~(A) parole release;~~

~~(B) parole revocation;~~

~~(C) discharge from parole;~~

~~(D) discharge from commitment.~~

~~(4)~~ **(2)** All decisions of the ~~parole~~ **administrative review** committee shall be ~~by majority vote.~~ **unanimous.**

~~(5)~~ **(3)** The **administrative review** committee shall meet in accordance with a schedule approved by the chairperson.

(Department of Correction; 210 IAC 5-1-1; filed Apr 17, 1985,

9:45 am: 8 IR 1125; readopted filed Nov 15, 2001, 10:42 a.m.: 25 IR 1269; filed Jun 17, 2003, 9:25 a.m.: 26 IR 3544)

SECTION 9. 210 IAC 5-1-2 IS AMENDED TO READ AS FOLLOWS:

210 IAC 5-1-2 Release recommendation by the facility; committee criteria for granting release

Authority: IC 11-13-6-2
Affected: IC 11-8-2-5; IC 11-8-5; IC 11-13-6

Sec. 2. (a) ~~Institutional criteria. (1) General requirements:~~ Criteria for ~~parole selection~~ **community supervision** shall be based on the following:

(1) The committing offense. ~~institutional~~

(2) Facility adjustment. ~~and~~

(3) Achievement of treatment goals established according to the ~~offender's~~ **juvenile's** individual **risk and** needs.

The treatment staff shall ~~assist the offender in setting goals and shall~~ review the ~~offender's~~ **juvenile's** progress at regular intervals. Upon completion of ~~institution/facility~~ **facility** requirements as approved by the ~~institution/facility~~ **facility** head, the ~~offender~~ **juvenile** shall be recommended for ~~parole~~ **community supervision** consideration to the ~~department of correction parole~~ **facility administrative review** committee. ~~for juveniles.~~

~~(2) Early release recommendations: The institution/facility head, as guardian of the offender, may, upon the recommendation of the treatment staff, or at his own discretion, recommend an offender for release prior to the offender completing the general requirements.~~

~~(3) Special parole applicants (offenses against person): The same criteria for release shall be utilized for all offenders. However, offenders who have committed an offense against a person shall be interviewed by the juvenile parole committee, which will make a decision regarding the offender's release.~~

~~(4)~~ **(b) Requirements for** discharge from commitment ~~A recommendation for discharge from commitment shall not be made to the parole committee unless the offender has attained the age of eighteen (18) at the time of recommendation. However, an offender may be recommended for discharge from commitment prior to attaining the age of eighteen (18), if special circumstances exist.~~ **shall be as follows:**

(1) Determinate sentence juveniles shall be discharged by the administrative review committee in accordance with the commitment order.

(2) Juveniles who are at least eighteen (18) years of age may be considered for community supervision or discharge by the administrative review committee.

~~(b) Parole committee criteria. (1) Institutional adjustment: The parole applicant's overall adjustment in the institution including, but not limited to, academic progress, completion of treatment goals, work/study performance, and adherence to rules and regulations governing offenders.~~

~~(2) Past offense record: The parole committee shall review the applicant's past offense record as to the offender's potential for successful parole.~~

~~(3) Nature of offense: Circumstances surrounding the offense for which two (2) juveniles are currently committed.~~

(c) The commissioner, pursuant to authority vested in him or her under IC 11-8-2-5(b)(2), may designate the authority to release or discharge juveniles from commitment. When a release from commitment is by discharge, the commissioner, or his or her designee, shall certify the discharge to the clerk of the committing court.

(d) The commissioner shall designate a person or persons to:

(1) release juveniles from a contract facility via community supervision or discharge; and

(2) discharge all juveniles from community supervision.

(Department of Correction; 210 IAC 5-1-2; filed Apr 17, 1985, 9:45 am: 8 IR 1125; readopted filed Nov 15, 2001, 10:42 a.m.: 25 IR 1269; filed Jun 17, 2003, 9:25 a.m.: 26 IR 3545)

SECTION 10. 210 IAC 5-1-3 IS AMENDED TO READ AS FOLLOWS:

210 IAC 5-1-3 Community supervision or discharge; consideration, reviews, denials, conditions statement

Authority: IC 11-13-6-2
Affected: IC 11-8-2-5; IC 11-8-5; IC 11-13-6

Sec. 3. ~~(a) Procedure for considering parole or discharge of regular parole applicants: (1) The head of each juvenile institution or facility shall prepare a list of all offenders eligible for release consideration and shall transmit such list to the chairperson.~~

~~(A) The list shall be prepared weekly.~~

~~(B) The list shall contain a recommendation concerning parole or discharge.~~

~~(2) The chairperson shall review such list and consider each offender's attainment of release criteria. The chairperson shall then make a determination as to each offender's parole, discharge, or need to appear before the parole committee. The chairperson shall return to the institutional head the approved list with a signed parole release agreement, or a signed discharge certificate, on those offenders authorized for release.~~

~~(3) Those offenders whose release has not been approved by the chairperson shall be interviewed by the juvenile parole committee. The committee shall then make a decision regarding the offender's release.~~

~~(b) Procedure for considering parole or discharge for special~~

parole applicants: (1) Offenders who have completed institutional criteria for release but who were committed for an offense against a person, shall be interviewed by the juvenile parole committee. This includes, but is not limited to, offenses, the nature of which includes arson, robbery, rape, child-molesting, kidnapping, homicide, battery, and attempt or conspiracy to commit such an act.

(2) Based upon the interview and the parole committee criteria, the committee shall then make a decision regarding the offender's release.

(c) Mandatory review: (1) Offenders who have not received an institutional recommendation for parole or discharge shall have their cases reviewed and be interviewed by the juvenile parole committee at least every twelve (12) months.

(2) Based upon the mandatory interview and institution and parole committee criteria, the committee shall make a decision regarding the offender's release.

(d) Prior to the committee making a determination to grant or deny parole, the offender shall be provided by the housing institution or facility with the following: (1) At least seven (7) days (excluding Saturday, Sunday, or holidays) advance written notice that he is being considered for release.

(2) Access in accordance with IC 11-8-5 to records and reports to be considered by the committee in making the release determination.

(3) An opportunity to appear before the committee, speak in his own behalf and present documentary evidence.

(e) In all cases where parole is denied, the chairperson shall give the offender written notice of the denial and the reason for denial: (1) No offender may be denied parole solely on the basis that appropriate quarters are not available in the community to which he will return.

(2) No offender will be denied parole without an interview. The interview shall be conducted by the juvenile parole committee.

(f) The commissioner, by authority vested in him under IC 11-8-2-5(b)(2), may delegate the authority to discharge offenders from commitment to a member of a parole committee. When a release from commitment is by discharge, the commissioner, or his designee, shall certify the discharge to the clerk of the committing court.

(g) When an offender is released on parole he shall be given a written statement of the conditions imposed by the department. Signed copies of this statement shall be forwarded to any person charged with his supervision and retained by the department: (1) The conditions shall be signed by the chairperson of the committee.

(2) The housing institution shall explain the conditions of parole to the offender, the offender shall acknowledge receipt of the conditions by his signature, and the offender's signature shall be witnessed.

(3) The parole conditions for offenders released from juvenile institutions shall be as follows:

(A) I will report within twenty-four (24) hours after my arrival at my destination either by mail, telephone, or personal visit, as directed to my supervising parole agent.

(B) I will faithfully comply with any orders and conditions imposed by the department of correction.

(C) I will obey all laws (state, federal, and local ordinances).

(D) I agree not to associate with persons with a previous criminal record, or adjudicated delinquents, including both adults and juveniles currently on parole or probation, unless otherwise authorized by my supervising parole agent.

(E) I agree to be gainfully employed when work is available, if not in a full- time school program.

(F) I understand that I must consult with my supervising parole agent for permission to:

(i) open a bank checking account;

(ii) borrow money or go into debt;

(iii) purchase an automobile in my name;

(iv) obtain a driver's license;

(v) possess and/or use any firearms;

(vi) change my residence or school program;

(vii) marry or file for divorce;

(viii) travel outside counties adjacent to my county or residence or outside the state of Indiana.

(G) I understand that placement failure or the need for medical attention or psychiatric or psychological evaluation is cause for return temporarily to the institution.

(H) I agree to participate in any special treatment program established by the department of correction for juvenile parolees upon the recommendation and approval of the chairperson of the juvenile parole committee.

(4) The committee may impose special stipulations to parole. These conditions shall be made a part of the official record on each offender involved. The offender shall be given a copy of these conditions. The committee may also impose special stipulations to parole at any time during the parole period upon recommendation of the parole agent. The offender shall be given notice and a copy of these conditions.

(a) The administrative review committee shall review the treatment team's recommendations regarding the juvenile's progress in treatment and interview the juvenile to determine release to community supervision or discharge, whichever is appropriate. A juvenile who has not received a facility recommendation for community supervision shall be reviewed by the administrative review committee at least every twelve (12) months.

(b) A juvenile under consideration for community

supervision or discharge shall be afforded the following:

(1) At least seven (7) days' (excluding Saturday, Sunday, or holidays) advance written notice that he or she is being considered for community supervision or discharge.

(2) Access to records and reports to be considered by the committee making the release determination in accordance with IC 11-8-5.

(3) An opportunity to appear before the committee, speak in his or her own behalf, and present documentary evidence.

(c) In all cases where community supervision is denied, the chairperson shall give the juvenile written notice of the denial and the reason or reasons for the denial including the following:

(1) No juvenile may be denied community supervision solely on the basis that appropriate placement is not available in the community to which he or she will return.

(2) The committee shall provide written notice to the juvenile that he or she has the right to appeal the administrative review committee decision.

(d) When a juvenile is released to community supervision, he or she shall be given a written statement of the community supervision conditions imposed by the department. Signed copies of this statement shall be forwarded to any person charged with his or her supervision and retained by the department including the following:

(1) The conditions shall be signed by the chairperson of the administrative review committee or the director of the juvenile transition program.

(2) The administrative review committee shall explain the conditions of community supervision to the juvenile, the juvenile shall acknowledge receipt of the conditions by his or her signature, and the juvenile's signature shall be witnessed.

(3) The community supervision conditions for juveniles released from juvenile facilities shall be as follows:

(A) I will report to my supervising field staff by telephone within twenty-four (24) hours of arrival at my approved residence unless I have received other written instructions.

(B) I understand it is my responsibility to maintain contact with my field staff by making myself available through home visits, office visits, school visits, work visits, telephone contacts, and written reports as directed. I understand that my field staff has the authority to search or inspect my person or personal property without a search warrant at any time.

(C) I will obey all federal, state, and local laws.

(D) I understand that I must immediately notify my field staff any time I am arrested, ticketed, or contacted by any law enforcement agent.

(E) I agree not to use or possess alcohol or any controlled substance. I agree not to remain at any place where alcohol or controlled substances are present and being illegally consumed.

(F) I understand that I may not, at any time, possess a firearm, loaded or unloaded, knife, weapon, or any other devise, equipment, chemical substance, or other material that could be used to cause harm or serious bodily injury to another person.

(G) I agree not to associate with persons adjudicated or convicted of a criminal offense including any person currently on parole or probation unless authorized by my field staff.

(H) I understand that I must obtain written permission from my field staff to purchase a motorized vehicle (automobile, truck, motorcycle, or moped) or obtain an identification card, beginner's driving permit, or driver's license.

(I) I will be at my approved residence during curfew hours and during the hours designated by my parent or guardian and field staff unless I have obtained permission in advance to be at another location.

(J) I understand that I must obtain written permission from my field staff before leaving Indiana for any reason, for example, day visit, holiday visit, family illness, funeral, or vacation. Verbal permission from field staff shall be obtained for travel within Indiana.

(K) I agree to:

(i) participate in an approved educational or vocational school program; or

(ii) be gainfully employed when work is available or participate in an approved community service program.

(L) I understand that I must notify my field staff if I am unable to fulfill my obligations for employment, community service project assignment, or educational or vocational school program.

(M) I understand that "Placement Failure", the need for emergency medical, psychiatric, or psychological evaluation, or any life-threatening situation may be cause for a temporary return to a facility.

(N) I will comply with all orders and special conditions imposed by the department. Additional terms and conditions of community supervision may be added at any time during the community supervision period upon recommendation of the field staff and approval of the director of the juvenile transition program.

(4) The administrative review committee may impose special conditions to community supervision. The juvenile shall be given notice of and a copy of these conditions. A copy of these conditions shall be placed in the official record of the applicable juvenile.

(5) The commissioner's designee shall be authorized to impose special conditions on juveniles upon the request of the field staff supervising that juvenile. The juvenile shall be given notice of and a copy of these conditions. A copy of these conditions shall be placed in the official record of the applicable juvenile.

(6) The administrative review committee shall inform the juvenile that he or she has the right to appeal the decision of the administrative review committee to the commissioner's designee in writing within seven (7) calendar days.

(Department of Correction; 210 IAC 5-1-3; filed Apr 17, 1985, 9:45 am: 8 IR 1126; readopted filed Nov 15, 2001, 10:42 a.m.: 25 IR 1269; filed Jun 17, 2003, 9:25 a.m.: 26 IR 3545)

SECTION 11. 210 IAC 5-1-4 IS AMENDED TO READ AS FOLLOWS:

210 IAC 5-1-4 Community supervision revocation

Authority: IC 11-13-6-2
Affected: IC 11-8-2-5; IC 11-13-6; IC 33-1-7-2

Sec. 4. (a) ~~Procedures~~ **Procedure** for conducting preliminary hearings **are** *[sic., is]* **as follows:**

(1) ~~A parole agent~~ **Field staff** shall submit a written report of **the** alleged ~~parole~~ **community supervision** violation **or violations** to the ~~assistant supervisor of parole, juvenile,~~ **commissioner's designee** when **there is** reasonable ~~suspicion exists~~ **belief** to believe the ~~parolee~~ **juvenile** has violated ~~the conditions~~ **a condition** of ~~parole.~~ **community supervision.**

(2) The ~~assistant supervisor of parole, juveniles,~~ **commissioner's designee** shall review the report of alleged violation **or violations** and determine whether or not a warrant should be issued. If a warrant ~~should be~~ **is** issued, a hearing officer shall ~~be assigned to~~ conduct ~~the~~ **a** preliminary hearing.

~~(A)~~ The commissioner, by **the** authority vested in him **or her** under IC 11-8-2-5(b), may delegate ~~this~~ **his or her** authority to issue warrants. ~~to the assistant supervisor of parole, juveniles.~~

~~(B)~~ **(3)** The hearing officer ~~conducting the preliminary hearing~~ shall be ~~a person other than the one who reported, or investigated,~~ **impartial and have no involvement in the reporting or investigation of** the alleged violation **or violations.**

~~(3)~~ **(4)** The hearing officer shall ~~upon receipt of notification to schedule a preliminary hearing,~~ provide the ~~offender~~ **juvenile** and his **or her** parents, guardians, or custodians written notice of **the following:**

(A) The date, time, and place of **the** hearing.

(B) The ~~parole~~ **community supervision condition or** conditions alleged to have been violated.

(C) The procedures and rights applicable to that hearing.

(D) If probable cause is found to exist, his **or her** right to a revocation hearing and the procedures and rights applicable to that hearing.

(E) The possible sanctions if a violation is found.

~~(4)~~ **(5)** In connection with the preliminary hearing, the ~~offender~~ **juvenile** is entitled to **the following:**

(A) Appear and speak in his **or her** own behalf.

(B) Call witnesses and present documentary evidence.

(C) Confront and cross-examine witnesses unless the hearing officer finds that to do so would subject the witness to a substantial risk of harm. ~~and have~~

(D) A written statement of the findings of fact and the evidence relied upon.

~~(5)~~ **(6)** The ~~offender's~~ **juvenile's** parents, guardians, or custodians are entitled to be present at the hearing.

~~(6)~~ **(7)** If the hearing officer determines that ~~there is not~~ probable cause **does not exist** to believe ~~that~~ the ~~offender~~ **juvenile** violated a condition of ~~his parole,~~ **community supervision,** the charge shall be dismissed.

~~(7)~~ **(8)** If the hearing officer determines from the evidence presented that there is probable cause to believe that the ~~offender~~ **juvenile** violated a condition of ~~parole,~~ **community supervision,** but ~~in his or her judgment~~ the hearing officer does not ~~feel~~ **believe** that ~~it~~ **there** is sufficient reason for return to the ~~institution,~~ **facility,** the hearing officer may continue the ~~offender~~ **juvenile** on ~~parole. However, if there is a~~ **community supervision pending the community supervision revocation hearing. Any** special condition ~~of the continuance, the condition must~~ **imposed by the hearing officer as a result of continued placement on community supervision shall** be discussed with, and approved by, the ~~chairperson of the parole committee~~ **commissioner's designee,** prior to its ~~having effect.~~ **imposition.**

~~(8)~~ **(9)** If the hearing officer determines from the evidence presented that there is probable cause to believe that the ~~offender~~ **juvenile** violated a condition of his ~~parole~~ **or her community supervision** and the ~~offender~~ **juvenile** should ~~appear before the parole committee for~~ **be confined pending** a revocation hearing, the ~~offender~~ **juvenile** shall be arrested on the department's warrant and returned to a juvenile ~~institution~~ **facility** pending a ~~parole~~ **community supervision** revocation hearing.

~~(9)~~ **(10)** In a case where the alleged violation of ~~parole~~ **community supervision** is based on a criminal conviction or a delinquency adjudication, the preliminary hearing need not be held.

~~(10)~~ **(11)** Unless good cause for the delay is established in the record of the preliminary hearing, the ~~parole~~ **community supervision** violation charge shall be dismissed if the preliminary hearing is not held within ten (10) days after the date of arrest on the department's warrant.

(b) Procedures for conducting ~~parole~~ **community supervision** revocation hearings **are as follows:**

(1) The community supervision revocation hearing shall be presided over by the commissioner's designee and two (2) members designated by the facility superintendent. The commissioner's designee shall serve as chairperson. The committee shall meet in accordance with a schedule established by the chairperson.

~~(1) An offender~~ **(2) A juvenile** confined at a juvenile ~~institution~~ **facility** due to an alleged **community supervision** violation ~~of~~

~~parole conditions~~ shall be afforded a ~~parole~~ **community supervision** revocation hearing by the ~~juvenile parole~~ **community supervision violation** committee within sixty (60) days of his or her arrest on the department's warrant.

(3) An alleged ~~parole~~ **community supervision** violator who is not confined prior to the ~~parole~~ **community supervision** revocation hearing shall be afforded ~~such~~ a hearing within **one hundred eighty** (180) days after the order was issued for his **or her** appearance **at the community supervision revocation hearing** or the date of his **or her** arrest on the ~~parole~~ **community supervision** violation warrant, whichever is earlier.

(4) Unless good cause for delay is established in the record of the revocation hearing, the revocation charge shall be dismissed if the revocation hearing is not held within the time limits established in subdivisions (2) and (3).

~~(2)~~ **(5)** Within ~~48~~ **seventy-two (72)** hours of ~~an offender's~~ **a juvenile's** return to a juvenile ~~institution,~~ **facility** (excluding Saturday, Sunday, or holidays) as an alleged ~~parole~~ **community supervision** violator, the ~~institution~~ **facility** shall notify the ~~offender~~ **juvenile** that he or she has the right to be represented by counsel at a revocation hearing and, if indigent, to have counsel appointed for him or her, **including the following:**

(A) The ~~offender~~ **juvenile** shall sign a statement indicating his or her understanding of **the** right to counsel and whether he or she desires to have counsel represent him or her at the revocation hearing.

(B) If the ~~offender~~ **juvenile** desires to be represented by counsel, but cannot afford such representation, the housing ~~institution~~ **facility** shall notify the public defender's office that the ~~parolee~~ **alleged community supervision violator** desires counsel at the revocation hearing.

~~(3)~~ **(6)** The housing ~~institution~~ **facility** shall provide the ~~offender~~ **juvenile** and his **or her** parents, guardian, or custodian written notice of the revocation hearing at least seven (7) days in advance of the hearing. The written notice shall include **the following:**

(A) The date, time, and place of the hearing.

(B) The ~~parole~~ **community supervision condition or** conditions alleged to have been violated.

(C) The procedures and rights applicable to such hearing.

(D) The possible sanctions if a violation is found.

~~(4)~~ **(7)** The ~~offender~~ **juvenile** shall be afforded those safeguards enumerated in ~~(a)(4) of this section~~ **subsection (a)(5)** and may offer evidence in mitigation of the alleged violation.

~~(5)~~ **(8)** The ~~offender's~~ **juvenile's** parents, guardians, or custodians are entitled to be present at the revocation hearing and shall be so advised by the housing ~~institution.~~ **facility.**

~~(6)~~ **(9)** If it is determined from the evidence presented that the ~~offender~~ **juvenile** did not commit a violation of ~~the conditions of parole,~~ **community supervision,** the charge **or charges** shall be dismissed.

~~(7)~~ **(10)** If the committee finds that the ~~offender~~ **juvenile** did violate a condition **or conditions** of ~~parole,~~ **community supervision,** it may continue the ~~offender~~ **juvenile** on ~~parole,~~ **community supervision,** with or without modifying the conditions, or revoke the ~~parole~~ **community supervision** and order the ~~offender~~ **juvenile** confined, **including the following:**

(A) If the ~~offender~~ **juvenile** is continued on ~~parole,~~ **community supervision** with modified conditions, he or she shall be given written notification of the **modification or** modifications.

(B) If ~~parole~~ **community supervision** is revoked, the committee shall inform the ~~offender~~ **juvenile** that he or she will be reconsidered for ~~parole~~ **community supervision** on a specific date or that he or she **will** be reconsidered when he or she again completes the ~~institutional~~ **facility** criteria for release.

~~(8)~~ **(11)** The chairperson shall provide the ~~parolee~~ **community supervision violator** with a written statement of the reasons for the committee's action if ~~parole~~ **community supervision** is revoked. **The juvenile has the right to appeal the decision of the community supervision revocation committee.**

~~(9) Unless good cause for the delay is established in the record of the revocation hearing, the revocation charge shall be dismissed if the revocation hearing is not held within the time limits established in (b)(1) of this section.~~

~~(10)~~ **(12)** The ~~parole~~ **community supervision revocation** committee shall consider the following: ~~at a revocation hearing:~~

(A) ~~Communicty adjustment:~~ The alleged violator's overall community adjustment ~~shall be considered~~ including, but not limited to, **the following:**

(i) School or work.

(ii) Completion of ~~parole~~ **community supervision** goals. ~~and~~

(iii) Previous violations committed while on ~~parole.~~ **community supervision.**

(B) ~~Past offense record:~~ The alleged ~~parole~~ **community supervision** violator's past juvenile history ~~shall be considered, along with~~ **and** the nature of his **or her** committing offense.

(C) ~~Nature of current violation:~~ The ~~exact~~ nature of the violation committed by the alleged ~~parole~~ **community supervision** violator and the events and circumstances surrounding the violation. ~~shall be considered.~~

~~(11) The procedures contained in (b) of this section shall be deemed to apply to parole revocation hearings when the alleged parole violator was not confined due to the alleged parole violation prior to the revocation hearing.~~

(13) The community supervision revocation committee shall inform the juvenile that he or she has the right to appeal the decision of the community supervision revocation committee to the commissioner's designee in writing within seven (7) calendar days.

(Department of Correction; 210 IAC 5-1-4; filed Apr 17, 1985, 9:45 am: 8 IR 1127; readopted filed Nov 15, 2001, 10:42 a.m.: 25 IR 1269; filed Jun 17, 2003, 9:25 a.m.: 26 IR 3548)

SECTION 12. 210 IAC 1-6-3 IS REPEALED.

LSA Document #02-259(F)
Notice of Intent Published: 26 IR 64
Proposed Rule Published: December 1, 2002; 26 IR 817
Hearing Held: January 8, 2003
Approved by Attorney General: June 4, 2003
Approved by Governor: June 16, 2003
Filed with Secretary of State: June 17, 2003, 9:25 a.m.
Incorporated Documents Filed with Secretary of State: None

TITLE 326 AIR POLLUTION CONTROL BOARD

LSA Document #02-54(F)

DIGEST

Amends 326 IAC 10-3-1 to delete emission limits for Ispat Inland and U.S. Steel in Lake County. Amends 326 IAC 10-4 to change compliance dates, amend emission trading allowances, and add formulas for energy efficiency programs. Effective 30 days after filing with the secretary of state.

HISTORY

First Notice of Comment Period: March 1, 2002, Indiana Register (25 IR 2045).

Second Notice of Comment Period and Notice of First Public Hearing: August 1, 2002, Indiana Register (25 IR 3886).

Change in Notice of Public Hearing: December 1, 2002, Indiana Register (26 IR 810).

First Public Hearing: December 4, 2002.

Proposed Rule and Notice of Second Public Hearing: January 1, 2003, Indiana Register (26 IR 1132).

Change in Notice of Public Hearing: April 1, 2003, Indiana Register (26 IR 2391).

Second Public Hearing: May 7, 2003.

326 IAC 10-3-1
326 IAC 10-4-1
326 IAC 10-4-2
326 IAC 10-4-9
326 IAC 10-4-10
326 IAC 10-4-13
326 IAC 10-4-14
326 IAC 10-4-15

SECTION 1. 326 IAC 10-3-1 IS AMENDED TO READ AS FOLLOWS:

326 IAC 10-3-1 Applicability

Authority: IC 13-14-8; IC 13-17-3-4; IC 13-17-3-11
Affected: IC 13-15; IC 13-17

Sec. 1. (a) This rule applies to any of the following:

(1) Portland cement kiln with process rates equal to or greater than:

(A) long dry kilns of twelve (12) tons per hour (tph);

(B) long wet kilns of ten (10) tph;

(C) preheater kilns of sixteen (16) tph; or

(D) precalciner and combined preheater and precalciner kilns of twenty-two (22) tph.

(2) The following affected boilers:

Source	Point ID	Unit
(A) Bethlehem Steel Corporation	075	Boiler #7
	076	Boiler #8
	077	Boiler #9
	078	Boiler #10
	079	Boiler #11
	080	Boiler #12
~~(B) Ispat Inland Incorporated~~	~~280 & 281~~	~~Boiler #211~~
	~~282 & 283~~	~~Boiler #212~~
	~~284 & 285~~	~~Boiler #213~~
	~~330~~	~~Boiler #501~~
	~~330~~	~~Boiler #502~~
	~~330~~	~~Boiler #503~~
~~(C)~~ **(B)** LTV Steel Company	020	Boiler #4
	021	Boiler #5
	022	Boiler #6
	023	Boiler #7
	024	Boiler #8
~~(D) U.S. Steel Company–Gary Works~~	~~720~~	~~Boiler #1~~
	~~720~~	~~Boiler #2~~
	~~720~~	~~Boiler #3~~
	~~701~~	~~Boiler #1~~
	~~701~~	~~Boiler #2~~
	~~701~~	~~Boiler #3~~
	~~701~~	~~Boiler #5~~
	~~701~~	~~Boiler #6~~

(3) Any other blast furnace gas fired boiler with a heat input greater than two hundred fifty million (250,000,000) British thermal units per hour **that is not subject to 326 IAC 10-4.**

(b) A unit subject to this rule and a New Source Performance Standard (NSPS), a National Emission Standard for Hazardous Air Pollutants, or an emission limit established under 326 IAC 2 shall comply with the limitations and requirements of the more stringent rule. For a unit subject to this rule and 326 IAC 10-1, compliance with the emission limits in section 3(a)(1)(A) of this rule during the ozone control period shall be deemed to be compliance with the emission limits in 326 IAC 10-1-4(b)(1) during the ozone control period, and such limits shall supersede those in 326 IAC 10-1-4(b)(1) during the ozone control period.

(c) The monitoring, record keeping, and reporting requirements under sections 4 and 5 of this rule shall not apply to a unit that opts into the NO_x budget trading program under 326 IAC 10-4.

(d) The requirements of this rule shall not apply to the specific units subject to this rule during startup and shutdown periods and periods of malfunction.

(e) During periods of blast furnace reline, startup, and period

of malfunction, the affected boilers shall not be required to meet the requirement to derive fifty percent (50%) of the heat input from blast furnace gas. *(Air Pollution Control Board; 326 IAC 10-3-1; filed Aug 17, 2001, 3:45 p.m.: 25 IR 14; errata filed Nov 29, 2001, 12:20 p.m.: 25 IR 1183; filed Jul 7, 2003, 4:00 p.m.: 26 IR 3550)*

SECTION 2. 326 IAC 10-4-1 IS AMENDED TO READ AS FOLLOWS:

326 IAC 10-4-1 Applicability

Authority: IC 13-14-8; IC 13-17-3-4; IC 13-17-3-11
Affected: IC 13-15; IC 13-17

Sec. 1. (a) This rule establishes a NO_x emissions budget and NO_x trading program for electricity generating units and large affected units as described in this rule. The following units shall be NO_x budget units, and any source that includes one (1) or more NO_x budget units shall be a NO_x budget source, and shall be subject to the requirements of this rule:

(1) An electricity generating unit (EGU) as defined under section 2(16) of this rule.

(2) A large affected unit as defined in section 2(27) of this rule.

(b) A unit described under subsection (a) shall not be a NO_x budget unit, if the unit has a federally enforceable permit that meets the requirements of subdivisions (1) through (3):

(1) The federally enforceable permit includes terms and conditions that restrict the unit to burning only natural gas or fuel oil during the ozone control period in 2004 or the first year of operation for the source and each ozone control period thereafter.

(2) The federally enforceable permit includes terms and conditions that restrict the unit's potential NO_x mass emissions for the ozone control period to twenty-five (25) tons or less.

(3) For each ozone control period, the federally enforceable permit must do the following:

(A) Restrict the unit to burning only natural gas or fuel oil during an ozone control period in 2004 or later and each ozone control period thereafter.

(B) Include one (1) of the following mechanisms for ensuring that the unit's ozone control period NO_x emissions do not exceed twenty-five (25) tons:

(i) Limit the unit's total actual control period emissions to twenty-five (25) tons of NO_x emissions, measured by a continuous emissions monitoring system (CEMS) in accordance with 40 CFR 75, Subpart H* and section 12 of this rule or monitoring approved under 40 CFR 75, Appendix E*.

(ii) Restrict the unit's operating hours to the number calculated by dividing twenty-five (25) tons of potential NO_x mass emissions by the unit's maximum potential hourly NO_x mass emissions, where the unit's potential NO_x mass emissions shall be calculated as follows:

(AA) Select the default NO_x emission rate in 40 CFR 75.19(c), Table LM-2* that would otherwise be applicable assuming that the unit burns only the type of fuel, for example, only natural gas or only fuel oil, that has the highest default NO_x emission factor of any type of fuel that the unit is allowed to burn under the fuel use restriction in clause (A).

(BB) Multiply the default NO_x emission rate under subitem (AA) by the unit's maximum rated hourly heat input. The owner or operator of the unit may petition the department to use a lower value for the unit's maximum rated hourly heat input than the value as defined under section 2(25) of this rule. The department may approve the lower value if the owner or operator demonstrates that the maximum hourly heat input specified by the manufacturer or the highest observed hourly heat input, or both, are not representative, and that the lower value is representative, of the unit's current capabilities because modifications have been made to the unit, limiting its capacity permanently.

(iii) Restrict the unit's usage of each fuel that it is authorized to burn such that the unit's potential NO_x mass emissions will not exceed twenty-five (25) tons per ozone control period, calculated as follows:

(AA) Identify the default NO_x emission rate in 40 CFR 75.19(c), Table LM-2* or an alternative emission rate determined in accordance with 40 CFR 75.19(c)(1)(iv)* for each type of fuel that the unit is allowed to burn under the fuel use restriction in clause (A).

(BB) Identify the amount of each type of fuel (in mmBtu) that the unit burned during the ozone control period.

(CC) For each type of fuel identified in subitem (BB), multiply the default NO_x emission rate under subitem (AA) and the amount (in mmBtu) of the fuels burned by the unit during the ozone control period.

(DD) Sum the products in subitem (CC) to verify that the unit's NO_x emissions were equal to or less than twenty-five (25) tons.

(C) Require that the owner or operator of the unit shall retain records, on site at the source or at a central location within Indiana for those owner or operators with unattended sources that includes the unit for a period of five (5) years, demonstrating that the terms and conditions of the permit related to these restrictions were met. Records retained at a central location within Indiana shall be available immediately at the location and submitted to the department or U.S. EPA within three (3) business days following receipt of a written request. Nothing in this clause shall alter the record retention requirements for a source under 40 CFR 75*.

(D) Require that the owner or operator of the unit shall report the unit's hours of operation, treating any partial hour of operation as a whole hour of operation, or such

other parameter as is being used to demonstrate compliance with the twenty-five (25) ton per ozone control period during each ozone control period to the department by November 1 of each year for which the unit is subject to the federally enforceable permit.

The unit shall be subject only to the requirements of this subsection starting with the effective date of the federally enforceable permit under subdivision (1).

(4) Within thirty (30) days after a final decision, the department shall notify the U.S. EPA in writing when a unit under subsection (a):

(A) is issued a federally enforceable permit under this subsection; or

(B) whose federally enforceable permit issued by the department under this subsection:

(i) is revised to remove any restriction;

(ii) includes any restriction that is no longer applicable; or

(iii) does not comply with any restriction.

(5) A unit described under this subsection shall be a NO_x budget unit, subject to the requirements of this rule if one (1) of the following occurs for any ozone control period:

(A) The fuel use restriction under subdivision (3)(A) or the applicable restriction under subdivision (3)(B) is removed from the unit's federally enforceable permit or otherwise becomes no longer applicable.

(B) The unit does not comply with the fuel use restriction under subdivision (3)(A) or the applicable restriction under subdivision (3)(B).

The unit shall be treated as commencing operation and, for a unit under subsection (a)(1), commencing commercial operation on September 30 of the ozone control period for which the fuel use restriction or the applicable restriction is no longer applicable or during which the unit does not comply with the fuel use restriction or the applicable restriction.

(6) A unit exempt under this subsection shall comply with the restriction in subdivision (3) during the ozone control period in each year.

(7) The department will allocate NO_x allowances to the unit under section 9(d) of this rule. For each control period for which the unit is allocated NO_x allowances under section 9(d) of this rule:

(A) the owners and operators of the unit must specify a general account, in which U.S. EPA will record the NO_x allowances; and

(B) after U.S. EPA records the NO_x allowance allocation under section 9(d) of this rule, the U.S. EPA will deduct, from the general account in clause (A), NO_x allowances that are allocated for the same or a prior ozone control period as the NO_x allowances allocated under section 9(d) of this rule and that equal the NO_x emission limitation (in tons of NO_x) on which the unit's exemption under this subsection is based. The NO_x authorized account representative shall ensure that the general account contains the NO_x allowances necessary for completion of the deduction.

~~(c) A unit subject to 40 CFR 97* shall be subject to the requirements of this rule on May 1, 2004. Allowances for such unit shall be allocated in accordance with section 9 of this rule for the 2004 ozone control period and thereafter. Allowances from the compliance supplement pool shall be allocated in accordance with section 15 of this rule and any banked allowances shall be available for use under this rule beginning in 2004. A unit subject to 40 CFR 97* may petition the commissioner for an extension of the compliance date from May 1, 2004, to a date no later than May 31, 2004, and the commissioner shall grant the petition if but only if final U.S. EPA action, final federal legislation, or an order from a court of competent jurisdiction delays the compliance date under 40 CFR 97* beyond May 1, 2004.~~

*These documents are incorporated by reference. ~~and~~ Copies may be obtained from the Government Printing Office, **732 North Capitol Street NW,** Washington, D.C. ~~20402~~ **20401** or are available for **review and** copying at the Indiana Department of Environmental Management, Office of Air Quality, Indiana Government Center-North, **Tenth Floor,** 100 North Senate Avenue, Indianapolis, Indiana 46204. *(Air Pollution Control Board; 326 IAC 10-4-1; filed Aug 17, 2001, 3:45 p.m.: 25 IR 18; filed Jul 7, 2003, 4:00 p.m.: 26 IR 3551)*

SECTION 3. 326 IAC 10-4-2 IS AMENDED TO READ AS FOLLOWS:

326 IAC 10-4-2 Definitions

Authority: IC 13-14-8; IC 13-17-3-4; IC 13-17-3-11
Affected: IC 13-11-2; IC 13-15; IC 13-17

Sec. 2. For purposes of this rule, the definition given for a term in this rule shall control in any conflict between 326 IAC 1-2 and this rule. In addition to the definitions provided in IC 13-11-2 and 326 IAC 1-2, the following definitions apply throughout this rule, unless expressly stated otherwise or unless the context clearly implies otherwise:

(1) "Account certificate of representation" means the completed and signed submission required by section 6 of this rule for certifying the designation of a NO_x authorized account representative for a NO_x budget source or a group of identified NO_x budget sources who is authorized to represent the owners and operators of the source or sources and of the NO_x budget units at the source or sources with regard to matters under the NO_x budget trading program.

(2) "Account number" means the identification number given by the U.S. EPA to each NO_x allowance tracking system account.

(3) "Acid rain emissions limitation" means, as defined in 40 CFR 72.2*, a limitation on emissions of sulfur dioxide or nitrogen oxides under the acid rain program under Title IV of the Clean Air Act (CAA).

(4) "Allocate" or "allocation" means the determination by the department or the U.S. EPA of the number of NO_x allowances to be initially credited to a NO_x budget unit or an allocation set-aside.

(5) "Automated data acquisition and handling system" or "DAHS" means that component of the CEMS, or other emissions monitoring system approved for use under 40 CFR 75, Subpart H*, designed to interpret and convert individual output signals from pollutant concentration monitors, flow monitors, diluent gas monitors, and other component parts of the monitoring system to produce a continuous record of the measured parameters in the measurement units required by 40 CFR 75, Subpart H*.

(6) "Boiler" means an enclosed fossil or other fuel-fired combustion device used to produce heat and to transfer heat to recirculating water, steam, or other heat transfer medium.

(7) "Combined cycle system" means a system comprised of one (1) or more combustion turbines, heat recovery steam generators, and steam turbines configured to improve overall efficiency of electricity generation or steam production.

(8) "Combustion turbine" means an enclosed fossil or other fuel-fired device that is comprised of a compressor, a combustor, and a turbine, and in which the flue gas resulting from the combustion of fuel in the combustor passes through the turbine, rotating the turbine.

(9) "Commence commercial operation" means, with regard to a unit that serves a generator, to have begun to produce steam, gas, or other heated medium used to generate electricity for sale or use, including test generation subject to the following:

(A) Except as provided in section 3 of this rule, for a unit that is a NO_x budget unit under section 1 of this rule on the date the unit commences commercial operation, the date shall remain the unit's date of commencement of commercial operation even if the unit is subsequently modified, reconstructed, or repowered.

(B) Except as provided in section 3 or 13 of this rule, for a unit that is not a NO_x budget unit under section 1 of this rule on the date the unit commences commercial operation, the date the unit becomes a NO_x budget unit under section 1 of this rule shall be the unit's date of commencement of commercial operation.

(10) "Commence operation" means to have begun any mechanical, chemical, or electronic process, including, with regard to a unit, startup of a unit's combustion chamber subject to the following:

(A) Except as provided in section 3 of this rule, for a unit that is a NO_x budget unit under section 1 of this rule on the date of commencement of operation, the date shall remain the unit's date of commencement of operation even if the unit is subsequently modified, reconstructed, or repowered.

(B) Except as provided in section 3 or 13 of this rule, for a unit that is not a NO_x budget unit under section 1 of this rule on the date of commencement of operation, the date the unit becomes a NO_x budget unit under section 1 of this rule shall be the unit's date of commencement of operation.

(11) "Common stack" means a single flue through which emissions from two (2) or more units are exhausted.

(12) "Compliance account" means a NO_x allowance tracking system account, established by the U.S. EPA for a NO_x budget unit under section 10 of this rule, in which the NO_x allowance allocations for the unit are initially recorded and in which are held NO_x allowances available for use by the unit for an ozone control period for the purpose of meeting the unit's NO_x budget emissions limitation.

(13) "Compliance certification" means a submission to the department or the U.S. EPA, as appropriate, that is required under section 8 of this rule to report a NO_x budget source's or a NO_x budget unit's compliance or noncompliance with this rule and that is signed by the NO_x authorized account representative in accordance with section 6 of this rule.

(14) "Continuous emission monitoring system" or "CEMS" means the equipment required under 40 CFR 75, Subpart H* to sample, analyze, measure, and provide, by readings taken at least once every fifteen (15) minutes of the measured parameters, a permanent record of nitrogen oxides emissions, expressed in tons per hour for NO_x. The following systems are component parts included, consistent with 40 CFR 75*, in a continuous emission monitoring system:

(A) Flow monitor.

(B) Nitrogen oxides pollutant concentration monitors.

(C) Diluent gas monitor, oxygen or carbon dioxide, when the monitoring is required by 40 CFR 75, Subpart H*.

(D) A continuous moisture monitor when the monitoring is required by 40 CFR 75, Subpart H*.

(E) An automated data acquisition and handling system.

(15) "Electricity for sale under firm contract to the grid" means electricity for sale where the capacity involved is intended to be available at all times during the period covered by a guaranteed commitment to deliver, even under adverse conditions.

(16) "Electricity generating unit" or "EGU" means the following:

(A) For units that commenced operation before January 1, 1997, a unit serving a generator during 1995 or 1996 that had a nameplate capacity greater than twenty-five (25) megawatts and produced electricity for sale under a firm contract to the electric grid.

(B) For units that commenced operation on or after January 1, 1997, and before January 1, 1999, a unit serving a generator during 1997 or 1998 that had a nameplate capacity greater than twenty-five (25) megawatts and produced electricity for sale under a firm contract to the electric grid.

(C) For units that commenced operation on or after January 1, 1999, a unit serving a generator at any time that has a nameplate capacity greater than twenty-five (25) megawatts and produces electricity for sale.

(17) "Emissions", for the purpose of this rule, means nitrogen oxides exhausted from a unit or source into the atmosphere, as measured, recorded, and reported to the U.S. EPA by the NO_x authorized account representative and as determined by the U.S. EPA in accordance with 40 CFR 75, Subpart H*.

(18) "Energy efficiency or renewable energy projects" means

any of the following implemented in Indiana:

(A) End-use energy efficiency projects, including demand-side management programs.

(B) Highly efficient electricity generation for the predominant use of a single end user, such as combined cycle, combined heat and power, microturbines, and fuel cell systems. In order to be considered as highly efficient electricity generation under this clause, combined cycle, combined heat and power, microturbines, and fuel cell generating systems must meet or exceed the following thresholds:

(i) For combined heat and power projects generating both electricity and thermal energy for space, water, or industrial process heat, rated energy efficiency of sixty percent (60%).

(ii) For microturbine projects rated at or below five hundred (500) kilowatts generating capacity, rated energy efficiency of forty percent (40%).

(iii) For combined cycle projects rated at greater than five hundred (500) kilowatts, rated energy efficiency of fifty percent (50%).

(iv) For fuel cell systems, rated energy efficiency of forty percent (40%), whether or not the fuel cell system is part of a combined heat and power energy system.

(C) Zero-emission renewable energy projects, including wind, photovoltaic, and hydropower projects. Eligible hydropower projects are restricted to systems employing a head of ten (10) feet or less or systems employing a head greater than ten (10) feet that make use of a dam that existed prior to the effective date of this rule.

(D) Energy efficiency projects generating electricity through the capture of methane gas from ~~sanitary~~ **municipal solid waste** landfills, water treatment plants, ~~or~~ sewage treatment plants, **or anaerobic digestion systems operating on animal or plant wastes.**

(E) The installation of highly efficient electricity generation equipment for the sale of power where such equipment replaces or displaces retired electrical generating units. In order to be considered as highly efficient under this clause, generation equipment must meet or exceed the following energy efficiency thresholds:

(i) For coal-fired electrical generation units, rated energy efficiency of forty-two percent (42%).

(ii) For natural gas-fired electrical generating units, rated energy efficiency of fifty percent (50%).

(F) Improvements to existing fossil fuel fired electrical generation units that increase the efficiency of the unit and decrease the heat rate used to generate electricity.

Energy efficiency or renewable energy projects do not include nuclear power projects. This definition is solely for the purposes of implementing this rule and does not apply in other contexts.

(19) "Energy Information Administration" means the Energy Information Administration of the United States Department of Energy.

(20) "Excess emissions" means any tonnage of NO_x emitted by a NO_x budget unit during an ozone control period that exceeds the NO_x budget emissions limitation for the unit.

(21) "Fossil fuel" means any of the following:

(A) Natural gas.

(B) Petroleum.

(C) Coal.

(D) Any form of solid, liquid, or gaseous fuel derived from the above material.

(22) "Fossil fuel-fired" means, with regard to a unit, the combustion of fossil fuel, alone or in combination with any other fuel, under any of the following scenarios:

(A) Fossil fuel actually combusted comprises more than fifty percent (50%) of the annual heat input on a British thermal unit (Btu) basis during any year starting in 1995. If a unit had no heat input starting in 1995, during the last year of operation of the unit prior to 1995.

(B) Fossil fuel is projected to comprise more than fifty percent (50%) of the annual heat input on a Btu basis during any year, provided that the unit shall be fossil fuel-fired as of the date, during the year, that the unit begins combusting fossil fuel.

(23) "General account" means a NO_x allowance tracking system account, established under section 10 of this rule, that is not a compliance account or an overdraft account.

(24) "Generator" means a device that produces electricity.

(25) "Heat input" means the product, in million British thermal units per unit of time (mmBtu/time), of the following:

(A) The gross calorific value of the fuel, in British thermal units per pound (Btu/lb).

(B) The fuel feed rate into a combustion device, in mass of fuel per unit of time (lb/time), as measured, recorded, and reported to the U.S. EPA by the NO_x authorized account representative and as determined by the U.S. EPA in accordance with 40 CFR 75, Subpart H*.

Heat input does not include the heat derived from preheated combustion air, recirculated flue gases, or exhaust from other sources.

(26) "Heat input rate" means the amount of heat input (in mmBtu) divided by unit operating time (in hours) or, with regard to a specific fuel, the amount of heat input attributed to the fuel (in mmBtu) divided by the unit operating time (in hours) during which the unit combusts the fuel.

(27) "Large affected unit" means the following:

(A) For units that commenced operation before January 1, 1997, a unit that has a maximum design heat input greater than two hundred fifty million (250,000,000) Btus per hour and that did not serve during 1995 or 1996 a generator producing electricity for sale under a firm contract to the electric grid.

(B) For units that commenced operation on or after January 1, 1997, and before January 1, 1999, a unit that has a maximum design heat input greater than two hundred fifty million (250,000,000) Btus per hour and that did not serve during 1997 or 1998 a generator producing electricity for

sale under a firm contract to the electric grid.

(C) For units that commence operation on or after January 1, 1999, a unit with a maximum design heat input greater than two hundred fifty million (250,000,000) Btus per hour that:

(i) at no time serves a generator producing electricity for sale; or

(ii) at any time serves a generator producing electricity for sale, if any such generator has a nameplate capacity of twenty-five (25) megawatts or less and has the potential to use no more than fifty percent (50%) of the potential electrical output capacity of the unit.

Large affected unit does not include a unit subject to 326 IAC 10-3.

(28) "Life-of-the-unit, firm power contractual arrangement" means a unit participation power sales agreement under which a utility or industrial customer reserves, or is entitled to receive, a specified amount or percentage of nameplate capacity and associated energy from any specified unit and pays its proportional amount of the unit's total costs, pursuant to a contract:

(A) for the life of the unit;

(B) for a cumulative term of no less than thirty (30) years, including contracts that permit an election for early termination; or

(C) for a period equal to or greater than twenty-five (25) years or seventy percent (70%) of the economic useful life of the unit determined as of the time the unit is built, with option rights to purchase or release some portion of the nameplate capacity and associated energy generated by the unit at the end of the period.

(29) "Maximum design heat input" means the ability of a unit to combust a stated maximum amount of fuel per hour on a steady state basis, as determined by the physical design and physical characteristics of the unit.

(30) "Maximum potential hourly heat input" means an hourly heat input used for reporting purposes when a unit lacks certified monitors to report heat input. The unit may use either of the following:

(A) 40 CFR 75, Appendix D* to report heat input. Calculate this value in accordance with 40 CFR 75*, using the maximum fuel flow rate and the maximum gross calorific value.

(B) A flow monitor and a diluent gas monitor. Report this value in accordance with 40 CFR 75*, using the maximum potential flow rate and either of the following:

(i) The maximum carbon dioxide (CO_2) concentration, in percent of CO_2.

(ii) The minimum oxygen (O_2) concentration, in percent of O_2.

(31) "Maximum potential NO_x emission rate" means:

(A) the emission rate of nitrogen oxides, in pounds per million British thermal units (lb/mmBtu);

(B) calculated in accordance with 40 CFR 75, Appendix F, Section 3*;

(C) using the maximum potential nitrogen oxides concentration as defined in 40 CFR 75, Appendix A, Section 2*; and

(D) either the:

(i) maximum oxygen (O_2) concentration in percent of O_2; or

(ii) minimum carbon dioxide (CO_2) concentration in percent of CO_2;

under all operating conditions of the unit except for unit start up, shutdown, and upsets.

(32) "Maximum rated hourly heat input" means a unit-specific maximum hourly heat input, in million British thermal units (mmBtu), that is the higher of either the manufacturer's maximum rated hourly heat input or the highest observed hourly heat input.

(33) "Monitoring system" means any monitoring system that meets the requirements of 40 CFR 75, Subpart H*, including the following:

(A) A continuous emissions monitoring system.

(B) An excepted monitoring system under 40 CFR 75.19* or 40 CFR 75, Appendix D or E*.

(C) An alternative monitoring system.

(34) "Most stringent state or federal NO_x emissions limitation" means, with regard to a NO_x budget opt-in source, the lowest NO_x emissions limitation, in terms of pounds per million British thermal units (lb/mmBtu), that is applicable to the unit under state or federal law, regardless of the averaging period to which the emissions limitation applies.

(35) "Nameplate capacity" means the maximum electrical generating output, in megawatt electrical (MWe), that a generator can sustain over a specified period of time when not restricted by seasonal or other deratings as measured in accordance with the United States Department of Energy standards.

(36) "Nontitle V permit" means a federally enforceable permit issued by the department under 326 IAC 2-8.

(37) "NO_x allowance" means an authorization by the department or the U.S. EPA under the nitrogen oxides (NO_x) budget trading program to emit up to one (1) ton of NO_x during the ozone control period of the specified year or of any year thereafter, except as provided in section 14(b) of this rule. "NO_x allowance" also includes an authorization to emit up to one (1) ton of nitrogen oxides during the ozone control period of the specified year or of any year thereafter by the U.S. EPA under 40 CFR 97* or by a permitting authority in accordance with a state NO_x budget trading program established pursuant to 40 CFR 51.121* and approved and administered by the U.S. EPA.

(38) "NO_x allowance deduction" or "deduct NO_x allowances" means the permanent withdrawal of NO_x allowances by the U.S. EPA from a NO_x allowance tracking system compliance account or overdraft account to account for the number of tons of NO_x emissions from a NO_x budget unit for an ozone control period, determined in accordance with 40 CFR 75, Subpart H* and section 12 of this rule, or for any other allowance surrender obligation under this rule.

(39) "NO_x allowance tracking system" means the system by

which the U.S. EPA records allocations, deductions, and transfers of NO_x allowances under the NO_x budget trading program.

(40) "NO_x allowance tracking system account" means an account in the NO_x allowance tracking system established by the U.S. EPA for purposes of recording the allocation, holding, transferring, or deducting of NO_x allowances.

(41) "NO_x allowance transfer deadline" means midnight of November 30 or, if November 30 is not a business day, midnight of the first business day thereafter and is the deadline by which NO_x allowances may be submitted for recordation in a NO_x budget unit's compliance account, or the overdraft account of the source where the unit is located, in order to meet the unit's NO_x budget emissions limitation for the ozone control period immediately preceding the deadline.

(42) "NO_x allowances held" or "hold NO_x allowances" means the NO_x allowances recorded by the U.S. EPA, or submitted to the U.S. EPA for recordation, in accordance with sections 10 and 11 of this rule, in a NO_x allowance tracking system account.

(43) "NO_x authorized account representative" means either of the following:

(A) For a NO_x budget source or NO_x budget unit at the source, the natural person who is authorized by the owners and operators of the source and all NO_x budget units at the source, in accordance with section 6 of this rule, to represent and legally bind each owner and operator in matters pertaining to the NO_x budget trading program.

(B) For a general account, the natural person who is authorized, in accordance with section 10 of this rule, to transfer or otherwise dispose of NO_x allowances held in the general account.

(44) "NO_x budget emissions limitation" means, for a NO_x budget unit, the tonnage equivalent of the NO_x allowances available for compliance deduction for the unit and for an ozone control period under sections 10(i) and 10(k) of this rule, adjusted by any deductions of the NO_x allowances for any of the following reasons:

(A) To account for excess emissions for a prior ozone control period under section 10(k)(5) of this rule.

(B) To account for withdrawal from the NO_x budget trading program.

(C) For a change in regulatory status, for a NO_x budget opt-in source under section 13(g) through 13(i) of this rule.

(45) "NO_x budget opt-in permit" means a NO_x budget permit covering a NO_x budget opt-in source.

(46) "NO_x budget opt-in source" means a source that includes one (1) or more NO_x budget units:

(A) that has elected to become a NO_x budget source under the NO_x budget trading program; and

(B) whose NO_x budget opt-in permit has been issued and is in effect under section 13 of this rule.

(47) "NO_x budget permit" means the legally binding and federally enforceable written document, or portion of the document:

(A) issued by the department under this rule, including any permit revisions; and

(B) specifying the NO_x budget trading program requirements applicable to the following:

(i) A NO_x budget source.

(ii) Each NO_x budget unit at the NO_x budget source.

(iii) The owners and operators and the NO_x authorized account representative of the NO_x budget source and each NO_x budget unit.

(48) "NO_x budget source" means a source that includes one (1) or more NO_x budget units.

(49) "NO_x budget trading program" means a multistate nitrogen oxides air pollution control and emission reduction program established in accordance with this rule, 40 CFR 97*, and a state NO_x budget trading program established pursuant to 40 CFR 51.121*and approved and administered by the U.S. EPA, as a means of mitigating the interstate transport of ozone and nitrogen oxides, an ozone precursor.

(50) "NO_x budget unit" means a unit that is subject to the NO_x budget trading program emissions limitation under section 1(a) or 13(a) of this rule.

(51) "Operating" means, with regard to a unit under sections 7(c)(4)(B) and 13(a) of this rule, having documented heat input for more than eight hundred seventy-six (876) hours in the six (6) months immediately preceding the submission of an application for an initial NO_x budget permit under section 13(d) of this rule.

(52) "Operator" means any person who operates, controls, or supervises a NO_x budget unit, a NO_x budget source, or a unit for which an application for a NO_x budget opt-in permit under section 13(d) of this rule is submitted and not denied or withdrawn and shall include, but not be limited to, any holding company, utility system, or plant manager of a unit or source.

(53) "Opt-in" means to elect to become a NO_x budget unit under the NO_x budget trading program through a final, effective NO_x budget opt-in permit under section 13 of this rule.

(54) "Overdraft account" means the NO_x allowance tracking system account, established by the U.S. EPA under section 10 of this rule, for each NO_x budget source where there are two (2) or more NO_x budget units.

(55) "Owner" means any of the following persons:

(A) Any holder of any portion of the legal or equitable title in a NO_x budget unit or in a unit for which an application for a NO_x budget opt-in permit under section 13(d) of this rule is submitted and not denied or withdrawn.

(B) Any holder of a leasehold interest in a NO_x budget unit or in a unit for which an application for a NO_x budget opt-in permit under section 13(d) of this rule is submitted and not denied or withdrawn.

(C) Any purchaser of power from a NO_x budget unit or from a unit for which an application for a NO_x budget opt-in permit under section 13(d) of this rule is submitted and not denied or withdrawn under a life-of-the-unit, firm

power contractual arrangement. However, unless expressly provided for in a leasehold agreement, owner shall not include a passive lessor, or a person who has an equitable interest through the lessor, whose rental payments are not based, either directly or indirectly, upon the revenues or income from the NO_x budget unit or the unit for which an application for a NO_x budget opt-in permit under section 13(d) of this rule is submitted and not denied or withdrawn.

(D) With respect to any general account, any person who has an ownership interest with respect to the NO_x allowances held in the general account and who is subject to the binding agreement for the NO_x authorized account representative to represent that person's ownership interest with respect to NO_x allowances.

(56) "Ozone control period" means the period as follows:

(A) For 2004, ~~the following:~~

~~(i) For units not subject to 40 CFR 97*,~~ beginning May 31 and ending on September 30, inclusive.

~~(ii) For units subject to 40 CFR 97*, beginning May 1 and ending on September 30, inclusive.~~

(B) For 2005 and each year thereafter, beginning May 1 of a year and ending on September 30 of the same year, inclusive.

(57) "Percent monitor data availability" means, for purposes of sections 13(e)(2) and 15(b)(1)(D) of this rule, total unit operating hours for which quality-assured data were recorded under 40 CFR 75, Subpart H* and section 12 of this rule in a control period, divided by the total number of unit operating hours per control period, and multiplied by one hundred percent (100%).

(58) "Potential electrical output capacity" means thirty-three percent (33%) of a unit's maximum design heat input.

(59) "Rated energy efficiency" means the percentage of gross energy input that is recovered as useable net energy output in the form of electricity or thermal energy, or both, that is used for heating, cooling, industrial processes, or other beneficial uses as follows:

(A) For electric generators, rated energy efficiency is calculated as one (1) net kilowatt hour (three thousand four hundred twelve (3,412) British thermal units) of electricity divided by the unit's design heat rate using the higher heating value of the fuel.

(B) For combined heat and power projects, rated energy efficiency is calculated using the following formula:

$$Eff\% = (NEO + UTO)/GEI$$

Where:

Eff% = Rated energy efficiency.

NEO = Net electrical output of the system converted to British thermal units per unit of time.

UTO = Utilized thermal output or the energy value in British thermal units of thermal energy from the system that is used for heating, cooling, industrial processes, or other beneficial uses, per unit of time.

GEI = Gross energy input, based upon the higher heating value of fuel, per unit of time.

(60) "Receive" or "receipt of" means, when referring to the department or the U.S. EPA, to come into possession of a document, information, or correspondence, whether sent in writing or by authorized electronic transmission, as indicated in an official correspondence log, or by a notation made on the document, information, or correspondence, by the department or the U.S. EPA in the regular course of business.

(61) "Recordation", "record", or "recorded" means, with regard to NO_x allowances, the movement of NO_x allowances by the U.S. EPA from one (1) NO_x allowance tracking system account to another, for purposes of allocation, transfer, or deduction.

(62) "Reference method" means any direct test method of sampling and analyzing for an air pollutant as specified in 40 CFR 60, Appendix A*.

(63) "Repowered natural gas-fired generating unit", for the purposes of this rule, means an electricity generating unit that is fueled by natural gas and provides steam to a generation turbine that was previously served by a coal-fired unit that was retired in 2000 or later.

(64) "Serial number" means, when referring to NO_x allowances, the unique identification number assigned to each NO_x allowance by the U.S. EPA, under section 10(e) through 10(g) of this rule.

(65) "Source" means any governmental, institutional, commercial, or industrial structure, installation, plant, building, or facility that emits or has the potential to emit any regulated air pollutant under the CAA. For purposes of Section 502(c) of the CAA, a source, including a source with multiple units, shall be considered a single facility.

(66) "Submit" or "serve" means to send or transmit a document, information, or correspondence to the person specified in accordance with the applicable regulation:

(A) in person;

(B) by United States Postal Service; or

(C) by other means of dispatch or transmission and delivery.

Compliance with any submission, service, or mailing deadline shall be determined by the date of dispatch, transmission, or mailing and not the date of receipt.

(67) "Title V operating permit" means a permit issued under 326 IAC 2-7.

(68) "Title V operating permit regulations" means the rules under 326 IAC 2-7.

(69) "Ton" or "tonnage" means any short ton, two thousand (2,000) pounds. For the purpose of determining compliance with the NO_x budget emissions limitation, total tons for an ozone control period shall be calculated as the sum of all recorded hourly emissions, or the tonnage equivalent of the recorded hourly emissions rates, in accordance with 40 CFR 75, Subpart H*, with any remaining fraction of a ton equal to or greater than fifty-hundredths (0.50) ton deemed to equal one (1) ton and any fraction of a ton less than fifty-hundredths (0.50) ton deemed to equal zero (0) tons.

(70) "Trading program budget" means the total number of NO_x tons apportioned to all NO_x budget units, in accordance with the NO_x budget trading program, for use in a given ozone control period.

(71) "Unit" means a fossil fuel-fired:

(A) stationary boiler;

(B) combustion turbine; or

(C) combined cycle system.

(72) "Unit operating day" means a calendar day in which a unit combusts any fuel.

(73) "Unit operating hour" or "hour of unit operation" means any hour, or fraction of an hour, during which a unit combusts any fuel.

(74) "United States Environmental Protection Agency" or "U.S. EPA" means the administrator of the U.S. EPA or the administrator's duly authorized representative. The department authorizes the U.S. EPA to assist the department in implementing this rule by carrying out the functions set forth for the U.S. EPA in this rule.

(75) "Utilization" means the heat input, expressed in million British thermal units per unit of time, for a unit. The unit's total heat input for the ozone control period in each year shall be determined in accordance with 40 CFR 75* if the NO_x budget unit was otherwise subject to the requirements of 40 CFR 75* for the year, or shall be based on the best available data reported to the U.S. EPA for the unit if the unit was not otherwise subject to the requirements of 40 CFR 75* for the year.

*These documents are incorporated by reference. ~~and~~ Copies may be obtained from the Government Printing Office, **732 North Capitol Avenue NW,** Washington, D.C. ~~20402~~ **20401** or are available for **review and** copying at the Indiana Department of Environmental Management, Office of Air Quality, Indiana Government Center-North, **Tenth Floor,** 100 North Senate Avenue, Indianapolis, Indiana 46204. *(Air Pollution Control Board; 326 IAC 10-4-2; filed Aug 17, 2001, 3:45 p.m.: 25 IR 19; errata filed Nov 29, 2001, 12:20 p.m.: 25 IR 1183; filed Jul 7, 2003, 4:00 p.m.: 26 IR 3552)*

SECTION 4. 326 IAC 10-4-9 IS AMENDED TO READ AS FOLLOWS:

326 IAC 10-4-9 NO_x allowance allocations

Authority: IC 13-14-8; IC 13-17-3-4; IC 13-17-3-11
Affected: IC 13-15; IC 13-17

Sec. 9. (a) The trading program budget allocated by the department under subsections (d) through (f) for each ozone control period shall equal the total number of tons of NO_x emissions apportioned to the NO_x budget units under section 1 of this rule for the ozone control period, as determined by the procedures in this section. The total number of tons of NO_x emissions that are available for each ozone control period for allocation as NO_x allowances under this rule are ~~fifty-three thousand nine hundred sixty (53,960)~~ **fifty-five thousand seven hundred twenty-nine (55,729)** tons apportioned as follows:

(1) For existing units:

(A) forty-three thousand six hundred fifty-four (43,654) tons for electricity generating units in 2004 through 2009 and forty-five thousand thirty-three (45,033) tons thereafter; and

(B) ~~six thousand eight hundred forty-nine (6,849)~~ **eight thousand five hundred sixty-four (8,564)** tons for large affected units;

less the sum of the NO_x limitations (in tons) for each unit under section 1(b) of this rule that is not allocated any NO_x allowances under subsection (d) for the ozone control period and whose NO_x emission limitation (in tons of NO_x) is not included in the amount calculated under subsection (e) for the control period.

(2) For new unit allocation set-asides:

(A) two thousand two hundred ninety-eight (2,298) tons for electricity generating units in 2004 through 2009, and nine hundred nineteen (919) tons thereafter; and

(B) ~~eighty (80)~~ **ninety-eight (98)** tons for large affected units in 2004 and each year thereafter.

(3) For the energy efficiency and renewable energy allocation set-aside, ~~one thousand seventy-nine (1,079)~~ **one thousand one hundred fifteen (1,115)** tons.

(b) The department shall allocate NO_x allowances to NO_x budget units according to the following schedule:

(1) For EGUs, a three (3) year allocation that is recorded three (3) years in advance of the ozone control period that the allowances may be used as follows:

(A) Within thirty (30) days of the effective date of this rule, the department shall submit to the U.S. EPA the NO_x allowance allocations, in accordance with subsection (c), for the ozone control periods in 2004, 2005, and 2006.

(B) By December 31, 2003, the department shall submit to the U.S. EPA the NO_x allowance allocations, in accordance with subsection (c), for the ozone control period in 2007, 2008, and 2009.

(C) By December 31, 2006, the department shall submit to the U.S. EPA the NO_x allowance allocations, in accordance with subsection (c), for the ozone control period in 2010, 2011, and 2012.

(D) By December 31, 2009, and by December 31 every three (3) years thereafter, the department shall submit to the U.S. EPA, the NO_x allowance allocations, in accordance with subsection (c), for the ozone control periods four (4) years, five (5) years, and six (6) years after the year of the allowance allocation.

(2) For large affected units, within thirty (30) days of the effective date of this rule, the department shall submit to the U.S. EPA the NO_x allowances for the ozone control periods in 2004 through 2009. By December 31, 2006, the department shall review the allocations in light of emission trends, new units, and other relevant factors to determine whether revisions are appropriate.

(3) If the department fails to submit to the U.S. EPA the NO_x allowance allocations in accordance with this rule, the U.S. EPA will allocate, for the applicable ozone control period, the same number of NO_x allowances as were allocated for the preceding ozone control period.

(4) The department shall make available for review to the public the NO_x allowance allocations under subdivision (1)(B), (1)(C), and (1)(D) on December 31 of each year cited in subdivision (1)(B), (1)(C), and (1)(D) and shall provide a thirty (30) day opportunity for submission of objections to the NO_x allowance allocations. Objections shall be limited to addressing whether the NO_x allowance allocations are in accordance with this section. Based on any such objections, the department shall consider any objections and input from affected sources and, if appropriate, adjust each determination to the extent necessary to ensure that it is in accordance with this section. Any revised NO_x allowance allocations shall be submitted to the U.S. EPA for recordation by the following April 1.

(c) The heat input, in million British thermal units (mmBtu), used for calculating NO_x allowance allocations for each NO_x budget unit under section 1 of this rule shall be:

(1) For a NO_x allowance allocation under subsection (b)(1)(A), the average of the two (2) highest amounts of the unit's heat input for the ozone control periods in 1995 through 1999.

(2) For a NO_x allowance allocation under subsection (b)(1)(B) through (b)(1)(D), the unit's average of the two (2) highest heat inputs for the ozone control period in the years that are one (1), two (2), three (3), four (4), and five (5) years before the year when the NO_x allocation is being calculated. For the purpose of this subdivision, the ozone control period for the year 2004 shall be from May 1 through September 30.

(3) If a NO_x budget unit does not have a full five (5) years of ozone control period heat inputs, the following shall apply:

(A) For a NO_x budget unit with ozone control period heat inputs for more than two (2) years, the average of the two (2) highest ozone control period heat inputs.

(B) For a NO_x budget unit with two (2) years of ozone control period heat input, the average of the ozone control period heat input for the two (2) years.

(C) For a NO_x budget unit with one (1) year of ozone control period heat input, the actual ozone control period heat input for that year.

(4) For a NO_x allowance allocation under subsection (b)(1)(B), (b)(1)(C), and (b)(1)(D) for a unit exempt under section 1(b) of this rule, the heat input shall be treated as zero (0) if the unit was exempt during the previous allocation period.

The unit's total heat input for the ozone control period in each year shall be determined in accordance with 40 CFR 75* if the NO_x budget unit was otherwise subject to the requirements of 40 CFR 75* for the year, or shall be based on the best available data reported to the department for the unit if the unit was not otherwise subject to the requirements of 40 CFR 75* for the year. The owner or operator of a NO_x budget unit shall submit heat input data within thirty (30) days if requested by the department.

(d) For each ozone control period under subsection (b), the department shall allocate to all NO_x budget units that have been in operation for at least one (1) year prior to the year in which allocations are made, and for new NO_x budget units that have commenced operation on or after May 1, 2000 and that have not submitted notification in accordance with subsection (i), a total number of NO_x allowances equal to the amount under subsection (a)(1), in accordance with the following procedures:

(1) The department shall allocate NO_x allowances to each electricity generating unit in an amount equaling fifteen-hundredths **(0.15)** pound per million British thermal units ~~(0.15 lb/mmBtu)~~ or the allowable emission rate as of the date that the unit becomes affected by this rule, whichever is more stringent, except that a coal-fired electrical generation unit with a rated energy efficiency of forty percent (40%) or higher, a repowered natural gas-fired electrical generating unit with a rated energy efficiency of forty-five percent (45%) or higher, a natural gas-fired electrical generating unit, that is not repowered, with a rated energy efficiency of fifty percent (50%) or higher, or a combined heat and power unit with an overall rated energy efficiency of sixty percent (60%) or higher shall be allocated allowances based on fifteen-hundredths (0.15) lb/mmBtu notwithstanding the allowable emission rate, multiplied by the heat input determined under subsection (c) **and the product divided by two thousand (2,000) pounds per ton,** rounded to the nearest whole NO_x allowance, as appropriate.

(2) If the initial total number of NO_x allowances allocated to all electricity generating units for an ozone control period under subdivision (1) does not equal the amount under subsection (a)(1), the department shall adjust the total number of NO_x allowances allocated to all NO_x budget units for the ozone control period under subdivision (1) so that the total number of NO_x allowances allocated equals the amount under subsection (a)(1). This adjustment shall be made by:

(A) multiplying each unit's allocation by the amount under subsection (a)(1); and

(B) dividing by the total number of NO_x allowances allocated under subdivision (1), and rounding to the nearest whole NO_x allowance, as appropriate.

(3) The department shall allocate NO_x allowances to each large affected unit in an amount equaling the following:

Source	Unit	Allowances
(A) Alcoa	1	1,089
	2	1,057
	3	1,026
(B) American Electric Power–Rockport	Auxiliary Boiler 1	2
	Auxiliary Boiler 2	1

(C) BP Amoco–Boiler House 1	1	21
	2	21
	3	21
	4	21
	5	22
(D) BP Amoco–Boiler House 3	1	252
	2	252
	3	252
	4	252
	5	252
(E) Citizens Thermal Energy	11	120
	12	138
	13	85
	14	75
	15	54
	16	69
(F) Ispat Inland	**211**	**110**
	212	**110**
	213	**109**
	401	255
	402	255
	403	257
	404	257
	405	344
	501	**137**
	502	**137**
	503	**137**
~~(G) National Steel~~	~~1~~	~~0~~
~~(H)~~ **(G)** New Energy	003	238
~~(I)~~ **(H)** Portside Energy	Auxiliary Boiler 1	50
	Auxiliary Boiler 2	5
	Combustion Turbine	34
~~(J)~~ **(I)** Purdue University	**1**	**90**
	2	**91**
	3	**8**
	5	72
(J) U.S. Steel–Gary Works	**720 Boiler #1**	**107**
	720 Boiler #2	**107**
	720 Boiler #3	**107**
	701 Boiler #1	**78**
	701 Boiler #2	**78**
	701 Boiler #3	**78**
	701 Boiler #5	**86**
	701 Boiler #6	**145**

For units having an emission limitation only in tons on an annual basis, the allowable emission rate in pounds per million Btu (lb/mmBtu) shall be determined by dividing the emission limitation by eight thousand seven hundred sixty (8,760) hours, multiplying by two thousand (2,000) pounds, and dividing the result by the unit's permitted heat input rate. For units having an emission limitation only in parts per million (ppm), the conversion factors under 326 IAC 3-4-3 shall be used.

(e) For new NO_x budget units that commenced operation, or are projected to commence operation, on or after May 1, 2000, or for projects that reduce NO_x emissions through the implementation of energy efficiency or renewable energy measures, or both, implemented during an ozone control period beginning May 1, 2004, the department shall allocate NO_x allowances in accordance with the following procedures:

(1) The department shall establish allocation set-asides for new NO_x budget units and for energy efficiency and renewable energy projects for each ozone control period as follows:

(A) The new unit allocation set-asides shall be allocated NO_x allowances equal to the following:

(i) For EGUs, two thousand two hundred ninety-eight (2,298) tons (five percent (5%) of EGU budget) for each ozone control period in 2004 through 2009, and nine hundred nineteen (919) tons (two percent (2%) of the EGU budget) for each ozone control period thereafter.

(ii) For large affected units, ~~eighty (80)~~ **ninety-eight (98)** tons (one percent (1%) of the large affected unit budget) in 2004 and each year thereafter.

(B) The energy efficiency and renewable energy allocation set-aside shall be allocated NO_x allowances equal to one thousand ~~seventy-nine (1,079)~~ **one hundred fifteen (1,115)** tons (two percent (2%) of overall trading budget).

(2) The NO_x authorized account representative of a new NO_x budget unit or a general account may submit to the department a request, in writing or in a format specified by the department, for NO_x allowances as follows:

(A) For a new NO_x budget unit, for one (1) ozone control period under subsection (b), during which the NO_x budget unit commenced, or is projected to commence, operation. The NO_x authorized account representative shall reapply each year until the NO_x budget unit is eligible to use NO_x allowances allocated under subsection (d).

(B) For energy efficiency or renewable energy projects, project sponsors may request the reservation of NO_x allowances, for one (1) control period in which the project is implemented. The NO_x authorized account representative may reapply each year, not to exceed five (5) ozone control periods. Requests for allowances may be made only for projects implemented within two (2) years of the beginning of the first ozone control period for which allowances are requested. Projects must equal at least one (1) ton of NO_x emissions and multiple projects may be aggregated into one (1) allowance allocation request to equal one (1) or more tons of NO_x emissions.

The NO_x allowance allocation request must be submitted by September 1 of the calendar year that is one (1) year in advance of the first ozone control period for which the NO_x allowance allocation is requested and for new NO_x budget units, after the date on which the department issues a permit to construct the NO_x budget unit and final approval is granted from the Indiana utility regulatory commission.

(3) In a NO_x allowance allocation request under this subsection, the NO_x authorized account representative may request for an ozone control period, NO_x allowances in an amount that does not exceed the following:

(A) For an electricity generating unit, multiplying the following:

(i) Fifteen-hundredths (0.15) pound per million British thermal units or the allowable emission rate as of the date that the unit becomes affected by this rule, whichever is more stringent except that a coal-fired electrical generation unit with a rated energy efficiency of forty percent (40%) or higher, a repowered natural gas-fired electrical generating unit with a rated energy efficiency of forty-five percent (45%) or higher, a natural gas-fired electrical generating unit that is not repowered with a rated energy efficiency of fifty percent (50%) or higher, or a combined heat and power unit with an overall rated energy efficiency of sixty percent (60%) or higher shall be allocated allowances based on fifteen- hundredths (0.15) lb/mmBtu notwithstanding the allowable emission rate.

(ii) The NO_x budget unit's maximum design heat input, in million British thermal units per hour as follows:

(AA) For a unit that is permitted as a major stationary source or major modification under 326 IAC 2-2 or 326 IAC 2-3 and that is not a simple cycle system, seventy-five percent (75%) of the maximum design heat input.

(BB) For a unit that is not permitted as a major stationary source or major modification under 326 IAC 2-2 or 326 IAC 2-3 and that is a combined cycle system, fifty percent (50%) of the maximum design heat input.

(CC) For a unit that is not permitted as a major stationary source or major modification under 326 IAC 2-2 or 326 IAC 2-3 and that is not combined cycle system or for a unit that is permitted as a major stationary source or major modification under 326 IAC 2-2 or 326 IAC 2-3 and that is a simple cycle system, twenty-five percent (25%) of the maximum design heat input.

(iii) The number of hours remaining in the ozone control period starting with the first day in the ozone control period on which the unit operated or is projected to operate;

and dividing the product by two thousand (2,000) pounds per ton, and rounded to the nearest ton. The NO_x allowances requested shall not exceed annual allowable NO_x emissions.

(B) For a large affected unit **multiplying:**

(i) seventeen-hundredths (0.17) pound per million British thermal units or the allowable emission rate as of the date that the unit becomes affected by this rule, whichever is more stringent;

(ii) ~~multiplied by~~ the NO_x budget unit's maximum design heat input, in million British thermal units per hour; and

(iii) ~~multiplied by~~ the number of hours remaining in the ozone control period starting with the first day in the ozone control period on which the unit operated or is projected to operate;

and dividing the product by two thousand (2,000) pounds per ton, and rounded to the neareast ton. The NO_x allowances requested shall not exceed annual allowable NO_x emissions.

(C) For energy efficiency or renewable energy projects:

(i) Projects in section 2(18)(A) ~~and 2(18)(B)~~ of this rule that claim allowances based upon reductions in the consumption of electricity and that are sponsored by end-users or non-utility third parties receive allowances based upon the number of kilowatt hours of electricity saved during an ozone control period and the following formula:

Allowances = (kWS * 0.0015)/2000

Where: Allowances = The number of allowances awarded to a project sponsor.

kWS = The number of kilowatt hours of electricity saved during an ozone control period by the project.

(ii) Projects in section 2(18)(A) ~~and 2(18)(B)~~ of this rule that claim allowances based upon reductions in the consumption of electricity and that are sponsored by NOx allowance account holders that own or operate units that produce electricity and are subject to the emission limitations of this rule will be awarded allowances according to the following formula:

Allowances = (kWS * 0.000375)/2000

Where: Allowances = The number of allowances awarded to a project sponsor.

kWS = The number of kilowatt hours of electricity saved during an ozone control period by the project.

(iii) Projects in section 2(18)(A) of this rule that claim allowances based upon reductions in the consumption of energy other than electricity and that are not NO_x budget units will be awarded allowances according to the following formula:

Allowances = (((Et1/Pt1) - (Et2/Pt2)) × Pt2 × ~~Nrate/2000~~ **NPt2 × (NPt1/NPt2))/2000**

Where: Allowances = The number of allowances awarded to a project sponsor.

Et1 = Energy consumed per ozone control period prior to project implementation.

Pt1 = Units of product produced per ozone control period prior to project implementation.

Et2 = Energy consumed in the most recent ozone control period.

Pt2 = Units of product produced in the most recent ozone control period.

~~NRate = NO_x produced during the consumption of energy, measured in pounds per million (1,000,000) British thermal units.~~

NPt1 = NO_x produced during the consumption of energy, measured in pounds per million British thermal units prior to project implementation.

NPt2 = NO_x produced during the consumption of energy, measured in pounds per million British thermal units in the most recent ozone control period.

(iv) Projects in section 2(18)(A) of this rule that claim allowances based upon reductions in the consumption of energy other than electricity and that are NO_x budget units will be awarded allowances according to the following formula:

Allowances = (((Et1/Pt1) - (Et2/Pt2)) × Pt2 × ~~NRate~~ **NPt2 × (NPt1/NPt2)** × 0.25)/2000

Where: Allowances = The number of allowances awarded to a project sponsor.

Et1 = Energy consumed per ozone control period prior to project implementation.

Pt1 = Units of product produced per ozone control period prior to project implementation.

Et2 = Energy consumed in the most recent ozone control period.

Pt2 = Units of product produced in the most recent ozone control period.

~~NRate = NO_x produced during the consumption of energy, measured in pounds per million (1,000,000) British thermal units.~~

NPt1 = NO_x produced during the consumption of energy, measured in pounds per million British thermal units prior to project implementation.

NPt2 = NO_x produced during the consumption of energy, measured in pounds per million British thermal units in the most recent ozone control period.

Product produced, as used in these formulas in this item and item (iii), may include manufactured items; raw, intermediate, or final materials; or other products measured in discrete units and produced as a result of the consumption of energy in a specific process or piece of equipment. Claims for allowances must include documentation of NO_x emissions per British thermal unit both before and after implementation of the project for the energy-consuming process for which energy savings are claimed.

(v) Projects in section 2(18)(B) of this rule that claim allowances based upon highly efficient electricity generation using systems such as combined cycle, microturbines, and fuel cell systems for the predominant use of a single end user, that meet the thresholds specified in section 2(18)(B) of this rule, that are not electric generating units or large affected units as defined in section 2 of this rule, and that are sponsored by end-users or nonutility third parties, receive allowances based upon the net amount of electricity generated during an ozone control period and the following formula:

Allow = (kWG × (0.0015 – NO_x))/2000

Where: Allow = The number of allowances awarded to a project sponsor.

kWG = The number of net kilowatt hours of electricity generated during an ozone control period by the project.

NO_x = The amount of NO_x produced during the generation of electricity, measured in pounds per kilowatt hour.

(vi) Projects in section 2(18)(B) of this rule that claim allowances based upon highly efficient combined heat and power systems for the predominant use of a single end user, that meet the thresholds specified in section 2(18)(B) of this rule, that are not electric generating units or large affected units as defined in section 2 of this rule, and that are sponsored by end-users or nonutility third parties, receive allowances based upon the net amount of energy generated and used during an ozone control period and the following formula:

Allow = ((BtuIn × Efficiency)/3,412) × (0.0015 – (NO_xRate/EnRate))/2000

Where: Allow = The number of allowances awarded to a project sponsor.

BtuIn = The number of British thermal units (Btu) of fuel used to produce electricity, heat, or steam during an ozone control period by the project.

Efficiency = The effective net efficiency of a combined heat and power system, calculated as (kWG × 3,412)/(BtuIn–HeatOut).

Where: kWG = The number of net kilowatt hours of electricity generated during an ozone control period by the project.

HeatOut = The number of British thermal units (Btu) of heat or steam effectively used for space, water, or industrial process heat during an ozone control period by the project divided by eight-tenths (0.8).

NO_xRate = NO_x emitted, measured in pounds per hour of normal system operation.

EnRate = The amount of energy measured in British thermal units (Btu) of electricity generated and heat or steam effectively used for space, water, or industrial process heat per hour of normal system operation, divided by three thousand four hundred twelve (3,412).

(vii) Projects in section 2(18)(D) of this rule receive allowances based upon the number of kilowatt hours of electricity each project generates during an ozone control period. Highly efficient electricity generation projects using systems such as combined cycle, microturbines, and fuel cell systems for the predominant use of a single end user, that meet a rated energy efficiency threshold of sixty percent (60%) for combined cycle systems and forty percent (40%) for microturbines and fuel cells, and that are sponsored by NO_x allowance account holders that own or operate units that produce electricity and are subject to the emission limitations of this rule will receive allowances based upon the net amount of electricity generated during an ozone control period and the following formula:

Allowances = (kWG * (0.0015 – NO_x) * 0.25)/2000

Where: Allowances = The number of allowances awarded to a project sponsor.

kWG = The number of net kilowatt hours of electricity generated during an ozone control period by the project.

NO_x = The amount of NO_x produced during the generation of electricity, measured in pounds per kilowatt hour.

~~(v)~~ **(viii)** Projects in section 2(18)(C) and 2(18)(D) of this rule receive allowances based upon the number of kilowatt hours of electricity each project generates during an ozone control period and according to the following formula:

Allowances = (kWG * 0.0015)/2000

Where: Allowances = The number of allowances awarded to a project sponsor.

kWG = The number of kilowatt hours of electricity generated during an ozone control period by the project.

~~(vi)~~ **(ix)** Projects in section 2(18)(E) and 2(18)(F) of this rule receive allowances based upon the difference in emitted NO_x per megawatt hour of operation for units before and after replacement or improvement and according to the following formula:

Allowances = ((Et1 - Et2) * h) * 0.25/2000

Where: Allowances = The number of allowances awarded to a project sponsor.

Et1 = The emission rate in pounds per megawatt hour of NO_x of the unit before improvement or replacement.

Et2 = The emission rate in pounds per megawatt hour of NO_x of the unit after improvement or replacement.

h = The number of megawatt hours of operation during the ozone control period.

Allowances will be awarded only after verification of project implementation and certification of energy, emission, or electricity savings, as appropriate. The department will consult the Indiana department of commerce concerning verification and certification.

(4) The department shall review, and allocate NO_x allowances pursuant to, each NO_x allowance allocation request by December 31 of each year as follows:

(A) Upon receipt of the NO_x allowance allocation request, the department shall determine whether and shall make any necessary adjustments to the request to ensure that:

(i) for electricity generating units, the ozone control period and the number of allowances specified are consistent with the requirements of subdivision (3)(A);

(ii) for large affected units, the ozone control period and the number of allowances specified are consistent with the requirements of subdivision (3)(B);

(iii) for energy efficiency and renewable energy projects the number of allowances specified are consistent with the requirements of subdivision (3)(C); and

(iv) for units exempt under section 1(b) of this rule, the department will determine the sum of the NO_x emission limitations (in tons of NO_x) on which the unit's exemption under section 1(b) of this rule is based.

(B) The department shall allocate allowances to all qualifying energy efficiency and renewable energy projects prior to allocating allowances to any new NO_x budget unit. The department shall give first priority to energy efficiency and renewable energy projects under section 2(18)(A), 2(18)(C), and 2(18)(D) of this rule, next section 2(18)(B) of this rule, next section 2(18)(E) of this rule, and finally section 2(18)(F) of this rule.

(C) If the energy efficiency and renewable energy allocation set-aside for the ozone control period for which NO_x allowances are requested has an amount of NO_x allowances greater than or equal to the number requested, as adjusted under clause (A), the department shall allocate the amount

of the NO_x allowances requested, as adjusted under clause (A), to the energy efficiency and renewable energy projects. Any unallocated allowances shall be distributed as follows:

(i) Fifty percent (50%) of the unallocated allowances shall remain in the set-aside for use in the next year's allocation.

(ii) Fifty percent (50%) of the unallocated allowances shall be returned to existing large affected units on a pro rata basis.

(D) If the energy efficiency and renewable energy allocation set-aside for the ozone control period for which NO_x allowances are requested has an amount of NO_x allowances less than the number requested, as adjusted under clause (A), the department shall allocate the allocation set-aside on a pro rata basis, except that allowances requested for projects under section 2(18)(A), 2(18)(C), and 2(18)(D) of this rule shall be allocated first, allocated to projects under section 2(18)(B) of this rule second, allocated to projects under section 2(18)(E) of this rule third, and allocated to projects under section 2(18)(F) of this rule fourth.

(E) If the new unit allocation set-aside for the ozone control period for which NO_x allowances are requested, less the amount under ~~subdivision~~ **clause** (A)(iv), has an amount of NO_x allowances greater than or equal to the number requested, as adjusted under clause (A), the department shall allocate the amount of the NO_x allowances requested, as adjusted under clause (A), to the NO_x budget unit. If the energy efficiency and renewable energy set-aside is oversubscribed in clause (D), the remaining allowances shall be transferred to the energy efficiency and renewable energy set-aside. If the energy efficiency and renewable energy set-aside is under subscribed in clause (C), the remaining allowances shall be transferred to existing sources on a pro rata basis.

(F) If the new unit allocation set-aside for the ozone control period for which NO_x allowances are requested, less the amount under ~~subdivision~~ **clause** (A)(iv), has an amount of NO_x allowances less than the number requested, as adjusted under clause (A), the department shall allocate the allocation set-aside to the NO_x budget units on a pro rata basis.

(G) After a new budget unit has operated in one (1) ozone control period, it becomes an existing budget unit unless a notification has been received under subsection (i) requesting allocations under this subsection, and the department will allocate allowances for the ozone control period according to subsections (b) and (d). The unit will continue to receive allowances from the new unit set-aside according to subdivision (3) until it is eligible to use allowances allocated under subsection (d).

By December 31 of each year, the department shall take appropriate action under subdivision (4) and notify the NO_x authorized account representative that submitted the request and the U.S. EPA of the number of NO_x allowances allocated for the ozone control period to the NO_x budget unit or energy efficiency or renewable energy projects.

(f) For a new NO_x budget unit that is allocated NO_x allowances under subsection (e) for an ozone control period, the U.S. EPA will deduct NO_x allowances under section 10(k)(1) or 10(k)(8) of this rule to account for the actual emissions of the unit during the ozone control period. Any allowances remaining in the account shall be returned to the new source unit set-aside.

(g) After making the deductions for compliance under section 10(k)(1) or 10(k)(8) of this rule for an ozone control period, the U.S. EPA will notify the department whether any NO_x allowances remain in the allocation set-asides for the ozone control period. Any NO_x allowances remaining in the new unit allocation set-asides shall remain in the new unit allocation set-aside for use in the next year's allocation.

(h) If the number of banked allowances in the new unit set-asides or the energy efficiency set-aside is greater than the following amounts:

(1) For the EGU new unit set-aside, three thousand ~~three hundred and seventy-seven (3,377)~~ **four hundred thirteen (3,413)** tons for each year in 2004 through 2009 and ~~one thousand nine hundred ninety-eight (1,998)~~ **two thousand thirty-four (2,034)** tons each year thereafter.

(2) For the large affected **new** unit set-aside, one thousand ~~one hundred fifty-nine (1,159)~~ **two hundred thirteen (1,213)** tons in 2004 and each year thereafter.

(3) For energy efficiency and renewable energy set-aside, two thousand ~~one hundred fifty-eight (2,158)~~ **two hundred thirty (2,230)** tons in 2004 and each year thereafter.

Any banked allowances in excess of the values in subsection (e)(1)(A) or (e)(1)(B) shall be allocated to the relevant existing NO_x budget units on a pro rata basis. The allowances from the energy efficiency and renewable energy set-aside shall be allocated to existing large affected units.

(i) A new EGU that commenced operation on or after May 1, 2000, has the option to remain in the new unit set-aside and have allowances allocated in accordance with subsection (e) until such time that it has heat input data for at least two (2) full ozone control periods, but not more than five (5) full ozone control periods for the purpose of determining heat input under subsection (c). The new NO_x budget unit shall submit a notification to the department by no later than December 1 of the year prior to the allocation schedule in subsection (b), indicating the unit is to receive NO_x allowances is accordance with subsection (e).

~~*These documents are~~ ***This document is** incorporated by reference. ~~and~~ Copies may be obtained from the Government Printing Office, **732 North Capitol Street NW,** Washington, D.C. ~~20402~~ **20401** or are available for **review and** copying at the Indiana Department of Environmental Management, Office of Air Quality, Indiana Government Center-North, **Tenth Floor,** 100 North Senate Avenue, Indianapolis, Indiana 46204. *(Air Pollution Control Board; 326 IAC 10-4-9; filed Aug 17, 2001, 3:45 p.m.: 25 IR 32; errata filed Nov 29, 2001, 12:20*

p.m.: 25 IR 1183; filed Jul 7, 2003, 4:00 p.m.: 26 IR 3558)

SECTION 5. 326 IAC 10-4-10 IS AMENDED TO READ AS FOLLOWS:

326 IAC 10-4-10 NO_x allowance tracking system
Authority: IC 13-14-8; IC 13-17-3-4; IC 13-17-3-11
Affected: IC 13-15; IC 13-17

Sec. 10. (a) The U.S. EPA will establish compliance and overdraft accounts consistent with subsection (c). NO_x allowances shall be recorded in the compliance accounts or overdraft accounts according to the following:

(1) Allocations of NO_x allowances pursuant to section 9 or 13(i) of this rule.

(2) Deductions or transfers of NO_x allowances pursuant to one (1) of the following:

(A) Section 8(d), 8(e), 11, 13, or 14 of this rule.

(B) Subsection (j), (k), or (m).

(b) The U.S. EPA will establish, upon request, a general account for any person consistent with subsection (d). Transfers of allowances pursuant to section 11 of this rule shall be recorded in the general account in accordance with this section.

(c) Upon receipt of a complete account certificate of representation under section 6(h) of this rule, the U.S. EPA will establish the following:

(1) A compliance account for each NO_x budget unit for which the account certificate of representation was submitted.

(2) An overdraft account for each source for which the account certificate of representation was submitted and that has two (2) or more NO_x budget units.

(d) Any person may apply to open a general account for the purpose of holding and transferring allowances. The establishment of a general account shall be subject to the following:

(1) A complete application for a general account shall be submitted to the U.S. EPA and shall include the following elements in a format prescribed by the U.S. EPA:

(A) The following information concerning the NO_x authorized account representative and any alternate NO_x authorized account representative:

(i) Name.

(ii) Mailing address.

(iii) E-mail address, if any.

(iv) Telephone number.

(v) Facsimile transmission number, if any.

(B) At the option of the NO_x authorized account representative, organization name, and type of organization.

(C) A list of all persons subject to a binding agreement for the NO_x authorized account representative or any alternate NO_x authorized account representative to represent their ownership interest with respect to the allowances held in the general account.

(D) The following certification statement by the NO_x authorized account representative and any alternate NO_x authorized account representative: "I certify that I was selected as the NO_x authorized account representative or the NO_x alternate authorized account representative, as applicable, by an agreement that is binding on all persons who have an ownership interest with respect to allowances held in the general account. I certify that I have all the necessary authority to carry out my duties and responsibilities under the NO_x budget trading program on behalf of persons and that each person shall be fully bound by my representations, actions, inactions, or submissions and by any order or decision issued to me by the U.S. EPA or a court regarding the general account.".

(E) The signature of the NO_x authorized account representative and any alternate NO_x authorized account representative and the dates signed.

(F) Unless otherwise required by the department or the U.S. EPA, documents of agreement referred to in the account certificate of representation shall not be submitted to the department or the U.S. EPA. Neither the department nor the U.S. EPA will be under any obligation to review or evaluate the sufficiency of the documents, if submitted.

(2) Upon receipt by the U.S. EPA of a complete application for a general account under subdivision (1), the following shall apply:

(A) The U.S. EPA will establish a general account for the person or persons for whom the application is submitted.

(B) The NO_x authorized account representative and any alternate NO_x authorized account representative for the general account shall represent and, by his or her representations, actions, inactions, or submissions, legally bind each person who has an ownership interest with respect to NO_x allowances held in the general account in all matters pertaining to the NO_x budget trading program, notwithstanding any agreement between the NO_x authorized account representative or any alternate NO_x authorized account representative and the person. Any person having an ownership interest with respect to NO_x allowances shall be bound by any order or decision issued to the NO_x authorized account representative or any alternate NO_x authorized account representative by the U.S. EPA or a court regarding the general account.

(C) Each submission concerning the general account shall be submitted, signed, and certified by the NO_x authorized account representative or any alternate NO_x authorized account representative for the persons having an ownership interest with respect to NO_x allowances held in the general account. Each submission shall include the following certification statement by the NO_x authorized account representative or any alternate NO_x authorized account representative: "I am authorized to make this submission on behalf of the persons having an ownership interest with respect to the NO_x allowances held in the general account. I certify under penalty of law that I have personally examined, and am familiar with, the statements and information

submitted in this document and all its attachments. Based on my inquiry of those individuals with primary responsibility for obtaining the information, I certify that the statements and information are to the best of my knowledge and belief true, accurate, and complete. I am aware that there are significant penalties for submitting false statements and information or omitting required statements and information, including the possibility of fine or imprisonment.".

(D) The U.S. EPA will accept or act on a submission concerning the general account only if the submission has been made, signed, and certified in accordance with clause (C).

(3) The following shall apply to the designation of a NO_x authorized account representative, alternate NO_x authorized account representative, or persons having an ownership interest with respect to NO_x allowances in the general account:

(A) An application for a general account may designate the following:

(i) One (1) and only one (1) NO_x authorized account representative.

(ii) One (1) and only one (1) alternate NO_x authorized account representative who may act on behalf of the NO_x authorized account representative.

The agreement by which the alternate NO_x authorized account representative is selected shall include a procedure for authorizing the alternate NO_x authorized account representative to act in lieu of the NO_x authorized account representative.

(B) Upon receipt by the U.S. EPA of a complete application for a general account under subdivision (1), any representation, action, inaction, or submission by any alternate NO_x authorized account representative shall be deemed to be a representation, action, inaction, or submission by the NO_x authorized account representative.

(C) The NO_x authorized account representative for a general account may be changed at any time upon receipt by the U.S. EPA of a superseding complete application for a general account under subdivision (1). Notwithstanding the change, all representations, actions, inactions, and submissions by the previous NO_x authorized account representative prior to the time and date when the U.S. EPA receives the superseding application for a general account shall be binding on the new NO_x authorized account representative and the persons with an ownership interest with respect to the allowances in the general account.

(D) The alternate NO_x authorized account representative for a general account may be changed at any time upon receipt by the U.S. EPA of a superseding complete application for a general account under subdivision (1). Notwithstanding the change, all representations, actions, inactions, and submissions by the previous alternate NO_x authorized account representative prior to the time and date when the U.S. EPA receives the superseding application for a general account shall be binding on the new alternate NO_x authorized account representative and the persons with an ownership interest with respect to the allowances in the general account.

(E) In the event a new person having an ownership interest with respect to NO_x allowances in the general account is not included in the list of persons having an ownership interest with respect to the NO_x allowances in the account certificate of representation, the new person shall be deemed to be subject to and bound by the account certificate of representation, the representation, actions, inactions, and submissions of the NO_x authorized account representative and any alternate NO_x authorized account representative of the source or unit, and the decisions, orders, actions, and inactions of the U.S. EPA, as if the new person were included in the list.

(F) Within thirty (30) days following any change in the persons having an ownership interest with respect to NO_x allowances in the general account, including the addition of persons, the NO_x authorized account representative or any alternate NO_x authorized account representative shall submit a revision to the application for a general account amending the list of persons having an ownership interest with respect to the NO_x allowances in the general account to include the change.

(4) Once a complete application for a general account under subdivision (1) has been submitted and received, the U.S. EPA will rely on the application unless and until a superseding complete application for a general account under subdivision (1) is received by the U.S. EPA.

(5) Except as provided in subdivision (3)(C) through (3)(F), no objection or other communication submitted to the U.S. EPA concerning the authorization, or any representation, action, inaction, or submission of the NO_x authorized account representative or any alternate NO_x authorized account representative for a general account shall affect any representation, action, inaction, or submission of the NO_x authorized account representative or any alternate NO_x authorized account representative or the finality of any decision or order by the U.S. EPA under the NO_x budget trading program.

(6) The U.S. EPA will not adjudicate any private legal dispute concerning the authorization or any representation, action, inaction, or submission of the NO_x authorized account representative or any alternate NO_x authorized account representative for a general account, including private legal disputes concerning the proceeds of NO_x allowance transfers.

(e) The U.S. EPA will assign a unique identifying number to each account established under subsection (c) or (d).

(f) Following the establishment of a NO_x allowance tracking system account, all submissions to the U.S. EPA pertaining to the account, including, but not limited to, submissions concerning the deduction or transfer of NO_x allowances in the account, shall be made only by the NO_x authorized account representative for the account. The U.S. EPA will assign a

unique identifying number to each NO_x authorized account representative.

(g) The U.S. EPA will record the NO_x allowances for 2004 **and each year thereafter** in the NO_x budget units' compliance accounts and the allocation set-asides, as allocated under section 9 of this rule. The U.S. EPA will also record the NO_x allowances allocated under section 13(i)(1) of this rule for each NO_x budget opt-in source in its compliance account.

(h) Each year, after the U.S. EPA has made all deductions from a NO_x budget unit's compliance account and the overdraft account pursuant to subsection (k), the U.S. EPA will record NO_x allowances, as allocated to the unit under section 9 or 13(i)(2) of this rule, in the compliance account for the year after the last year for which allowances were previously allocated to the compliance account. Each year, the U.S. EPA will also record NO_x allowances, as allocated under section 9 of this rule, in the allocation set-aside for the year after the last year for which allowances were previously allocated to an allocation set-aside.

(i) When allocating NO_x allowances to and recording them in an account, the U.S. EPA will assign each NO_x allowance a unique identification number that shall include digits identifying the year for which the NO_x allowance is allocated.

(j) The NO_x allowances are available to be deducted for compliance with a unit's NO_x budget emissions limitation for an ozone control period in a given year only if the NO_x allowances:

(1) were allocated for an ozone control period in a prior year or the same year; and

(2) are held in the unit's compliance account, or the overdraft account of the source where the unit is located, as of the NO_x allowance transfer deadline for that ozone control period or are transferred into the compliance account or overdraft account by a NO_x allowance transfer correctly submitted for recordation under section 11(a) of this rule by the NO_x allowance transfer deadline for that ozone control period.

(k) The following shall apply to deductions for purposes of compliance with a unit's allocations:

(1) Following the recordation, in accordance with section 11(b) or 11(c) of this rule, of NO_x allowance transfers submitted for recordation in the unit's compliance account or the overdraft account of the source where the unit is located by the NO_x allowance transfer deadline for an ozone control period, the U.S. EPA will deduct NO_x allowances available under subsection (j) to cover the unit's NO_x emissions, as determined in accordance with 40 CFR 75, Subpart H*:

(A) from the compliance account; and

(B) only if no more NO_x allowances available under subsection (j) remain in the compliance account, from the overdraft account.

In deducting allowances for units at the source from the overdraft account, the U.S. EPA will begin with the unit having the compliance account with the lowest NO_x allowance tracking system account number and end with the unit having the compliance account with the highest NO_x allowance tracking system account number, with account numbers sorted beginning with the left-most character and ending with the right-most character and the letter characters assigned values in alphabetical order and less than all numeric characters.

(2) The U.S. EPA will deduct NO_x allowances first under subdivision (1)(A) and then under subdivision (1)(B) until:

(A) the number of NO_x allowances deducted for the ozone control period equals the number of tons of NO_x emissions, determined in accordance with 40 CFR 75, Subpart H*, from the unit for the ozone control period for which compliance is being determined; or

(B) no more NO_x allowances available under subsection (j) remain in the respective account.

(3) The NO_x authorized account representative for each compliance account may identify by serial number the NO_x allowances to be deducted from the unit's compliance account under this section. The identification shall be made in the compliance certification report submitted in accordance with section 8(a) through 8(c) of this rule.

(4) The U.S. EPA will deduct NO_x allowances for an ozone control period from the compliance account, in the absence of an identification or in the case of a partial identification of NO_x allowances by serial number under subdivision (3), or the overdraft account on a first-in, first-out (FIFO) accounting basis in the following order:

(A) Those NO_x allowances that were allocated for the ozone control period to the unit under section 9 or 13 of this rule.

(B) Those NO_x allowances that were allocated for the ozone control period to any unit and transferred and recorded in the account pursuant to section 11 of this rule, in order of their date of recordation.

(C) Those NO_x allowances that were allocated for a prior ozone control period to the unit under section 9 or 13 of this rule.

(D) Those NO_x allowances that were allocated for a prior ozone control period to any unit and transferred and recorded in the account pursuant to section 11 of this rule, in order of their date of recordation.

(5) After making the deductions for compliance under subdivisions (1) and (2), the U.S. EPA will deduct from the unit's compliance account or the overdraft account of the source where the unit is located a number of NO_x allowances, allocated for an ozone control period after the ozone control period in which the unit has excess emissions, equal to three (3) times the number of the unit's excess emissions.

(6) If the compliance account or overdraft account does not contain sufficient NO_x allowances, the U.S. EPA will deduct the required number of NO_x allowances, regardless of the ozone control period for which they were allocated, whenever NO_x allowances are recorded in either account.

(7) Any allowance deduction required under subdivision (5) shall not affect the liability of the owners and operators of the NO_x budget unit for any fine, penalty, or assessment, or their obligation to comply with any other remedy, for the same violation, as ordered under the CAA or applicable state law. The following guidelines shall be followed in assessing fines, penalties, or other obligations:

(A) For purposes of determining the number of days of violation, if a NO_x budget unit has excess emissions for an ozone control period, each day in the ozone control period, one hundred fifty-three (153) days, constitutes a day in violation unless the owners and operators of the unit demonstrate that a lesser number of days should be considered.

(B) Each ton of excess emissions is a separate violation.

(8) In the case of units sharing a common stack and having emissions that are not separately monitored or apportioned in accordance with 40 CFR 75, Subpart H*, the following shall apply:

(A) The NO_x authorized account representative of the units may identify the percentage of NO_x allowances to be deducted from each unit's compliance account to cover the unit's share of NO_x emissions from the common stack for an ozone control period. The identification shall be made in the compliance certification report submitted in accordance with section 8(a) through 8(c) of this rule.

(B) Notwithstanding subdivision (2)(A), the U.S. EPA will deduct NO_x allowances for each unit, in accordance with subdivision (1), until the number of NO_x allowances deducted equals either of the following:

(i) The unit's identified percentage of the number of tons of NO_x emissions, as determined in accordance with 40 CFR 75, Subpart H*, from the common stack for the ozone control period for which compliance is being determined.

(ii) If no percentage is identified, an equal percentage for each unit.

(9) The U.S. EPA will record in the appropriate compliance account or overdraft account all deductions from an account pursuant to this section.

(l) The U.S. EPA may at its own discretion and on its own motion correct any error in any NO_x allowance tracking system account. Within ten (10) business days of making the correction, the U.S. EPA will notify the NO_x authorized account representative for the account.

(m) The NO_x authorized account representative of a general account may instruct the U.S. EPA to close the account by submitting a statement requesting deletion of the account from the NO_x allowance tracking system and by correctly submitting for recordation under section 11(a) of this rule, an allowance transfer of all NO_x allowances in the account to one (1) or more other NO_x allowance tracking system accounts.

(n) If a general account shows no activity for a period of one (1) year or more and does not contain any NO_x allowances, the U.S. EPA may notify the NO_x authorized account representative for the account that the account shall be closed and deleted from the NO_x allowance tracking system following twenty (20) business days after the notice is sent. The account shall be closed after the twenty (20) business day period unless before the end of the twenty (20) business day period the U.S. EPA receives a correctly submitted transfer of NO_x allowances into the account under section 11(a) of this rule or a statement submitted by the NO_x authorized account representative demonstrating to the satisfaction of the U.S. EPA good cause as to why the account should not be closed.

~~*These documents are~~ ***This document is** incorporated by reference. ~~and~~ Copies may be obtained from the Government Printing Office, **732 North Capitol Avenue NW,** Washington, D.C. ~~20402~~ **20401** or are available for **review and** copying at the Indiana Department of Environmental Management, Office of Air Quality, Indiana Government Center-North, **Tenth Floor,** 100 North Senate Avenue, Indianapolis, Indiana 46204. *(Air Pollution Control Board; 326 IAC 10-4-10; filed Aug 17, 2001, 3:45 p.m.: 25 IR 38; errata filed Nov 29, 2001, 12:20 p.m.: 25 IR 1184; filed Jul 7, 2003, 4:00 p.m.: 26 IR 3565)*

SECTION 6. 326 IAC 10-4-13 IS AMENDED TO READ AS FOLLOWS:

326 IAC 10-4-13 Individual opt-ins

Authority: IC 13-14-8; IC 13-17-3-4; IC 13-17-3-11
Affected: IC 13-15; IC 13-17

Sec. 13. (a) A unit may qualify to become a NO_x budget opt-in source under this section if the unit meets the following requirements:

(1) Is not a NO_x budget unit under section 1 of this rule.

(2) Has all of its emissions vented to a stack.

(3) Is currently operating.

A unit that is a NO_x budget unit, is covered by an exemption under section 1(b) of this rule or a retired unit exemption under section 3 of this rule, or is not operating is not eligible to become a NO_x budget opt-in source.

(b) Except otherwise as provided in this rule, a NO_x budget opt-in source shall be treated as a NO_x budget unit for purposes of applying sections 1 through 12 and 14 of this rule.

(c) A unit for which an application for a NO_x budget opt-in permit is submitted and not denied or withdrawn, or a NO_x budget opt-in source, located at the same source as one (1) or more NO_x budget units, shall have the same NO_x authorized account representative as the NO_x budget units.

(d) In order to apply for an initial NO_x budget opt-in permit, the NO_x authorized account representative of a unit qualified under subsection (a) may submit an application to the department at any time, except as provided under subsection (g), that

includes the following:

(1) A complete NO_x budget permit application under section 7(c) of this rule.

(2) A monitoring plan submitted in accordance with section 12 of this rule.

(3) A **copy of the** complete account certificate of representation **submitted to U.S. EPA** under section 6(h) of this rule, if no NO_x authorized account representative has been previously designated for the unit.

The NO_x authorized account representative of a NO_x budget opt-in source shall submit a complete NO_x budget permit application under section 7(c) of this rule to renew the NO_x budget opt-in permit in accordance with section 7(b)(1)(C) and 7(b)(2)(C) of this rule and, if applicable, an updated monitoring plan in accordance with section 12 of this rule.

(e) The department shall issue or deny a NO_x budget opt-in permit for a unit for which an initial application for a NO_x budget opt-in permit under subsection (d) is submitted, in accordance with section 7(a) of this rule and the following:

(1) The department shall determine, on an interim basis, the sufficiency of the monitoring plan accompanying the initial application for a NO_x budget opt-in permit under subsection (d). A monitoring plan is sufficient, for purposes of interim review, if the plan appears to contain information demonstrating that the NO_x emissions rate and heat input of the unit are monitored and reported in accordance with section 12 of this rule. A determination of sufficiency shall not be construed as acceptance or approval of the unit's monitoring plan.

(2) If the department determines that the unit's monitoring plan is sufficient under subdivision (1) and after completion of monitoring system certification under 40 CFR 75, Subpart H* and section 12 of this rule, the NO_x emissions rate and the heat input of the unit shall be monitored and reported in accordance with 40 CFR 75, Subpart H* and section 12 of this rule for one (1) full ozone control period during which percent monitor data availability is not less than ninety percent (90%) and during which the unit is in full compliance with any applicable state or federal NO_x emissions or emissions-related requirements. Solely for purposes of applying the requirements in the prior sentence, the unit shall be treated as a NO_x budget unit prior to issuance of a NO_x budget opt-in permit covering the unit.

(3) Based on the information monitored and reported under subdivision (2), the unit's baseline heat rate shall be calculated as the unit's total heat input, in million British thermal units, for the ozone control period and the unit's baseline NO_x emissions rate shall be calculated as the unit's total NO_x mass emissions, in pounds, for the ozone control period divided by the unit's baseline heat rate.

(4) After calculating the baseline heat input and the baseline NO_x emissions rate for the unit under subdivision (3), the department shall serve a draft NO_x budget opt-in permit on the NO_x authorized account representative of the unit.

(5) Within twenty (20) days after the issuance of the draft NO_x budget opt-in permit, the NO_x authorized account representative of the unit must submit to the department a confirmation of the intention to opt in the unit or a withdrawal of the application for a NO_x budget opt-in permit under subsection (d). The department shall treat the failure to make a timely submission as a withdrawal of the NO_x budget opt-in permit application.

(6) If the NO_x authorized account representative confirms the intention to opt in the unit under subdivision (5), the department shall issue the draft NO_x budget opt-in permit in accordance with section 7(a) of this rule.

(7) Notwithstanding subdivisions (1) through (6), if at any time before issuance of a draft NO_x budget opt-in permit for the unit, the department determines that the unit does not qualify as a NO_x budget opt-in source under subsection (a), the department shall issue a draft denial of a NO_x budget opt-in permit for the unit in accordance with section 7(a) of this rule.

(8) A NO_x authorized account representative of a unit may withdraw its application for a NO_x budget opt-in permit under subsection (d) at any time prior to the issuance of the final NO_x budget opt-in permit. Once the application for a NO_x budget opt-in permit is withdrawn, a NO_x authorized account representative wanting to reapply must submit a new application for a NO_x budget permit under subsection (d).

(9) The effective date of the initial NO_x budget opt-in permit shall be May 1 of the first ozone control period starting after the issuance of the initial NO_x budget opt-in permit by the department. The unit shall be a NO_x budget opt-in source and a NO_x budget unit as of the effective date of the initial NO_x budget opt-in permit.

(f) The following shall apply to the content of a NO_x budget opt-in permit:

(1) Each NO_x budget opt-in permit, including any draft or proposed NO_x budget opt-in permit, if applicable, shall contain all elements required for a complete NO_x budget opt-in permit application under section 7(c) of this rule.

(2) Each NO_x budget opt-in permit is deemed to incorporate automatically the definitions of terms under section 2 of this rule and, upon recordation by the U.S. EPA under this section and sections 10 and 11 of this rule, every allocation, transfer, or deduction of NO_x allowances to or from the compliance accounts of each NO_x budget opt-in source covered by the NO_x budget opt-in permit or the overdraft account of the NO_x budget source where the NO_x budget opt-in source is located.

(g) The following requirements must be satisfied in order to withdraw an opt-in unit from the NO_x budget trading program:

(1) The NO_x authorized account representative of a NO_x budget opt-in source shall submit to the department a request to withdraw effective as of a specified date prior to May 1 or after September 30. The submission shall be made no later than ninety (90) days prior to the requested effective date of withdrawal.

(2) Before a NO_x budget opt-in source covered by a request under subdivision (1) may withdraw from the NO_x budget trading program and the NO_x budget opt-in permit may be terminated under subdivision (6), the following conditions must be met:

(A) For the ozone control period immediately before the withdrawal is to be effective, the NO_x authorized account representative must submit or must have submitted to the department an annual compliance certification report in accordance with section 8 of this rule.

(B) If the NO_x budget opt-in source has excess emissions for the ozone control period immediately before the withdrawal is to be effective, the U.S. EPA will deduct or have deducted from the NO_x budget opt-in source's compliance account, or the overdraft account of the NO_x budget source where the NO_x budget opt-in source is located, the full amount required under section 10(k)(5) through 10(k)(7) of this rule for the ozone control period.

(C) After the requirements for withdrawal under this subdivision and subdivision (1) are met, the U.S. EPA will deduct from the NO_x budget opt-in source's compliance account, or the overdraft account of the NO_x budget source where the NO_x budget opt-in source is located, NO_x allowances equal in number to, and allocated for, the same or a prior ozone control period as any NO_x allowances allocated to that source under subsection (i) for any ozone control period for which the withdrawal is to be effective. The U.S. EPA will close the NO_x budget opt-in source's compliance account and shall establish, and transfer any remaining allowances to, a new general account for the owners and operators of the NO_x budget opt-in source. The NO_x authorized account representative for the NO_x budget opt-in source shall become the NO_x authorized account representative for the general account.

(3) A NO_x budget opt-in source that withdraws from the NO_x budget trading program shall comply with all requirements under the NO_x budget trading program concerning all years for which the NO_x budget opt-in source was a NO_x budget opt-in source, even if the requirements arise or must be complied with after the withdrawal takes effect.

(4) After the requirements for withdrawal under subdivisions (1) and (2) are met, including deduction of the full amount of NO_x allowances required, the department shall issue a notification to the NO_x authorized account representative of the NO_x budget opt-in source of the acceptance of the withdrawal of the NO_x budget opt-in source as of a specified effective date that is after the requirements have been met and that is prior to May 1 or after September 30.

(5) If the requirements for withdrawal under subdivisions (1) and (2) are not met, the department shall issue a notification to the NO_x authorized account representative of the NO_x budget opt-in source that the NO_x budget opt-in source's request to withdraw is denied. If the NO_x budget opt-in source's request to withdraw is denied, the NO_x budget opt-in source shall remain subject to the requirements for a NO_x budget opt-in source.

(6) After the department issues a notification under subdivision (4) that the requirements for withdrawal have been met, the department shall revise the NO_x budget permit covering the NO_x budget opt-in source to terminate the NO_x budget opt-in permit as of the effective date specified under subdivision (1). A NO_x budget opt-in source shall continue to be a NO_x budget opt-in source until the effective date of the termination.

(7) If the department denies the NO_x budget opt-in source's request to withdraw, the NO_x authorized account representative may submit another request to withdraw in accordance with subdivisions (1) and (2).

Once a NO_x budget opt-in source withdraws from the NO_x budget trading program and its NO_x budget opt-in permit is terminated under this section, the NO_x authorized account representative may not submit another application for a NO_x budget opt-in permit under subsection (d) for the unit prior to the date that is four (4) years after the date on which the terminated NO_x budget opt-in permit became effective.

(h) When a NO_x budget opt-in source becomes a NO_x budget unit under section 1 of this rule, the NO_x authorized account representative shall notify the department and the U.S. EPA in writing of the change in the NO_x budget opt-in source's regulatory status, within thirty (30) days of the change. If there is a change in the regulatory status, the department and the U.S. EPA will take the following actions concerning a NO_x budget opt-in source:

(1) When the NO_x budget opt-in source becomes a NO_x budget unit under section 1 of this rule, the department shall revise the NO_x budget opt-in source's NO_x budget opt-in permit to meet the requirements of a NO_x budget permit under section 7(d) and 7(e) of this rule as of an effective date that is the date on which the NO_x budget opt-in source becomes a NO_x budget unit under section 1 of this rule.

(2) The U.S. EPA will deduct from the compliance account for the NO_x budget unit under subdivision (1), or the overdraft account of the NO_x budget source where the unit is located, NO_x allowances equal in number to, and allocated for, the same or a prior ozone control period as follows:

(A) Any NO_x allowances allocated to the NO_x budget unit, as a NO_x budget opt-in source, under subsection (i) for any ozone control period after the last ozone control period during which the unit's NO_x budget opt-in permit was effective.

(B) If the effective date of the NO_x budget permit revision under subdivision (1) is during an ozone control period, the NO_x allowances allocated to the NO_x budget unit, as a NO_x budget opt-in source, under subsection (i) for the ozone control period multiplied by the ratio of the number of days, in the ozone control period, starting with the effective date of the permit revision under subdivision (1), divided by the total number of days in the ozone control period.

(3) The NO_x authorized account representative shall ensure

that the compliance account of the NO_x budget unit under subdivision (1), or the overdraft account of the NO_x budget source where the unit is located, includes the NO_x allowances necessary for completion of the deduction under subdivision (2). If the compliance account or overdraft account does not contain sufficient NO_x allowances, the U.S. EPA will deduct the required number of NO_x allowances, regardless of the ozone control period for which they were allocated, whenever NO_x allowances are recorded in either account.

(4) For every ozone control period during which the NO_x budget permit revised under subdivision (1) is effective, the following shall apply:

(A) The NO_x budget unit under subdivision (1) shall be treated, solely for the purposes of NO_x allowance allocations under section 9(c) through 9(e) of this rule, as a unit that commenced operation on the effective date of the NO_x budget permit revision under subdivision (1) and shall be allocated NO_x allowances under section 9(c) through 9(e) of this rule.

(B) Notwithstanding clause (A), if the effective date of the NO_x budget permit revision under subdivision (1) is during an ozone control period, the following number of NO_x allowances shall be allocated to the NO_x budget unit. The number of NO_x allowances otherwise allocated to the NO_x budget unit under section 9(c) through 9(e) of this rule for the ozone control period multiplied by the ratio of the number of days, in the ozone control period, starting with the effective date of the permit revision under subdivision (1), divided by the total number of days in the ozone control period.

(5) When the NO_x authorized account representative of a NO_x budget opt-in source does not renew its NO_x budget opt-in permit under subsection (d), the U.S. EPA will deduct from the NO_x budget opt-in unit's compliance account, or the overdraft account of the NO_x budget source where the NO_x budget opt-in source is located, NO_x allowances equal in number to and allocated for the same or a prior ozone control period as any NO_x allowances allocated to the NO_x budget opt-in source under subsection (i) for any ozone control period after the last ozone control period for which the NO_x budget opt-in permit is effective. The NO_x authorized account representative shall ensure that the NO_x budget opt-in source's compliance account or the overdraft account of the NO_x budget source where the NO_x budget opt-in source is located includes the NO_x allowances necessary for completion of the deduction. If the compliance account or overdraft account does not contain sufficient NO_x allowances, the U.S. EPA will deduct the required number of NO_x allowances, regardless of the ozone control period for which they were allocated, whenever NO_x allowances are recorded in either account.

(6) After the deduction under subdivision (5) is completed, the U.S. EPA will close the NO_x budget opt-in source's compliance account. If any NO_x allowances remain in the compliance account after completion of the deduction and any deduction under section 10(j) and 10(k) of this rule, the U.S. EPA will close the NO_x budget opt-in source's compliance account and will establish, and transfer any remaining allowances to a new general account for the owners and operators of the NO_x budget opt-in source. The NO_x authorized account representative for the NO_x budget opt-in source shall become the NO_x authorized account representative for the general account.

(i) The department shall allocate NO_x allowances to NO_x budget opt-in sources as follows:

(1) By December 31 immediately before the first ozone control period for which the NO_x budget opt-in permit is effective, the department shall allocate NO_x allowances to the NO_x budget opt-in source and submit to the U.S. EPA the allocation for the ozone control period in accordance with subdivision (3).

(2) By no later than December 31, after the first ozone control period for which the NO_x budget opt-in permit is in effect, and December 31 of each year thereafter, the department shall allocate NO_x allowances to the NO_x budget opt-in source, and submit to the U.S. EPA allocations for the next ozone control period, in accordance with subdivision (3).

(3) For each ozone control period for which the NO_x budget opt-in source has an approved NO_x budget opt-in permit, the NO_x budget opt-in source shall be allocated NO_x allowances according to the following procedures:

(A) The heat input, in million British thermal units, used for calculating NO_x allowance allocations shall be the lesser of the following:

(i) The NO_x budget opt-in source's baseline heat input determined pursuant to subsection (e)(3).

(ii) The NO_x budget opt-in source's heat input, as determined in accordance with section 12 of this rule, for the ozone control period in the year prior to the year of the ozone control period for which the NO_x allocations are being calculated.

(B) The department shall allocate NO_x allowances to the NO_x budget opt-in source in an amount equaling the heat input, in million British thermal units, determined under clause (A) multiplied by the lesser of the following:

(i) The NO_x budget opt-in source's baseline NO_x emissions rate, in pounds per million British thermal units, determined pursuant to subsection (e)(3).

(ii) The most stringent state or federal NO_x emissions limitation applicable to the NO_x budget opt-in source during the ozone control period;

then the product divided by two thousand (2,000) pounds per ton, and rounded to the nearest ton.

~~*These documents are~~ ***This document is** incorporated by reference. ~~and~~ Copies may be obtained from the Government Printing Office, **732 North Capitol Avenue NW,** Washington, D.C. ~~20402~~ **20401** or are available for **review and** copying at the Indiana Department of Environmental Management, Office

of Air Quality, Indiana Government Center-North, **Tenth Floor,** 100 North Senate Avenue, Indianapolis, Indiana 46204. *(Air Pollution Control Board; 326 IAC 10-4-13; filed Aug 17, 2001, 3:45 p.m.: 25 IR 48; errata filed Nov 29, 2001, 12:20 p.m.: 25 IR 1184; filed Jul 7, 2003, 4:00 p.m.: 26 IR 3568)*

SECTION 7. 326 IAC 10-4-14 IS AMENDED TO READ AS FOLLOWS:

326 IAC 10-4-14 NO_x allowance banking
Authority: IC 13-14-8; IC 13-17-3-4; IC 13-17-3-11
Affected: IC 13-15; IC 13-17

Sec. 14. (a) NO_x allowances may be banked for future use or transfer in a compliance account, an overdraft account, or a general account as follows:

(1) Any NO_x allowance that is held in a compliance account, an overdraft account, or a general account shall remain in the account unless and until the NO_x allowance is deducted or transferred under:

(A) section 8(d), 8(e), 10(j), 10(k), 11, or 13 of this rule; or

(B) subsection (b).

(2) The U.S. EPA will designate, as a banked NO_x allowance, any NO_x allowance that remains in a compliance account, an overdraft account, or a general account after the U.S. EPA has made all deductions for a given ozone control period from the compliance account or overdraft account pursuant to section 10(j) and 10(k) of this rule, 40 CFR 97*, a state NO_x budget trading program established pursuant to 40 CFR 51.121*and approved and administered by the U.S. EPA, or a federal implementation plan and that was allocated for that ozone control period or a ozone control period in a prior year.

(b) Each year starting in 2005, after the U.S. EPA has completed the designation of banked NO_x allowances under subsection (a)(2) and before May 1 of the year, the U.S. EPA will determine the extent that banked NO_x allowances may be used for compliance in the ozone control period for the current year as follows:

(1) The U.S. EPA will determine the total number of banked NO_x allowances held in compliance accounts, overdraft accounts, or general accounts.

(2) If the total number of banked NO_x allowances determined, under subdivision (1), to be held in compliance accounts, overdraft accounts, or general accounts is less than or equal to ten percent (10%) of the sum of the trading program budget for the ozone control period, any banked NO_x allowance may be deducted for compliance in accordance with section 10(k) of this rule.

(3) If the total number of banked NO_x allowances determined, under subdivision (1), to be held in compliance accounts, overdraft accounts, or general accounts exceeds ten percent (10%) of the sum of the trading program budget for the ozone control period, any banked allowance may be deducted for compliance in accordance with section 10(k) of this rule, except as follows:

(A) The U.S. EPA will determine the following ratio:

(i) One-tenth (0.10) multiplied by the sum of the trading program budget for the ozone control period.

(ii) Divided by the total number of banked NO_x allowances determined, under subdivision (1), to be held in compliance accounts, overdraft accounts, or general accounts.

(B) The U.S. EPA will multiply the number of banked NO_x allowances in each compliance account or overdraft account by the ratio determined under clause (A). The resulting product is the number of banked NO_x allowances in the account that may be deducted for compliance in accordance with section 10(k) of this rule. Any banked NO_x allowances in excess of the resulting product may be deducted for compliance in accordance with section 10(k) of this rule, except that, if these NO_x allowances are used to make a deduction, two (2) NO_x allowances must be deducted for each deduction of one (1) NO_x allowance required under section 10(k) of this rule.

*These documents are incorporated by reference. ~~and~~ Copies may be obtained from the Government Printing Office, **732 North Capitol Street NW,** Washington, D.C. ~~20402~~ **20401** or are available for **review and** copying at the Indiana Department of Environmental Management, Office of Air Quality, Indiana Government Center-North, 100 North Senate Avenue, **Tenth Floor,** Indianapolis, Indiana 46204. *(Air Pollution Control Board; 326 IAC 10-4-14; filed Aug 17, 2001, 3:45 p.m.: 25 IR 52; errata filed Nov 29, 2001, 12:20 p.m.: 25 IR 1184; filed Jul 7, 2003, 4:00 p.m.: 26 IR 3572)*

SECTION 8. 326 IAC 10-4-15 IS AMENDED TO READ AS FOLLOWS:

326 IAC 10-4-15 Compliance supplement pool
Authority: IC 13-14-8; IC 13-17-3-4; IC 13-17-3-11
Affected: IC 13-15; IC 13-17

Sec. 15. (a) The department may allow sources required to implement NO_x emission control measures by May 31, 2004, and subject to this rule, to demonstrate compliance in the 2004 and 2005 ozone control periods using credit issued from a compliance supplement pool in accordance with this section. A source may not use credit from the compliance supplement pool to demonstrate compliance after the 2005 ozone control period.

(b) The department may distribute NO_x allocations from the compliance supplement pool to NO_x budget units that are required to implement control measures using one (1) or both of the following mechanisms:

(1) The department may issue credits to NO_x budget units that implement emissions reductions beyond all applicable requirements from May 1 through and including September 30 in any year in 2001 through 2003 according to the following provisions:

(A) The department shall complete the issuance process **no**

later than March 31, the year after the control measures were implemented. ~~as follows:~~

~~(i) For sources subject to 40 CFR 97*, no later than March 31, 2003.~~

~~(ii) For sources not subject to 40 CFR 97*, no later than March 31, 2004.~~

(B) The emissions reduction may not be required by Indiana's state implementation plan (SIP), state law or rule, or be otherwise required by the Clean Air Act (CAA).

(C) The emissions reduction must be verified by the source as actually having occurred from May 1 through and including September 30 in any year in 2001 through 2003.

(D) Each NO_x budget unit for which the owner or operator requests any early reduction credits under this section shall monitor NO_x emissions in accordance with 40 CFR 75, Subpart H* starting in the ozone control period prior to the ozone control period for which the early reduction credits are requested and for each ozone control period for which the early reduction credits are requested. The unit's percent monitor data availability shall be not less than ninety percent (90%) during the ozone control period prior to the ozone control period for which the early reduction credits are requested, and the unit must be in compliance with any applicable state or federal NO_x emissions or emissions-related requirements during the ozone control period for which the early reduction credits are requested.

(E) The emissions reduction must be quantified according to procedures set forth in 40 CFR 75, Subpart H*.

(F) The NO_x authorized account representative of a NO_x budget unit that meets the requirements of clauses (B) through (D) may submit to the department a request for early reduction credits for the unit based on NO_x emission rate reductions made by the unit in the ozone control period for any year in 2001 through 2003. The request shall include the following:

(i) In the early reduction credit request, the NO_x authorized account may request early reduction credits for the ozone control period in an amount equal to the unit's heat input for the ozone control period **in which the early reductions occurred** multiplied by the difference between:

(AA) the unit's actual average NO_x emission rate in the ozone control period prior to the first ozone control period for which the early reduction credits are requested; **and**

(BB) the unit's NO_x emission rate for the ozone control period in which the early reductions occurred;

divided by two thousand (2,000) pounds per ton, and rounded to the nearest ton.

(ii) The early reduction credit request must be submitted, in a format specified by the department, by October 31 of the year in which the NO_x emission rate reductions on which the request is based are made or a later date approved by the department.

(G) The department shall allocate NO_x allowances from the compliance supplement pool, to NO_x budget units meeting the requirements of this subdivision, in accordance with the following procedures:

(i) Upon receipt of each early reduction credit request, the department shall accept the request only if the requirements of clauses (B) through (D) and (F)(ii) are met and, if the request is accepted, shall make any necessary adjustments to the request to ensure that the amount of the early reduction credits requested meets the requirement of clauses (B) through (D).

(ii) If the compliance supplement pool has an amount of NO_x allowances equal to or greater than the number of early reduction credits in all accepted early reduction credit requests for any year in 2001 through 2003, as adjusted under item (i), the department shall allocate to each NO_x budget unit covered by the accepted requests one (1) allowance for each early reduction credit requested, as adjusted under item (i).

(iii) If the compliance supplement pool has an amount of NO_x allowances less than the number of early reduction credits in all accepted early reduction credit requests for any year in 2001 through 2003, as adjusted under item (i), the department shall allocate NO_x allowances to each NO_x budget unit covered by the accepted requests according to the formula, A NO_x budget unit's allocated early reduction credits = ((NO_x budget unit's adjusted early reduction credits) ÷ (total adjusted early reduction credits requested by all NO_x budget units)) × (available NO_x allowances from the compliance supplement pool) where:

(AA) A NO_x budget unit's adjusted early reduction credits is the number of early reduction credits for the unit for any year in 2001 through 2003 in accepted early reduction credit requests, as adjusted under item (i).

(BB) Total adjusted early reduction credits requested by all NO_x budget units is the number of early reduction credits for all NO_x budget units for any year in 2001 through 2003 in accepted early reduction credit requests, as adjusted under item (i).

(CC) Available NO_x allowances from the compliance supplement pool is the number of NO_x allowances in the compliance supplement pool and available for early reduction credits for 2001 through 2003.

(H) By March 31 of the year following the request, the department shall submit to the U.S. EPA the allocations of NO_x allowances determined under clause (G). The U.S. EPA will record the allocations to the extent that they are consistent with the requirements of clauses (B) through (G).

(I) NO_x allowances recorded under clause (H) may be deducted for compliance under section 10(k) of this rule for the ozone control periods in ~~2003~~ **2004** through 2005. ~~except that no more than two thousand four hundred fifty-four (2,454) tons shall be available for use in 2003.~~ Notwithstanding section 14(a) of this rule, the U.S. EPA will deduct as retired any NO_x allowance that is recorded under clause (G) and is not deducted for compliance in accordance with section 10(k) of this rule for the ozone control period in 2004 or 2005.

(J) NO_x allowances recorded under clause (G) are treated as banked allowances in 2005 for the purposes of section 14(a) and 14(b) of this rule.

(K) Sources that receive credit according to the requirements of this section may trade the credit to other sources or persons according to the provisions in this rule.

(2) The department may issue to NO_x budget units that demonstrate a need for an extension of the May 31, 2004, compliance deadline according to the following provisions:

(A) The department shall initiate the issuance process by the later date of September 30, 2002, or after the department issues credit according to the procedures in subdivision (1).

(B) The department shall complete the issuance process by no later than May 31, 2004.

(C) The department shall issue credit to a source only if the source demonstrates the following:

(i) For electricity generating units, compliance with the applicable control measures under this rule by May 31, 2004, would create undue risk for the reliability of the electricity supply. This demonstration must include a showing that it would not be feasible to import electricity from other electricity generation systems during the installation of control technologies necessary to comply with this rule.

(ii) For large affected units, compliance with the applicable control measures under this rule by May 31, 2004, would create undue risk for the source or its associated industry to a degree that is comparable to the risk described in item (i).

(iii) For a unit subject to this rule and subdivision (1) that allows for early reduction credits, it was not possible for the source to comply with applicable control measures by generating early reduction credits or acquiring early reduction credits from other sources.

(iv) For a unit subject to an approved emissions trading program under this rule, it was not possible to comply with applicable control measures by acquiring sufficient credit from other sources or persons subject to the emissions trading program.

(D) The department shall ensure the public an opportunity, through a public hearing process, to comment on the appropriateness of allocating compliance supplement pool credits to a NO_x budget unit under clause (C).

(c) The total number of NO_x allowances available from the compliance supplement pool shall not exceed nineteen thousand nine hundred fifteen (19,915) tons of NO_x. ~~except that no more than two thousand four hundred fifty-four (2,454) tons shall be available for use in 2003.~~ No more than fifty percent (50%) of the compliance supplement pool shall be allocated in 2003 for early reductions implemented in 2001 and 2002. The remainder of the compliance supplement pool shall be allocated in 2004 for early reductions implemented in 2003 and any demonstrations of need. Any NO_x allowances that remain in the compliance supplement pool after the 2005 ozone control period shall be retired.

~~*These documents are~~ ***This document is** incorporated by reference. ~~and~~ Copies may be obtained from the Government Printing Office, **732 North Capitol Avenue NW,** Washington, D.C. ~~20402~~ **20401** or are available for **review and** copying at the Indiana Department of Environmental Management, Office of Air Quality, Indiana Government Center-North, **Tenth Floor,** 100 North Senate Avenue, Indianapolis, Indiana 46204. *(Air Pollution Control Board; 326 IAC 10-4-15; filed Aug 17, 2001, 3:45 p.m.: 25 IR 53; errata filed Nov 29, 2001, 12:20 p.m.: 25 IR 1184; filed Jul 7, 2003, 4:00 p.m.: 26 IR 3572)*

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TITLE 327 WATER POLLUTION CONTROL BOARD

LSA Document #01-96(F)

DIGEST

Amends 327 IAC 5-4-6 and adds 327 IAC 15-13-1 through 327 IAC 15-13-22 to add the federal requirements for municipal separate sewer systems (MS4s). Effective 30 days after filing with the secretary of state.

HISTORY

First Notice of Comment Period: April 1, 2001, Indiana Register (24 IR 2244).

Second Notice of Comment Period and Notice of First Hearing: January 1, 2002 (25 IR 1353).

Preliminary Adoption Hearing: May 8, 2002. Hearing opened and continued to June 12, 2002.

Preliminary Adoption Hearing: June 12, 2002. Hearing opened and continued to July 10, 2002.

July 10, 2002, Water Pollution Control Board meeting was cancelled.

Notice of Preliminary Adoption Hearing: August 1, 2002, Indiana Register (25 IR 3805).

Preliminary Adoption Hearing: August 14, 2002.

Proposed Rule with Third Notice of Comment Period and Notice of Second Hearing: December 1, 2002, Indiana Register (26 IR 829).

Notice of Second Hearing: January 1, 2003 (26 IR 1113).

Notice of Second Hearing: February 1, 2003 (26 IR 1592).

Final Adoption Hearing: March 12, 2003.

327 IAC 5-4-6
327 IAC 15-13

SECTION 1. 327 IAC 5-4-6 IS AMENDED TO READ AS FOLLOWS:

327 IAC 5-4-6 Storm water discharges

Authority: IC 13-14-8; IC 13-15-1-2; IC 13-15-2-1
Affected: IC 13-18-4

Sec. 6. (a) The following discharges consisting entirely of storm water ~~are subject to the~~ **require an individual** NPDES ~~program:~~ **permit:**

(1) A discharge ~~with respect to which a permit has been issued prior to February 4, 1987.~~

~~(2) A discharge which~~ **that** the commissioner determines:

(A) contributes to a violation of a water quality standard; ~~or~~

(B) is a significant contributor of pollutants to waters ~~of the state.~~ **or to a regulated municipal separate storm sewer system (MS4) conveyance; or**

(C) meets the conditions of one (1) of the six (6) cases listed in 327 IAC 15-2-9(b).

~~(b) Prior to October 1, 1992, a permit shall not be required for a discharge composed entirely of storm water, except the following:~~

~~(1)~~ **(2)** A discharge with respect to which a permit has been issued prior to February 4, 1987.

~~(2)~~ **(3)** A discharge ~~associated with industrial activity.~~ **that is subject to federal storm water effluent limitation guidelines unless the effluent limitations are placed in a general permit under article 15** *[327 IAC 15]***.**

~~(3) A discharge from a large municipal separate storm sewer system serving a population of two hundred fifty thousand (250,000) or more.~~

(4) A discharge ~~from a medium municipal separate storm sewer system serving a population of one hundred thousand (100,000) or more but less than two hundred fifty thousand (250,000).~~ **associated with the state department of transportation.**

(5) A discharge ~~which the commissioner determines contributes to a violation of a water quality standard or is a significant contributor of pollutants to waters of the state.~~ **from an MS4 conveyance subject to regulation under 40 CFR 122.26(a)(iii) or (iv).**

~~(c) The commissioner shall not, under this section, require a permit for discharges of storm water runoff from mining operations or oil and gas exploration, production, processing, or treatment operations or transmission facilities, composed entirely of flows which are from conveyances or systems of conveyances (including, but not limited to, pipes, conduits, ditches, and channels) used for collecting and conveying precipitation runoff and which are not contaminated by contact with or do not come into contact with any overburden, raw material, intermediate products, finished product, byproduct, or waste products located on the site of such operations.~~

~~(d) The following are requirements for large and medium municipal separate storm sewer systems:~~

~~(1) Permits must be obtained for all discharges from large and medium municipal separate storm sewer systems.~~

~~(2) The commissioner may either issue one (1) system wide permit covering all discharges from municipal separate storm sewers within a large or medium municipal storm sewer system or issue distinct permits for appropriate categories of discharges within a large or medium municipal separate storm sewer system including, but not limited to:~~

~~(A) all discharges owned or operated by the same municipality;~~

~~(B) located within the same jurisdiction;~~

~~(C) all discharges within a system that discharges to the same watershed;~~

~~(D) discharges within a system that are similar in nature; or~~

~~(E) individual discharges from municipal separate storm sewers within the system.~~

~~(3) The operator of a discharge from a municipal separate storm sewer which is part of a large or medium municipal separate storm sewer system must do any of the following:~~

~~(A) Participate in a permit application (to be a permittee or a copermittee) with one (1) or more other operators of discharges from the large or medium municipal storm sewer system which covers all, or a portion of all, discharges from the municipal separate storm sewer system.~~

~~(B) Submit a distinct permit application which only covers discharges from the municipal separate storm sewers for which the operator is responsible.~~

~~(C) A regional authority may be responsible for submitting a permit application under the following guidelines:~~

~~(i) The regional authority together with coapplicants shall have authority over a storm water management program that is in existence, or shall be in existence at the time Part 1 of the application is due.~~

~~(ii) The permit applicant or coapplicants shall establish their ability to make a timely submission of Part 1 and Part 2 of the municipal application.~~

~~(iii) Each of the operators of large or medium municipal separate storm sewers shall comply with the application requirements of 40 CFR 122.26(d).~~

~~(4) One (1) permit application may be submitted for all or a portion of all municipal separate storm sewers within adjacent or interconnected large or medium municipal separate storm sewer systems. The commissioner may issue one (1) system wide permit covering all or a portion of all municipal separate storm sewers in adjacent or interconnected large or medium municipal separate storm sewer systems.~~

~~(5) Permits for all or a portion of all discharges from large or medium municipal separate storm sewer systems that are issued on a system wide, jurisdiction wide, watershed, or other basis may specify different conditions relating to different discharges covered by the permit, including different management programs for different drainage areas which contribute storm water to the system.~~

~~(6) Copermittees need only comply with permit conditions~~

~~relating to discharges from the municipal separate storm sewers for which they are operators.~~

~~(e) (1) In addition to meeting the requirements of 40 CFR 122.26(c), an operator of a storm water discharge associated with industrial activity which discharges through a large or medium municipal separate storm sewer system shall submit, to the operator of the municipal separate storm sewer system receiving the discharge no later than May 15, 1991, or one hundred eighty (180) days prior to commencing such discharge, the following:~~

~~(A) The name of the facility.~~

~~(B) A contact person and phone number.~~

~~(C) The location of the discharge.~~

~~(D) A description, including Standard Industrial Classification, which best reflects the principal products or services provided by each facility.~~

~~(E) Any existing NPDES permit number.~~

~~(2) In cases where the industrial activity consists of construction activity which disturbs five (5) acres or more of ground, information equivalent to that required by subdivision (1) and 327 IAC 15-5-5 shall be submitted to the operator of the municipal separate storm sewer system receiving the discharge prior to the initiation of the land disturbing activities.~~

~~(f) The commissioner may issue permits for municipal separate storm sewers that are designated under subsection (b)(5) on a system wide basis, jurisdiction wide basis, watershed basis, or other appropriate basis, or may issue permits for individual discharges.~~

~~(g) For storm water discharges associated with industrial activity from point sources which discharge through a nonmunicipal or nonpublicly owned separate storm sewer system, the commissioner may issue a single NPDES permit, with each discharger a copermittee to a permit issued to the operator of the portion of the system that discharges into waters of the state, or individual permits to each discharger of storm water associated with industrial activity through the nonmunicipal conveyance system.~~

~~(1) All storm water discharges associated with industrial activity that discharge through a storm water discharge system that is not a municipal separate storm sewer must be covered by an individual permit, or a permit issued to the operator of the portion of the system that discharges to waters of the state, with each discharger to the nonmunicipal conveyance a copermittee to that permit.~~

~~(2) Where there is more than one (1) operator of a single system of such conveyances, all operators of storm water discharges associated with industrial activity must submit applications.~~

~~(3) Any permit covering more than one (1) operator shall identify the effluent limitations, or other permit conditions, if any, that apply to each operator.~~

~~(h) Conveyances that discharge storm water runoff combined with municipal sewage are point sources that must obtain NPDES permits in accordance with the procedures of 40 CFR 122.21 and are not subject to the provisions of this section.~~

(b) The following discharges consisting entirely of storm water require an NPDES permit and are eligible for coverage under a general NPDES permit unless one (1) of the conditions in subsection (a) is met:

(1) A discharge exposed to categories of industrial activity specified in 327 IAC 15-6-2.

(2) A discharge associated with construction activities, which disturb one (1) or more acres of land. Included in these activities are disturbances of less than one (1) acre of land that are part of a larger common plan of development or sale if the larger common plan will ultimately disturb one (1) or more acres of land.

(3) A discharge from an MS4 conveyance that meets the designation criteria in 327 IAC 15-13-3(a) or 327 IAC 15-13-3(b).

(c) The commissioner shall not, under this section, require a permit for discharges of storm water run-off from mining operations or oil and gas exploration, production, processing, or treatment operations or transmission facilities, composed entirely of flows from conveyances or systems of conveyances, including, but not limited to, pipes, conduits, ditches, and channels, used for collecting and conveying precipitation run-off and which are not contaminated by contact with or do not come into contact with any overburden, raw material, intermediate products, finished product, byproduct, or waste products located on the site of such operations.

(d) If an individual NPDES permit is required under subsection (a), the department may consider the following in determining the requirements to be contained in the permit:

(1) The provisions in:

(A) 327 IAC 15-5, 327 IAC 15-6, and 327 IAC 15-13, as appropriate to the type of storm water discharge; or

(B) 327 IAC 5-2, 327 IAC 5-5, and 327 IAC 5-9 for establishing NPDES permit effluent limitations and conditions.

(2) The United States Environmental Protection Agency guidance document titled "Interim Permitting Approach for Water Quality-Based Effluent Limitations in Storm Water Permits" (August 1, 1996)*.

(3) The nature of the discharges and activities occurring at the site or facility.

(4) Other information relevant to the potential impact on water quality.

(e) Storm water run-off discharged into a combined sewer

system is not subject to the provisions of this section.

~~(i)~~ **(f)** Whether a discharge from ~~a municipal separate storm sewer is or~~ **an MS4 conveyance** is, ~~not,~~ subject to regulation under this section, shall have no bearing on whether the owner or operator of the discharge is eligible for funding under Title II, Title III, or Title VI of the CWA.

~~(j)~~ **(g)** Terms, as used in this section, have the same meaning as defined under 40 CFR 122.26(b), **327 IAC 15-5-4, 327 IAC 15-6-4, or 327 IAC 15-13-5, unless defined as follows:**

(1) "General NPDES permit" means an authorization to discharge under the NPDES rules, that is applicable to all owners and operators of point sources of a particular category located within a designated general permit boundary, other than owners and operators of such sources to whom individual NPDES permits have been issued.

(2) "Individual NPDES permit" means an authorization to discharge under the NPDES rules, that is applicable to an individual owner or operator of point sources, and establishes requirements specific for that owner or operator.

***Copies of the United States Environmental Protection Agency guidance document referenced in this section may be obtained from the Government Printing Office, Washington, D.C. 20402 or the Indiana Department of Environmental Management, Office of Water Quality, Indiana Government Center-North, 100 North Senate Avenue, Indianapolis, Indiana 46204.** *(Water Pollution Control Board; 327 IAC 5-4-6; filed Sep 24, 1987, 3:00 p.m.: 11 IR 644; filed Feb 26, 1993, 5:00 p.m.: 16 IR 1764; filed Jul 7, 2003, 2:15 p.m.: 26 IR 3575)*

SECTION 2. 327 IAC 15-13 IS ADDED TO READ AS FOLLOWS:

Rule 13. Storm Water Run-Off Associated with Municipal Separate Storm Sewer System Conveyances

327 IAC 15-13-1 Purpose

Authority: IC 13-14-8; IC 13-15-1-2; IC 13-15-2-1; IC 13-18-3-1; IC 13-18-3-2
Affected: IC 13-18-4

Sec. 1. The purpose of this rule is to establish requirements for storm water discharges from municipal separate storm sewer system (MS4) conveyances so that public health, existing water uses, and aquatic biota are protected. *(Water Pollution Control Board; 327 IAC 15-13-1; filed Jul 7, 2003, 2:15 p.m.: 26 IR 3577)*

327 IAC 15-13-2 Applicability

Authority: IC 13-14-8; IC 13-15-1-2; IC 13-15-2-1; IC 13-18-3-1; IC 13-18-3-2
Affected: IC 13-18-4

Sec. 2. This rule applies to an MS4 entity that:

(1) is not required to obtain an individual NPDES permit under 327 IAC 5-4-6(a)(4), 327 IAC 5-4-6(a)(5), or 327 IAC 15-2-9(b);

(2) meets the general permit rule applicability requirements under 327 IAC 15-2-3;

(3) does not have coverage under an individual MS4 permit; and

(4) operates, maintains, or otherwise has responsibility for an MS4 conveyance within a designated MS4 area.

(Water Pollution Control Board; 327 IAC 15-13-2; filed Jul 7, 2003, 2:15 p.m.: 26 IR 3577)

327 IAC 15-13-3 MS4 area designation criteria

Authority: IC 13-14-8; IC 13-15-1-2; IC 13-15-2-1; IC 13-18-3-1; IC 13-18-3-2
Affected: IC 13-18-4

Sec. 3. (a) An MS4 entity that meets one (1) of the following is designated for permit coverage under this rule:

(1) Located within, or contiguous to, a mapped 2000 United States Census Bureau urbanized area (UA) and is:

(A) a municipality, regardless of its United States Census Bureau population; or

(B) a university, college, military base, hospital, or correctional facility with a full-time equivalent enrollment, daily user population, or bed count occupancy (based on the most recent enrollment count or population data) greater than or equal to one thousand (1,000).

(2) A county that contains a mapped UA. Only the portion of the county that contains the mapped UA, as delineated by political township or section, township, and range boundaries, must be regulated. If only a portion of the county contains a mapped UA, the MS4 entity may elect to regulate, to the extent of its authority, any additional portion of the county, as delineated by political township or section, township, and range boundaries, under this rule.

(3) A documented significant contributor of pollutants to waters or a regulated MS4 area.

(4) A municipality with a population density, according to 2000 United States Census Bureau data, of five hundred (500) people per square mile or greater and United States Census Bureau population of ten thousand (10,000) or more.

(5) A municipality with a population density, according to 2000 United States Census Bureau data, of five hundred (500) people per square mile or greater, United States Census Bureau population greater than seven thousand (7,000) and less than ten thousand (10,000), and having a positive, ten (10) year population growth percentage greater than or equal to ten percent (10%).

(6) A municipality with a population density, according to 2000 United States Census Bureau data, of five hundred (500) people per square mile or greater, United States Census Bureau population greater than seven thousand (7,000) and less than ten thousand (10,000), and

having a university or college full-time equivalent enrollment, military base population, hospital bed count occupancy, or correctional facility daily user population (based on the most recent enrollment, count, or population data) that places the total population greater than or equal to ten thousand (10,000).

(7) A university, college, military base, hospital, or correctional facility with a full-time equivalent enrollment, daily user population, or bed count occupancy greater than or equal to one thousand (1,000), located within a designated municipality, and having responsibility for a storm water conveyance.

(8) A conservancy district or homeowner's association with a population within their service area of greater than or equal to one thousand (1,000) people, located within a designated municipality or mapped UA, and having responsibility for a storm water conveyance.

(9) A public or private storm water utility that serves one (1) or more of the MS4 entities designated under subdivisions (1) through (8).

(b) An MS4 entity not already designated under subsection (a) may be designated for permit coverage if its discharge is to a sensitive area or if other environmental programs are not adequately protecting water quality.

(c) Once an MS4 entity is designated under this section, it remains designated until the expiration of its permit unless any of the conditions for termination in section 20 of this rule are applicable or a waiver is granted in accordance with subsection (f).

(d) The department shall notify MS4 entities meeting the designation criteria of this section in writing. If the department does not notify an MS4 entity in writing, an MS4 entity meeting the designation criteria of this section must comply with the requirements of 327 IAC 15-13-9(e) *[section 9(e) of this rule]***.**

(e) A designated MS4 entity subject to this rule is also subject to the requirements of 327 IAC 15-2-9(b) and may be required to obtain an individual NPDES permit.

(f) A designated MS4 entity may request a waiver from permit coverage under this rule. Unless an MS4 entity's conveyance system is substantially contributing to the pollutant loadings of a regulated, physically interconnected MS4 entity or a department determination is made that requires storm water controls, MS4 entities within a mapped UA that have a conveyance system serving a population of less than one thousand (1,000) are conditionally granted a waiver. For all other MS4 entities, this waiver will only be granted under the following conditions:

(1) The MS4 entity's conveyance system serves a population of less than ten thousand (10,000).

(2) The MS4 entity's conveyance system is not contributing substantially to the pollutant loadings of a physically interconnected MS4 entity that is regulated by this rule.

(3) An evaluation of all waters that receive a discharge from the MS4 entity's conveyance system has been conducted by the department or another approved entity.

(4) For all evaluated waters, the department has determined that storm water controls are not needed based on wasteload allocations that are part of a United States Environmental Protection Agency approved or established total maximum daily load or equivalent process and are reflective of pollutants identified as sources of impairment. and

(5) The department has determined that future discharges from the MS4 entity's conveyance system do not have the potential to result in exceedances of water quality standards, including impairment of designated uses or other significant water quality impacts, including habitat and biological impacts.

(Water Pollution Control Board; 327 IAC 15-13-3; filed Jul 7, 2003, 2:15 p.m.: 26 IR 3577)

327 IAC 15-13-4 General permit boundary

Authority: IC 13-14-8; IC 13-15-1-2; IC 13-15-2-1; IC 13-18-3-1; IC 13-18-3-2
Affected: IC 13-18-4

Sec. 4. (a) This general permit covers Indiana.

(b) For each MS4 entity, the permit covers all storm water discharges from conveyance systems for which it has jurisdiction or, in the case of designated counties, the portion of the county jurisdictional area depicted in a mapped UA, as specified under section 3(a)(2) of this rule, unless appropriate written, enforceable, legal documentation has been obtained to allow another entity to have permit responsibilities for systems and areas within another entity's jurisdiction. *(Water Pollution Control Board; 327 IAC 15-13-4; filed Jul 7, 2003, 2:15 p.m.: 26 IR 3578)*

327 IAC 15-13-5 Definitions

Authority: IC 13-14-8; IC 13-15-1-2; IC 13-15-2-1; IC 13-18-3-1; IC 13-18-3-2
Affected: IC 13-11-2; IC 13-18-4; IC 13-20-10; IC 14-32

Sec. 5. For purposes of this rule, the following definitions apply:

(1) "Best management practice" or "BMP" means any structural or nonstructural control measure utilized to improve the quality and, as appropriate, reduce the quantity of storm water run-off. The term includes schedules of activities, prohibitions of practice, treatment requirements, operation and maintenance procedures, use of containment facilities, land use planning, policy techniques, and other management practices.

(2) "Buffer strip" means an existing, variable width strip of vegetated land intended to protect water quality and terrestrial and aquatic habitat in an adjacent resource or area.

(3) "Canine park" means a designated public location where dogs are restricted and animal waste may accumulate. For the purposes of this rule, the term does not include kennels, municipal dog impoundments, or humane society buildings.

(4) "Class V injection well" means a type of well, which typically has a depth greater than its largest surface dimension, emplaces fluids into the subsurface, and does not meet the definitions of Class I through Class IV wells as defined under 40 CFR 146.5. While the term includes the specific examples described in 40 CFR 144.81, septic systems that serve more than one (1) single-family dwelling or provide service for nondomestic waste, dug wells, bored wells, improved sinkholes, french drains, infiltration sumps, and infiltration galleries, it does not include surface impoundments, trenches, or ditches that are wider than they are deep.

(5) "Combined sewer" means a sewer that is designed, constructed, and used to receive and transport combined sewage.

(6) "Combined sewer operational plan" or "CSOOP" means a plan that contains the minimum technology controls applicable to, and requirements for operation and maintenance of, a combined sewer system:

(A) before;

(B) during; and

(C) upon completion of;

the implementation of a long term control plan.

(7) "Commissioner" refers to the commissioner of the department of environmental management.

(8) "Constructed wetland" means a manmade shallow pool that creates growing conditions suitable for wetland vegetation and is designed to maximize pollutant removal.

(9) "Contiguity" means an entity's proximity to a designated MS4 area in such a way that it allows for direct discharges of storm water run-off into the regulated MS4 conveyance.

(10) "Conveyance" means any structural process for transferring storm water between at least two (2) points. The term includes piping, ditches, swales, curbs, gutters, catch basins, channels, storm drains, and roadways.

(11) "Daily user population" means a population for an entity that is present at that location on a daily basis.

(12) "Dechlorinated swimming pool discharge" means chlorinated water that has either sat idle for seven (7) days following chlorination prior to discharge to the MS4 conveyance or, by analysis, does not contain detectable concentrations (less than five-hundredths (0.05) milligram per liter) of chlorinated residual.

(13) "Department" refers to the department of environmental management.

(14) "Detention basin" means a type of storage practice used to detain or slow storm water run-off and then release it through a positive outlet.

(15) "Disposal" means the:

(A) discharge;

(B) deposit;

(C) injection;

(D) spilling;

(E) leaking; or

(F) placing;

of any solid waste or hazardous waste into or on any land or water so that the solid waste or hazardous waste, or any constituent of the waste, may enter the environment, be emitted into the air, or be discharged into any waters, including ground waters.

(16) "Dry well" means a type of infiltration practice that allows storm water run-off to flow directly into the ground via a bored or otherwise excavated opening in the ground surface.

(17) "Filter strip" means a type of vegetative practice used to filter storm water run-off through the use of planted or existing vegetation near disturbed or impervious surfaces.

(18) "Floatable" means any solid waste that, due to its physical characteristics, will float on the surface of water. For the purposes of this rule, the term does not include naturally occurring floatables, such as leaves or tree limbs.

(19) "Flood plain" means the area adjoining a river, stream, or lake that is inundated by the base flood as determined by 312 IAC 10.

(20) "Floodway" means the channel of a river or stream and those portions of the flood plain adjoining the channel that are reasonably required to efficiently carry and discharge the peak flow from the base flood as determined by 312 IAC 10.

(21) "Full-time equivalent enrollment" means a college or university enrollment of undergraduate students currently taking fifteen (15) credit hours of course work and graduate or professional students currently taking twelve (12) credit hours of course work. Each respective fifteen (15) or twelve (12) credit hours of course work equals one (1) full-time equivalent.

(22) "Garbage" means all putrescible animal solid, vegetable solid, and semisolid wastes resulting from the:

(A) processing;

(B) handling;

(C) preparation;

(D) cooking;

(E) serving; or

(F) consumption;

of food or food materials.

(23) "General permit rule boundary" means an area based upon existing geographic or political boundaries indicating the area within which an MS4 conveyance affected by this rule is located.

(24) "Grass swale" means a type of vegetative practice used to filter storm water run-off via a vegetated, shallow-channel conveyance.

(25) "Ground water" means such accumulations of underground water, natural or artificial, public and private, or parts thereof, which are wholly or partially within, flow through, or border upon this state. The term does not include manmade underground storage or conveyance structures.

(26) "Household hazardous waste" or "HHW" means solid waste generated by households that:

(A) is ignitable, as defined under 40 CFR 261.21;

(B) is toxic, as defined under 40 CFR 261.24;

(C) is reactive, as defined under 40 CFR 261.23;

(D) is corrosive, as defined under 40 CFR 261.22; or

(E) otherwise poses a threat to human health or the environment.

(27) "Hydrologic unit code" or "HUC" means a numeric United States Geological Survey code that corresponds to a watershed area. Each area also has a text description associated with the numeric code.

(28) "Illicit discharge" means any discharge to an MS4 conveyance that is not composed entirely of storm water, except naturally occurring floatables, such as leaves or tree limbs. Sources of illicit discharges include sanitary wastewater, septic tank effluent, car wash wastewater, oil disposal, radiator flushing disposal, laundry wastewater, roadway accident spillage, and household hazardous wastes.

(29) "Impervious surface" means any surface that prevents storm water to readily infiltrate into the soils.

(30) "Individual NPDES permit" means an NPDES permit issued to one (1) MS4 operator that contains requirements specific to that MS4 conveyance.

(31) "Infiltration basin or trench" means a type of infiltration practice used to filter storm water run-off into soils via the use of installed structures with porous material.

(32) "Infiltration gallery" means a type of infiltration practice used to filter storm water run-off into soils that utilizes one (1) or more vertical pipes leading to a horizontal, perforated pipe laid within a trench, often backfilled with gravel or some other permeable material.

(33) "Infiltration practices" means any structural BMP designed to facilitate the percolation of run-off through the soil to ground water. Examples include infiltration basins or trenches, dry wells, and porous pavement.

(34) "Initial receiving water" means a water that is the direct recipient of a discharge from an MS4 area after the discharge passes through another MS4 conveyance.

(35) "Larger common plan of development or sale" means a plan, undertaken by a single developer or a group of developers acting in concert, to offer lots for sale or lease; where such land is contiguous, or is known, designed, purchased, or advertised as a common unit or by a common name, such land shall be presumed as being offered for sale or lease as part of a larger common plan. The term also includes phased construction by a single entity for its own use.

(36) "Legally binding agreement" means a written, enforceable legal document used to describe responsibilities between joint permittees or other entities.

(37) "Load allocation" means the portion of a receiving waterbody's loading capacity that is attributed either to one (1) of its existing or future nonpoint sources of pollution or to natural background sources.

(38) "Long term control plan" or "LTCP" means a plan that is:

(A) consistent with the federal Combined Sewer Overflow Control Policy (59 FR 18688); and

(B) developed in accordance with the recommendations set forth in Combined Sewer Overflows Guidance for Long-Term Control Plan (EPA 832B95002).

(39) "Minimum control measure" or "MCM" refers to the following minimum measures required by this rule:

(A) Public education and outreach.

(B) Public participation and involvement.

(C) Illicit discharge detection and elimination.

(D) Construction site run-off control.

(E) Postconstruction run-off control.

(F) Pollution prevention and good housekeeping.

(40) "MS4 area" means a land area comprising one (1) or more places that receives coverage under one (1) NPDES storm water permit regulated by this rule or 327 IAC 5-4-6(a)(4) and 327 IAC 5-4-6(a)(5).

(41) "MS4 entity" means a public or private body that owns, operates, or maintains a storm water conveyance system, including a transportation agency operated by that body. The term can also include federal, state, city, town, county, district, association, or township public bodies and privately owned universities, colleges, or storm water utilities. For the purposes of this rule, the term does not include non-MS4 entity-owned shopping malls, office parks, apartment complexes, golf courses, churches, or hotels.

(42) "MS4 operator" means the person responsible for development, implementation, or enforcement of the MCMs for a designated MS4 area.

(43) "Municipal separate storm sewer system" or "MS4" means a conveyance or system of conveyances, including roads with drainage systems, municipal streets, catch basins, curbs, gutters, ditches, manmade channels, or storm drains, that is:

(A) owned or operated by a:

(i) federal, state, city, town, county, district, association, or other public body (created by or pursuant to state law) having jurisdiction over storm water, including special districts under state law such as a sewer district, flood control district, or drainage district, or similar entity, or a designated and approved management agency under Section 208 of the Clean Water Act (33 U.S.C. 1288) that discharges into waters of the state; or

(ii) privately owned storm water utility, hospital,

university, or college having jurisdiction over storm water that discharges into waters of the state;

(B) designed or used for collecting or conveying storm water;

(C) not a combined sewer; and

(D) not part of a publicly owned treatment works (POTW) as defined at 40 CFR 122.2.

(44) "Municipal, state, federal, or institutional refueling area" means an operating gasoline or diesel fueling area whose primary function is to provide fuel to either municipal, state, federal, or institutional equipment or vehicles.

(45) "Mutual drain" means a drainage system that:

(A) is located on two (2) or more tracts of land that are under different ownership;

(B) was established by the mutual consent of all the owners; and

(C) was not established under or made subject to any drainage statute.

(46) "Nonpoint source" means a source of water pollution that does not meet the definition of point source. The term includes in-place pollutants, direct wet and dry deposition, ground water inflow, and overland run-off.

(47) "Notice of deficiency letter" or "NOD letter" means a written notification from the department indicating an MS4 entity's deficiencies in its NOI letter or SWQMP submittals.

(48) "Notice of intent letter" or "NOI letter" means a written notification indicating an MS4 entity's intention to comply with the terms of this rule in lieu of applying for an individual NPDES permit and includes information as required under sections 6 and 9 of this rule. It is the application for obtaining permit coverage under this rule.

(49) "Notice of sufficiency letter" or "NOS letter" means a written notification from the department indicating that an MS4 entity has sufficiently provided the required information in its NOI letter or SWQMP submittals.

(50) "Notice of termination letter" or "NOT letter" means a written notification from the department indicating that an MS4 entity has met the conditions to terminate its permit coverage under this rule.

(51) "Open space" means any land area devoid of any disturbed or impervious surfaces created by industrial, commercial, residential, agricultural, or other manmade activities.

(52) "Outfall" means a point source discharge via a conveyance of storm water run-off into a water of the state.

(53) "Outfall scouring" means the deterioration of a stream bed or lake bed from an outfall discharge to an extent that the excessive settling of solid material results and aquatic habitat is diminished.

(54) "Point source" means any discernible, confined, and discrete conveyance, including a pipe, ditch, channel, tunnel, conduit, well, or discrete fissure.

(55) "Pollutant of concern" means any pollutant that has been documented via analytical data as a cause of impairment in any waterbody, or to another MS4, to which the MS4 discharges.

(56) "Porous pavement" means a type of infiltration practice to improve the quality and reduce the quantity of storm water run-off via the use of manmade, pervious pavement which allows run-off to percolate through the pavement and into underlying soils.

(57) "Private drain" means a drainage system that:

(A) is located on land owned by one (1) person or by two (2) or more persons jointly; and

(B) was not established under or made subject to any drainage statute.

(58) "Programmatic indicator" means any data collected by an MS4 entity that is used to indicate implementation of one (1) or more minimum control measures.

(59) "Qualified professional" means an individual who is trained and experienced in storm water treatment techniques and related fields as may be demonstrated by state registration, professional certification, experience, or completion of coursework that enable the individual to make sound, professional judgments regarding storm water control or treatment and monitoring, pollutant fate and transport, and drainage planning.

(60) "Rain garden" means a vegetative practice used to alter impervious surfaces, such as roofs, into pervious surfaces for absorption and treatment of rainfall.

(61) "Receiving stream" or "receiving water" means a waterbody that receives a discharge from an outfall. The term does not include private drains, unnamed conveyances, retention and detention basins, or constructed wetlands used as treatment.

(62) "Redevelopment" means alterations of a property that change a site or building in such a way that there is disturbance of one (1) acre or more of land. The term does not include such activities as exterior remodeling.

(63) "Responsible individual" means the person responsible for development, implementation, or enforcement of the MCMs for a designated MS4 entity.

(64) "Retail gasoline outlet" means an operating gasoline or diesel fueling facility whose primary function is the resale of fuels. The term applies to facilities that create five thousand (5,000) or more square feet of impervious surfaces or generate an average daily traffic count of one hundred (100) vehicles per one thousand (1,000) square feet of land area.

(65) "Retention basin" means a type of storage practice, that has no positive outlet, used to retain storm water run-off for an indefinite amount of time. Run-off from this type of basin is removed only by infiltration through a porous bottom or by evaporation.

(66) "Riparian habitat" means a land area adjacent to a waterbody that supports animal and plant life associated with that waterbody.

(67) "Riparian zone" means a land area adjacent to a waterbody that is directly associated with that waterbody.

(68) "Sand" means mineral material with a size range between two (2) and one-sixteenth ($^1/_{16}$) millimeter diameter.

(69) "Sedimentation" means the settling and accumulation of unconsolidated material carried by storm water run-off.

(70) "Sensitive area" means a waterbody identified as needing priority protection or remediation based on:

(A) having threatened or endangered species or their habitat;

(B) usage as a public surface water supply intake;

(C) usage for full body contact recreation, such as bathing beaches; or

(D) exceptional use classification as found in 327 IAC 2-1-11(b), outstanding state resource water classification as found in 327 IAC 2-1-2(3) and 327 IAC 2-1.5-19(b).

(71) "Significant contributor of pollutants" means an MS4 entity or industrial facility that contributes pollutants into an MS4 conveyance in such a quantity or quality and to such a degree that it impacts the receiving MS4 operator's ability to comply with applicable state or federal law.

(72) "Soil and water conservation district" or "SWCD" means a political subdivision established under IC 14-32.

(73) "Solid waste" means any garbage, refuse, sludge for a waste treatment plant, sludge from a water supply treatment plant, sludge from an air pollution control facility, or other discarded material, including solid, liquid, semisolid, or contained gaseous material resulting from industrial, commercial, mining, or agricultural operations or from community activities. The term does not include:

(A) solid or dissolved material in:

(i) domestic sewage; or

(ii) irrigation return flows or industrial discharges;

that are point sources subject to permits under Section 402 of the Federal Water Pollution Control Act Amendments (33 U.S.C. 1342);

(B) source, special nuclear, or byproduct material (as defined by the Atomic Energy Act of 1954 (42 U.S.C. 2011 et seq.);

(C) manures or crop residues returned to the soil at the point of generation as fertilizers or soil conditioners as part of a total farm operation; or

(D) vegetative matter at composting facilities registered under IC 13-20-10.

(74) "Spill" means the unexpected, unintended, abnormal, or unapproved dumping, leakage, drainage, seepage, discharge, or other loss of petroleum, hazardous substances, extremely hazardous substances, or objectionable substances. The term does not include releases to impervious surfaces when the substance does not migrate off the surface or penetrate the surface and enter the soil.

(75) "Standard Industrial Classification code" or "SIC code" means the four (4) digit code applicable to a particular industrial activity in accordance with the Standard Industrial Classification Manual published by the Office of Management and Budget of the Executive Office of the President of the United States.

(76) "Storage practices" means any structural BMP intended to store or detain storm water and slowly release it to receiving waters or drainage systems. The term includes detention and retention basins.

(77) "Storm drain marking" means any marking procedure that identifies a storm sewer inlet as draining directly to a receiving waterbody so as to avoid dumping pollutants. The procedures can include painted or cast messages and adhesive decals.

(78) "Storm water" means water resulting from rain, melting or melted snow, hail, or sleet.

(79) "Storm water quality management plan" or "SWQMP" means a comprehensive written document that addresses storm water run-off quality within an MS4 area. The SWQMP is divided into three (3) different submittal parts as follows:

(A) Part A-Initial Application.

(B) Part B-Baseline Characterization and Report.

(C) Part C-Program Implementation.

(80) "Stream reach characterization and evaluation report" or "SRCER" means a written report that characterizes and evaluates the pollutant sources on receiving waters from a combined sewer system discharge.

(81) "Total maximum daily load" or "TMDL" means the sum of the daily individual wasteload allocations for point sources and load allocations for nonpoint sources and natural background minus the sum of a specified margin of safety and any capacity reserved for growth. A TMDL sets and allocates the maximum daily amount of a pollutant that may be introduced into a waterbody and still assure attainment and maintenance of water quality standards.

(82) "Traffic phasing plan" means a written plan that addresses the installation of appropriate pollution prevention practices that is directly related to the land disturbance associated with infrastructure constructed to reroute vehicular traffic within an active construction zone. The term does not include detours that are directed away from the active construction area.

(83) "Urbanized area" or "UA" means a land area comprising one (1) or more places that together have a residential population of at least fifty thousand (50,000) and an overall population density of at least five hundred (500) people per square mile.

(84) "Vegetative practices" means any nonstructural or structural BMP that, with optimal design and good soil conditions, utilizes various forms of vegetation to enhance pollutant removal, maintain and improve natural site

hydrology, promote healthier habitats, and increase aesthetic appeal. Examples include grass swales, filter strips, buffer strips, constructed wetlands, and rain gardens.

(85) "Waste transfer station" means a place where solid wastes are segregated for additional off-site processing or disposal.

(86) "Wasteload allocation" means the portion of a receiving stream's loading capacity that is allocated to one (1) of its existing or future point sources of pollution.

(87) "Waterbody" means any accumulation of water, surface or underground, natural or artificial, including rivers, streams, creeks, ditches, swales, lakes, ponds, marshes, wetlands, and ground water. The term does not include any storage or treatment structures.

(88) "Watercourse" means the path taken by flowing surface water.

(89) "Watershed" means an area of land from which water drains to a common point.

(90) "Waters" means:

(A) the accumulations of water, surface and underground, natural and artificial, public and private; or

(B) a part of the accumulations of water;

that are wholly or partially within, flow through, or border upon Indiana. The term does not include a private pond, or an off-stream pond, reservoir, or facility built for reduction or control of pollution or cooling of water before discharge, unless the discharge from the pond, reservoir, or facility causes or threatens to cause water pollution.

(91) "Wellhead protection area" has the meaning set forth at 327 IAC 8-4.1-1(27).

(Water Pollution Control Board; 327 IAC 15-13-5; filed Jul 7, 2003, 2:15 p.m.: 26 IR 3578)

327 IAC 15-13-6 Notice of intent letter requirements

Authority: IC 13-14-8; IC 13-15-1-2; IC 13-15-2-1; IC 13-18-3-1; IC 13-18-3-2
Affected: IC 13-18-4

Sec. 6. (a) Unless one (1) application is submitted for multiple MS4 entities, each MS4 entity shall submit an NOI letter with the following information, which will serve as the permit application:

(1) Contact information required under subsection (b).

(2) List of all known receiving waters or, if the discharge is to another MS4, the name of the MS4 entity and the initial receiving water. For the purposes of the NOI letter submittal, receiving waters include, at a minium, waters listed on the United States Geological Survey National Hydrogeologic Database or, if no waters are listed on this data base within a given MS4 area, the primary receiving water for the MS4 area drainage. As additional receiving waters are identified, the information must be provided in the corresponding annual report required in section 18 of this rule.

(3) Copy of the completed SWQMP-Part A: Initial Application certification submittal and checklist form.

(4) Proof of publication in the newspaper with the greatest circulation in the affected MS4 area. The notice must provide a listing of all entities intended to be covered under the permit. This statement must be included in the public notice, "(MS4 entity name and address) intends to discharge storm water into the (text name and numeric code of all 14-digit Hydrologic Unit Code area) watershed(s), and is submitting a Notice of Intent letter to notify the Indiana Department of Environmental Management of our intent to comply with the requirements under 327 IAC 15-13 to discharge storm water run-off associated with municipal separate storm sewer systems.".

(5) Certification, by completing and signing Appendix A of the NOI letter, that any applicable, legally binding agreements between MS4 area entities have been obtained concerning individual responsibilities for implementation of this rule.

(b) The contact information required under subsections (a)(1) and (c)(1) must include the following:

(1) Name of MS4 operator, primary contact individual (if different from the MS4 operator), or responsible individual for each MS4 entity.

(2) Title of the MS4 operator, primary contact individual (if different from the MS4 operator), or responsible individual or individuals.

(3) MS4 entity represented by the MS4 operator, primary contact individual (if different from the MS4 operator), or responsible individual or individuals.

(4) Mailing (and, if different, the physical) address of the MS4 operator, primary contact individual (if different from the MS4 operator), or responsible individual or individuals.

(5) Telephone and facsimile number of the MS4 operator, primary contact individual (if different from the MS4 operator), or responsible individual or individuals.

(6) E-mail address (if available) of MS4 operator, primary contact individual (if different from the MS4 operator), or responsible individual or individuals.

(c) The SWQMP-Part A: Initial Application required under subsection (a)(3) must contain the following:

(1) Written listing of the MS4 entities within an MS4 area covered by the NOI letter submittal. The listing must provide the name of each MS4 entity, a responsible individual for each MS4 entity, and contact information for each MS4 entity.

(2) Written schedule which, at a minimum, adheres to the compliance schedule in section 11 of this rule.

(3) Written proposed or estimated budget allocation for the MS4 area's storm water program with a summary of identified funding sources. When multiple MS4 entities are applying under a single NOI letter, the budget allocation

must be, at a minimum, separated by MS4 entity.

(d) Multiple MS4 entities within an MS4 area may submit a single NOI letter provided they comply with the submittal requirements of this section. Coverage under a single NOI letter will only be allowed if all the MS4 entities seeking coverage consolidate, and provide, the required information in sections 7, 8, and 18 of this rule as single submittals, and the information is submitted to the department by the MS4 operator designated in subsection (b). MS4 operators may utilize materials from existing local or state programs, or partner with an existing individual MS4 permittee, if all parties agree to coordinate responsibilities in accordance with subsection (a)(5).

(e) Multiple MS4 entities within an MS4 area may submit a separate NOI letter corresponding to each entity and still share responsibilities for implementation of one (1) or more of the requirements in this rule provided they comply with the submittal requirements of this section and coordinate responsibilities in accordance with subsection (a)(5).

(f) Where multiple MS4 entities submit one (1) or more NOI letters based on a watershed delineation and the created MS4 area contains undesignated MS4 entities, the undesignated MS4 entities shall not be subject to the provisions of this rule unless the applicability requirements of section 3 of this rule apply.

(g) Where the MS4 operator changes, or where a new operator is added after the submittal of an NOI letter, a new NOI letter must be completed and submitted in accordance with 327 IAC 15-2-8 and sections 6 and 9 of this rule. If no other conditions change except for the name of the MS4 operator, a written letter describing the name change and a statement that no other conditions, including those conditions in the SWQMP-Part A: Initial Application and legal agreements, have changed will be sufficient notification to the department.

(h) An MS4 entity within an MS4 area that does not have the legal authority or other regulatory mechanisms to implement one (1) or more of the six (6) minimum control measures required under this rule shall either obtain the legal authority or other regulatory mechanism, or work with a neighboring regulated MS4 entity, via legally binding agreements, to share responsibilities.

(i) All documents and information required by this section must meet the signatory requirements of 327 IAC 15-4-3(g).

(j) A qualified professional and the MS4 operator shall certify, with the stated paragraph found in 327 IAC 15-4-3(g)(3), a submitted SWQMP-Part A: Initial Application checklist form.

(k) The department shall review initially submitted NOI letters and SWQMP-Part A: Initial Applications for adequacy and shall assign each NOI letter an NPDES permit number. Either a written NOD letter requesting additional information or NOS letter containing the assigned NPDES permit number shall be returned to the MS4 operator within ninety (90) days of the NOI letter submittal. If the MS4 operator does not receive either a NOD letter or NOS letter within ninety (90) days of the NOI letter submittal, the NOI letter and SWQMP-Part A: Initial Application will be considered adequate.

(l) Responses to NOD letters shall be made by the recipient within thirty (30) days of the date on the NOD letter.

(m) Forms for the NOI letter, SWQMP, annual report, and required certifications shall be provided by the department. *(Water Pollution Control Board; 327 IAC 15-13-6; filed Jul 7, 2003, 2:15 p.m.: 26 IR 3583)*

327 IAC 15-13-7 SWQMP-Part B: baseline characterization and report

Authority: IC 13-14-8; IC 13-15-1-2; IC 13-15-2-1; IC 13-18-3-1; IC 13-18-3-2
Affected: IC 13-18-4

Sec. 7. (a) An MS4 operator shall characterize the water quality of all known waters that receive storm water outfall discharges within the MS4 area. This characterization may begin with the receiving waters identified in the NOI letter submittal, and, as receiving waters are identified, the characterization shall be expanded to those additional receiving waters and the subsequent information presented in the corresponding annual report required under section 18 of this rule. The water quality characterization must utilize existing or new information that may describe the chemical, biological, or physical condition of the MS4 area water quality. If monitoring is conducted as part of the characterization, the monitoring of receiving waters shall be either at, or in proximity to, all known, or representative, storm water outfall discharges. After the baseline characterization data is collected, the MS4 operator shall evaluate the data in the baseline characterization to determine which identified areas or specific discharge points are in need of additional water quality measures. This baseline characterization must include the following:

(1) An investigation of land usage and assessment of structural and nonstructural storm water BMP locations and conclusions, such as key observation or monitoring locations in the MS4 conveyances, derived from the land usage investigation.

(2) The identification of known sensitive areas, such as public swimming areas, surface drinking water intakes, waters containing threatened or endangered species and their habitat, or state outstanding resource and exceptional use waters. The identified sensitive areas should be given the highest priority for the selection of BMPs and

the prohibition of new or significantly increased MS4 discharges.

(3) A review of known existing and available monitoring data of the MS4 area receiving waters, including, as applicable, data that can be correlated from SRCERs.

(4) The identification of areas having a reasonable potential for or actually causing storm water quality problems based on the available and relevant chemical, biological, physical, land use, and complaint data.

(5) Assessment results of BMP locations and, as appropriate, the structural condition of the BMP related to the BMP's effectiveness in improving storm water quality. As appropriate, this assessment should include recommendations for placement and implementation of additional BMPs within the MS4 area.

(b) An SWQMP-Part B: Baseline Characterization and Report addressing the requirements of subsection (a) must be developed and submitted to the department at the address specified in section 9(b) of this rule. The SWQMP-Part B: Baseline Characterization and Report and completed corresponding certification form must be submitted no later than one hundred eighty (180) days from the date the initial NOI letter submittal was received by the department or the expiration date of the previous five (5) year permit term.

(c) The department shall review the SWQMP-Part B: Baseline Characterization and Report for adequacy, and a written NOS letter or NOD letter shall be issued to the MS4 operator. If no letter is issued within ninety (90) days of submittal, the SWQMP-Part B: Baseline Characterization and Report is deemed sufficient.

(d) Responses to NOD letters shall be made by the recipient within thirty (30) days of the date on the NOD letter.

(e) Ongoing data collection related to the SWQMP-Part B: Baseline Characterization and Report must be submitted to the department with the corresponding annual report.

(f) A qualified professional and the MS4 operator shall certify, with the stated paragraph found in 327 IAC 15-4-3(g)(3), a submitted SWQMP-Part B: Baseline Characterization and Report checklist form. *(Water Pollution Control Board; 327 IAC 15-13-7; filed Jul 7, 2003, 2:15 p.m.: 26 IR 3584)*

327 IAC 15-13-8 Submittal of an SWQMP-Part C: program implementation

Authority: IC 13-14-8; IC 13-15-1-2; IC 13-15-2-1; IC 13-18-3-1; IC 13-18-3-2
Affected: IC 13-18-4

Sec. 8. (a) An MS4 operator shall develop and implement an SWQMP-Part C: Program Implementation. The SWQMP-Part C: Program Implementation must contain the following:

(1) An initial evaluation of the storm water program for the MS4 area. This evaluation should include information on all known structural and nonstructural storm water BMPs utilized.

(2) A detailed program description for each minimum control measure (MCM) referenced in sections 12 through 17 of this rule.

(3) A timetable for program implementation milestones, which includes milestones for each of the MCMs referenced in sections 12 through 17 of this rule, and applicable SWQMP-Part B: Baseline Characterization and Report conclusions (BMP recommendations, additional protective measures for sensitive areas, and correcting identified water quality problems).

(4) As appropriate, a schedule for ongoing characterization of the receiving waters either at, or in proximity to, outfall locations identified in the SWQMP-Part B: Baseline Characterization and Report to evaluate BMP effectiveness and receiving water quality.

(5) A narrative and mapped description of the MS4 area boundaries that indicate responsible MS4 entity areas for each MCM. The narrative description must include the specific sectional or, as appropriate, the street name boundaries of the MS4 area.

(6) An estimate of the linear feet of MS4 conveyances within the MS4 area, segregated by MS4 type, for example, by open ditch or pipe.

(7) A summary of which structural BMP types will be allowed in new development and redevelopment for the MS4 area.

(8) A summary on storm water structural BMP selection criteria and, where appropriate, associated performance standards that must be met after installation to indicate BMP effectiveness.

(9) A summary of the current storm water budget, expected or actual funding source, and a projection of the budget for each year within the five (5) year permit term.

(10) A summary of measurable goals for, at a minimum, each MCM referenced in sections 12 through 17 of this rule. These measurable goals shall demonstrate results that relate to an environmental benefit.

(11) Completed certification forms, as appropriate, for each MCM. The certification forms only need to be completed and submitted during the initial five (5) year permit term.

(12) The identification of programmatic indicators. Programmatic indicators, grouped by corresponding MCM, must include those listed in subsection (b) that apply to the MS4 operator. Other relevant indicators may be used in place of those listed in subsection (b). If an indicator listed in subsection (b) is not applicable to the operator, or if an other relevant indicator is used, the operator shall provide rationale for the nonidentification

or substitution. Programmatic indicators do not need to be fully implemented at the time of the SWQMP-Part C: Program Implementation submittal. Updated data for each of these indicators must be submitted in each annual report.

(b) The programmatic indicators must address the following:

(1) Number or percentage of citizens, segregated by type of constituent as referenced in section 12(a) of this rule, that have an awareness of storm water quality issues.

(2) Number and description of meetings, training sessions, and events conducted to involve citizen constituents in the storm water program.

(3) Number or percentage of citizen constituents that participate in storm water quality improvement programs.

(4) Number and location of storm drains marked or cast, segregated by marking method.

(5) Estimated or actual linear feet or percentage of MS4 mapped and indicated on an MS4 area map.

(6) Number and location of MS4 area outfalls mapped.

(7) Number and location of MS4 area outfalls screened for illicit discharges.

(8) Number and location of illicit discharges detected.

(9) Number and location of illicit discharges eliminated.

(10) Number of and estimated or actual amount of material, segregated by type, collected from HHW collections in the MS4 area.

(11) Number and location of constituent drop-off centers for automotive fluid recycling.

(12) Number or percentage of constituents that participate in the HHW collections.

(13) Number of construction sites obtaining an MS4 entity-issued storm water run-off permit in the MS4 area.

(14) Number of construction sites inspected.

(15) Number and type of enforcement actions taken against construction site operators.

(16) Number of, and associated construction site name and location for, public informational requests received.

(17) Number, type, and location of structural BMPs installed.

(18) Number, type, and location of structural BMPs inspected.

(19) Number, type, and location of structural BMPs maintained or improved to function properly.

(20) Type and location of nonstructural BMPs utilized.

(21) Estimated or actual acreage or square footage of open space preserved and mapped in the MS4 area, if applicable.

(22) Estimated or actual acreage or square footage of pervious and impervious surfaces mapped in the MS4 area, if applicable.

(23) Number and location of new retail gasoline outlets or municipal, state, federal, or institutional refueling areas, or outlets or refueling areas that replaced existing tank systems that have installed storm water BMPs.

(24) Number and location of MS4 entity facilities that have containment for accidental releases of stored polluting materials.

(25) Estimated or actual acreage or square footage, amount, and location where pesticides and fertilizers are applied by a regulated MS4 entity to places where storm water can be exposed within the MS4 area.

(26) Estimated or actual linear feet or percentage and location of unvegetated swales and ditches that have an appropriately-sized vegetated filter strip.

(27) Estimated or actual linear feet or percentage and location of MS4 conveyances cleaned or repaired.

(28) Estimated or actual linear feet or percentage and location of roadside shoulders and ditches stabilized, if applicable.

(29) Number and location of storm water outfall areas remediated from scouring conditions, if applicable.

(30) Number and location of deicing salt and sand storage areas covered or otherwise improved to minimize storm water exposure.

(31) Estimated or actual amount, in tons, of salt and sand used for snow and ice control.

(32) Estimated or actual amount of material by weight collected from catch basin, trash rack, or other structural BMP cleaning.

(33) Estimated or actual amount of material by weight collected from street sweeping, if utilized.

(34) If applicable, number or percentage and location of canine parks sited at least one hundred fifty (150) feet away from a surface waterbody.

(c) An SWQMP-Part C: Program Implementation and completed corresponding certification form must be submitted to the department within three hundred sixty-five (365) days from the date the initial NOI letter submittal was received by the department or the expiration date of the previous five (5) year permit term.

(d) The department shall review submitted SWQMP-Part C: Program Implementations for adequacy. Either a written NOD letter requesting additional information or NOS letter shall be sent to the MS4 operator within ninety (90) days of the SWQMP-Part C: Program Implementation submittal. If no letter is issued within ninety (90) days of submittal, the plan is deemed sufficient.

(e) Responses to NOD letters must be made by the recipient within thirty (30) days of the date on the NOD letter.

(f) As conditions or allowed technologies change, the SWQMP-Part C: Program Implementation must be updated. When updates are created, relevant sections of the

SWQMP-Part C: Program Implementation containing the updates must be submitted to the commissioner as an attachment to the corresponding annual report required under section 18 of this rule.

(g) A qualified professional and the MS4 operator shall certify, with the stated paragraph found in 327 IAC 15-4-3(g)(3), a submitted SWQMP-Part C: Program Implementation checklist form. *(Water Pollution Control Board; 327 IAC 15-13-8; filed Jul 7, 2003, 2:15 p.m.: 26 IR 3585)*

327 IAC 15-13-9 Submittal of an NOI letter and other documents

Authority: IC 13-14-8; IC 13-15-1-2; IC 13-15-2-1; IC 13-18-3-1; IC 13-18-3-2
Affected: IC 13-18-4; IC 15-4-3

Sec. 9. (a) All information required under section 6 of this rule must be submitted to the commissioner. An MS4 entity that meets the designation criteria under section 3 of this rule shall submit the NOI letter, SWQMP-Part A: Initial Application, and other required documentation no later than ninety (90) days from the effective date of this rule unless:

(1) written permission for a later date has been granted by the commissioner; or

(2) the MS4 entity was not notified in writing at least one hundred eighty (180) days prior to the effective date of this rule.

(b) A termination request, the NOI letter, Parts A, B, and C of the SWQMP, and any other required information must be submitted to:

Indiana Department of Environmental Management
Office of Water Quality, Urban Wet Weather Section
Rule 13 Storm Water Coordinator
100 North Senate Avenue, Room 1255
P.O. Box 6015
Indianapolis, Indiana 46206-6015.

(c) The permit and the compliance schedules of this rule become effective upon receipt of the initial NOI letter by the department.

(d) The commissioner may deny coverage under this rule and require submittal of an application for an individual NPDES permit based on a review of the NOI letter or other information. This review may consider the location and size of the discharge, the quantity and nature of the pollutants discharged, and other relevant factors. Before completing the review, the department will inform the MS4 entity as to what information is being used for the review and provide the MS4 entity an opportunity to respond if the MS4 entity believes the information used is inaccurate or incomplete.

(e) An MS4 entity that either was not notified in writing at least one hundred eighty (180) days prior to the effective date of this rule or meets the designation criteria of section 3 of this rule after the effective date of this rule due to changing conditions or new facility construction shall submit the required information under section 6 of this rule within three hundred sixty-five (365) days of either:

(1) the date of receivership on the written notification;

(2) becoming aware of the relevant changed conditions; or

(3) upon the initiation of facility operations;

unless written permission for a later date has been granted by the commissioner.

(f) Any person who knowingly makes any false statement, representation, or certification in any document submitted or required to be maintained under this rule is subject to 327 IAC 15-4-3(i). *(Water Pollution Control Board; 327 IAC 15-13-9; filed Jul 7, 2003, 2:15 p.m.: 26 IR 3587)*

327 IAC 15-13-10 MS4 permit implementation; coordination with total maximum daily load allocations

Authority: IC 13-14-8; IC 13-15-1-2; IC 13-15-2-1; IC 13-18-3-1; IC 13-18-3-2
Affected: IC 13-18-4

Sec. 10. If a total maximum daily load (TMDL) is approved for any waterbody into which an MS4 conveyance discharges, the MS4 operator must review and appropriately modify Parts B and C of their SWQMP if the TMDL includes requirements for control of storm water discharges under the jurisdiction of the MS4 operator. *(Water Pollution Control Board; 327 IAC 15-13-10; filed Jul 7, 2003, 2:15 p.m.: 26 IR 3587)*

327 IAC 15-13-11 Compliance schedule

Authority: IC 13-14-8; IC 13-15-1-2; IC 13-15-2-1; IC 13-18-3-1; IC 13-18-3-2
Affected: IC 13-18-4

Sec. 11. An MS4 operator shall comply with the following schedule for implementation of this rule:

Rule Requirement	Compliance Deadline (from initial NOI letter receivership date)
Storm Water Quality Management Plan:	Components throughout term of permit
Part A: Initial Application submitted	With NOI letter
Part B: Baseline Characterization and Report submitted	180 days
Part C: Program Implementation submitted	1 year
Public Education and Outreach MCM implementation:	Throughout term of permit
Public education and outreach program development certification submitted	1 year

Public Involvement/Participation MCM implementation:	**Throughout term of permit**
Public involvement and participation program development certification submitted	**1 year**
Illicit Discharge Detection/Elimination MCM implementation:	**Throughout term of permit**
Illicit discharge plan and regulatory mechanism certification submitted	**1 year**
25% of storm water outfalls systems mapped	**Each year after 1 year**
All known storm water outfall systems, with pipe diameters 12 inches or greater or open ditches with 2 feet or larger bottom width, mapped	**5 years**
Construction Site Run-Off Control MCM implementation:	**Throughout term of permit**
Construction site program plan and regulatory mechanism certification submitted	**1 year**
Postconstruction Run-Off Control MCM implementation:	**Throughout term of permit**
Operational and maintenance plan certification submitted	**2 years**
Postconstruction program plan and regulatory mechanism certification submitted	**2 years**
Municipal operations pollution prevention and good housekeeping MCM implementation:	**Throughout term of permit**
Operations pollution prevention program development certification submitted	**1 year**

If an MS4 operator is unable to meet a compliance deadline under this section the operator shall submit a written request and justification for extending the deadline. The request must be submitted to the department no later than thirty (30) days prior to the due date. *(Water Pollution Control Board; 327 IAC 15-13-11; filed Jul 7, 2003, 2:15 p.m.: 26 IR 3587)*

327 IAC 15-13-12 Storm water quality management plan public education and outreach MCM

Authority: IC 13-14-8; IC 13-15-1-2; IC 13-15-2-1; IC 13-18-3-1; IC 13-18-3-2
Affected: IC 13-18-4

Sec. 12. (a) An MS4 operator shall develop an SWQMP that includes methods and measurable goals that will be used to inform residents, visitors, public service employees, commercial and industrial facilities, and construction site personnel within the MS4 area about the impacts polluted storm water run-off can have on water quality and ways they can minimize their impact on storm water quality. The MS4 operator shall ensure, via documentation, that a reasonable attempt was made to reach all constituents within the MS4 area to meet this measure.

(b) MS4 operators are encouraged to utilize existing programs and outreach materials to meet this measure. MS4 operators shall identify and implement an informational program with educational materials for constituents. A certification form shall be completed and submitted to the department once the program has been developed and implemented or three hundred sixty-five (365) days from the date the initial NOI letter submittal was received by the department, whichever is earlier. In subsequent permit terms, the certification form does not need to be completed and submitted. At a minimum, every five (5) years the program shall be reviewed for adequacy and accuracy and updated as necessary.

(c) MS4 operators shall develop measurable goals for this MCM. An initial assessment of the MS4 area constituents must be conducted to determine initial constituent knowledge and practices as they relate to storm water quality. To comply with this measure, specific target outreach or reduction goal percentages and timetables must be identified. As applicable or, if not applicable, then appropriately justified, goals must address relevant targeted audience improvement in disposal practices, cast storm drain cover installations, school curricula or Web site implementation, outreach to every population sector, and educational material distribution.

(d) In combined sewer system municipalities designated under this rule, the current LTCP shall be reviewed, and any necessary language changes to ensure consistency with the SWQMP shall be included in the plan to ensure that this MCM requirement is met. *(Water Pollution Control Board; 327 IAC 15-13-12; filed Jul 7, 2003, 2:15 p.m.: 26 IR 3588)*

327 IAC 15-13-13 Storm water quality management plan public participation and involvement MCM

Authority: IC 13-14-8; IC 13-15-1-2; IC 13-15-2-1; IC 13-18-3-1; IC 13-18-3-2
Affected: IC 13-18-4

Sec. 13. (a) The MS4 operator shall develop an SWQMP that includes provisions to allow opportunities for constituents within the MS4 area to participate in the storm water management program development and implementation. An MS4 operator shall ensure, via documented efforts, that sufficient opportunities were allotted to involve all constituents interested in participating in the program process to

meet this measure. Correctional facilities will not be required to implement the public participation and involvement MCM.

(b) An MS4 entity shall comply with applicable public notice requirements. An MS4 operator shall identify and implement a public participation and involvement program. A certification form shall be completed and submitted to the department once the program has been developed and implemented or three hundred sixty-five (365) days from the date the initial NOI letter submittal was received by the department, whichever is earlier. In subsequent permit terms, the certification form does not need to be completed and submitted. At a minimum, every five (5) years the program shall be reviewed for adequacy and accuracy and updated as necessary.

(c) An MS4 operator shall develop measurable goals for this MCM. An initial assessment of MS4 area constituents must be conducted to identify interested individuals for participation in the MS4 area storm water program. To comply with this measure, specific outreach and reduction goal percentages and timetables must be identified. As applicable or, if not applicable, then appropriately justified, goals must address relevant community participation in citizen panels, community clean-ups, citizen watch groups and drain marking projects, and public meeting notification.

(d) In combined sewer system municipalities designated under this rule, the current LTCP shall be reviewed, and any necessary language changes to ensure consistency with the SWQMP shall be included in the plan to ensure that this MCM requirement is met. *(Water Pollution Control Board; 327 IAC 15-13-13; filed Jul 7, 2003, 2:15 p.m.: 26 IR 3588)*

327 IAC 15-13-14 Storm water quality management plan illicit discharge detection and elimination MCM

Authority: IC 13-14-8; IC 13-15-1-2; IC 13-15-2-1; IC 13-18-3-1; IC 13-18-3-2
Affected: IC 13-18-4

Sec. 14. (a) An MS4 operator shall develop an SWQMP that includes a commitment to develop and implement a strategy to detect and eliminate illicit discharges to the MS4 conveyance.

(b) An MS4 operator shall develop a storm sewer system map showing the location of all outfalls and MS4 conveyances in the particular MS4 area under the MS4 operator's control and the names and locations of all waters that receive discharges from those outfalls. A map developed under this subsection must meet the following:

(1) At a minimum, longitude and latitude for mapped outfall locations must be done in decimal degrees, or, if a global positioning system is utilized, mapping-grade accuracy data shall be collected, where an accuracy discrepancy is less than five (5) meters.

(2) The mapping requirement must be developed as follows:

(A) All known outfall conveyance systems with a pipe diameter of twelve (12) inches or larger and open ditches with a two (2) foot or larger bottom width must be mapped within the first five (5) year permit term according to the following:

(i) After the second year of permit coverage, mapping must depict the location of outfall conveyance systems for at least twenty-five percent (25%) of the MS4 conveyances within the MS4 area.

(ii) For each additional year of the initial permit term, mapping must depict at least an additional twenty-five percent (25%) of the MS4 conveyances.

(B) Subsequent permit terms will require that all remaining outfall conveyance systems are mapped.

(3) The mapping requirements in subdivision (2) do not include private or mutual drains, yard swales that are not maintained by a regulated MS4 entity, or curbs and gutters.

(c) Through an ordinance or other regulatory mechanism, an MS4 operator shall prohibit illicit discharges into MS4 conveyances and establish appropriate enforcement procedures and actions.

(d) An MS4 operator shall develop a plan to detect, address, and eliminate illicit discharges, including illegal dumping, into the MS4 conveyance. This plan need not address the following categories of nonstorm water discharges or flows unless the MS4 operator identifies them as significant contributors of pollutants to its MS4 conveyance:

(1) Water line flushing.
(2) Landscape irrigation.
(3) Diverted stream flows.
(4) Rising ground waters.
(5) Uncontaminated ground water infiltration.
(6) Uncontaminated pumped ground water.
(7) Discharges from potable water sources.
(8) Foundation drains.
(9) Air conditioning condensation.
(10) Irrigation water.
(11) Springs.
(12) Water from crawl space pumps.
(13) Footing drains.
(14) Lawn watering.
(15) Individual residential car washing.
(16) Flows from riparian habitats and wetlands.
(17) Dechlorinated swimming pool discharges.
(18) Street wash water.
(19) Discharges from firefighting activities.

(e) The plan developed under subsection (d) must, at a minimum, locate problem areas via dry weather screening or other means, determine the source, remove or otherwise correct illicit connections, and document the actions taken. The dry weather screening or other means must utilize a field testing kit, or similar method, to analyze for pollutants of concern and other parameters, such as pH, conductivity, or nitrogen-ammonia, used to identify possible pollutant sources. All storm water outfalls in the regulated MS4 area under the MS4 operator's control must be screened for illicit discharges. The screening may be initiated gradually throughout successive five (5) year permit cycles. If the gradual approach is utilized, all storm water outfalls with a pipe diameter of twelve (12) inches or larger and open ditches with a two (2) foot or larger bottom width must be screened in the first five (5) year permit term. Subsequent permit terms will require that all remaining outfalls be screened.

(f) The plan developed under subsection (d) must identify all active industrial facilities within the MS4 area that discharge into an MS4 conveyance. This identification shall include the facility name, address, telephone number, and Standard Industrial Classification (SIC) code. Updated information regarding active industrial facilities must be submitted in each annual report.

(g) A certification form must be completed and submitted to the department once the plan has been developed and implemented or three hundred sixty-five (365) days from the date the initial NOI letter submittal was received by the department, whichever is earlier. In subsequent permit terms, the certification form does not need to be completed and submitted. At a minimum, every five (5) years the program shall be reviewed for adequacy and accuracy and updated as necessary.

(h) An MS4 operator shall educate public employees, businesses, and the general public about the hazards associated with illicit discharges and improper disposal of waste. This educational effort shall include the following:

(1) Informational brochures and guidances for specific audiences and school curricula.

(2) Publicizing and facilitating public reporting of illicit discharges and spills.

(i) An MS4 operator shall initiate, or coordinate existing, recycling programs in the regulated MS4 area for commonly dumped wastes, such as motor oil, antifreeze, and pesticides.

(j) An MS4 operator shall develop measurable goals for this MCM. To comply with this measure, specific outreach and reduction percentages and timetables must be identified. At a minimum, goals must address relevant collection system mapping, regulatory mechanism implementation, employee training, household hazardous waste programs, illicit discharge detection, and illicit discharge elimination.

(k) In combined sewer system municipalities designated under this rule, the current CSOOP and LTCP must be reviewed, and any necessary language changes to ensure consistency with the SWQMP must be included in the plans to ensure that this MCM requirement is met. *(Water Pollution Control Board; 327 IAC 15-13-14; filed Jul 7, 2003, 2:15 p.m.: 26 IR 3589)*

327 IAC 15-13-15 Storm water quality management plan construction site storm water run-off control MCM

Authority: IC 13-14-8; IC 13-15-1-2; IC 13-15-2-1; IC 13-18-3-1; IC 13-18-3-2
Affected: IC 13-18-4

Sec. 15. (a) An MS4 operator shall develop an SWQMP that includes a commitment to develop, implement, manage, and enforce an erosion and sediment control program for construction activities that disturb one (1) or more acres of land within the MS4 area.

(b) Through an ordinance or other regulatory mechanism, the MS4 operator shall establish a construction program that controls polluted run-off from construction activities with a land disturbance greater than or equal to one (1) acre, or disturbances of less than one (1) acre of land that are part of a larger common plan of development or sale if the larger common plan will ultimately disturb one (1) or more acres of land. Except for state permitting process references and submittal deadlines of construction plans and permit applications in 327 IAC 15-5, this ordinance or other regulatory mechanism must contain, at a minimum, the requirements of 327 IAC 15-5. The MS4 operator may establish a permitting process and timetable for plan and application submittals that is different than that established under 327 IAC 15-5. The permitting process must include a requirement for the construction project site owner to submit a copy of the application directly to the department. A certification form shall be completed and submitted to the department once the ordinance or other regulatory mechanism is developed and a program has been implemented or three hundred sixty-five (365) days from the date the initial NOI letter submittal was received by the department, whichever is earlier. In subsequent permit terms, the certification form does not need to be completed and submitted. At a minimum, every five (5) years the regulatory mechanism and program shall be reviewed for adequacy and accuracy and updated as necessary. Until the MS4 operator program is implemented, NOI letters and construction plans for construction activities within the MS4 area will be submitted in accordance with 327 IAC 15-5-5 and *[327 IAC]* **15-5-6 to the department and the local SWCD or department of natural**

resources, division of soil conservation, respectively.

(c) If the MS4 operator has not entered into a written agreement with the local SWCD to review and approve construction site plans or conduct construction site inspections, the MS4 operator shall provide an opportunity to the local SWCD to provide comments and recommendations to the MS4 operator on individual projects. This process may be accomplished by the MS4 operator establishing a local plan review and comment procedure, a project technical review committee, or other mechanism to solicit the input of the local SWCD.

(d) Failure of the SWCD to respond within a predetermined time period should not delay final action of the MS4 operator to approve plans or projects.

(e) In addition to any procedural requirements for submittal to the MS4 operator or MS4 designated entity, an NOI letter required under 327 IAC 15-5 must be submitted to the department for any projects within the MS4 area.

(f) The MS4 operator, or a designated MS4 entity, shall meet the following:

(1) Develop requirements for the implementation of appropriate BMPs on construction sites to control sediment, erosion, and other waste.

(2) Review and approve the construction plans submitted by the construction site operator before construction activities commence.

(3) Develop procedures for site inspection and enforcement to ensure that BMPs are properly installed.

(4) Establish written procedures to identify priority sites for inspection and enforcement based on, at a minimum, the nature and extent of the construction activity, topography, and the characteristics of soils and receiving water quality.

(5) Develop procedures for the receipt and consideration of public inquiries, concerns, and information submitted regarding local construction activities.

(6) Implement, at a minimum, a tracking process in which submitted public information, both written and verbal, is documented and then given to appropriate staff for follow-up.

(g) MS4 area personnel responsible for plan review, inspection, and enforcement of construction activities shall receive, at a minimum, annual training addressing such topics as appropriate control measures, inspection protocol, and enforcement procedures.

(h) An MS4 operator shall develop measurable goals for this MCM. To comply with this measure, specific outreach, compliance, and implementation goal percentages and timetables must be identified. At a minimum, goals must address relevant regulatory mechanism implementation, public informational request procedure implementation, site inspection procedure implementation, and construction site operator compliance improvement.

(i) For those construction activities operated by the MS4 operator or MS4 municipalities within the MS4 area, construction plans must be submitted to the local SWCD, the department of natural resources, division of soil conservation, or other entity designated by the department for review and approval. If the MS4 operator does not receive either a notice of deficiency or an approval within thirty-five (35) days of the submittal, the plan will be considered adequate. After a one (1) year period of compliance, the MS4 operator or the designated MS4 entity need not submit the plans and may review MS4-operated project construction plans internally with the written authorization of the department of natural resources, division of soil conservation.

(j) In addition to the requirements of 327 IAC 15-5-6.5, the MS4-operated project construction plans must include a traffic phasing plan for those projects that have the potential to alter vehicular traffic routes.

(k) In addition to the requirements of 327 IAC 15-5-6.5(a)(7), the MS4-operated project storm water pollution prevention plan must address the following areas outside of right-of-ways:

(1) Utility relocation areas.

(2) Material hauling and transportation routes/roads.

(3) Borrow pits.

(4) Temporary staging and material stockpile areas.

(5) Temporary disposal areas for waste materials.

(Water Pollution Control Board; 327 IAC 15-13-15; filed Jul 7, 2003, 2:15 p.m.: 26 IR 3590)

327 IAC 15-13-16 Storm water quality management plan postconstruction storm water run-off control MCM

Authority: IC 13-14-8; IC 13-15-1-2; IC 13-15-2-1; IC 13-18-3-1; IC 13-18-3-2
Affected: IC 13-18-4

Sec. 16. (a) An MS4 operator shall develop an SWQMP that includes a commitment to develop, implement, manage, and enforce a program to address discharges of postconstruction storm water run-off from new development and redevelopment areas that disturb one (1) or more acre *[sic., acres]* of land or disturbances of less than one (1) acre of land that are part of a larger common plan of development or sale if the larger common plan will ultimately disturb one (1) or more acres of land within the MS4 area.

(b) Through the use of an ordinance or other regulatory means, an MS4 operator shall implement planning procedures to promote improved water quality. These planning

procedures must include, at a minimum, the postconstruction requirements of 327 IAC 15-5-6.5(a)(8). Where appropriate, and to the extent of the MS4 operator's authority, the procedures may also include the following:

(1) Buffer strip and riparian zone preservation.

(2) Filter strip creation.

(3) Minimization of land disturbance and surface imperviousness.

(4) Minimization of directly connected impervious areas.

(5) Maximization of open space.

(6) Directing the community's physical growth away from sensitive areas and toward areas that can support it without compromising water quality.

A certification form that combines the completed requirements of this subsection and subsection (e) shall be completed and submitted to the department once the ordinance or other regulatory means has been developed and a program has been implemented or seven hundred thirty (730) days from the date the initial NOI letter submittal was received by the department, whichever is earlier. In subsequent permit terms, the certification form does not need to be completed and submitted. At a minimum, every five (5) years the program shall be reviewed for adequacy and accuracy and updated as necessary.

(c) Where appropriate, an MS4 operator shall use any combination of storage, infiltration, filtering, or vegetative practices to reduce the impact of pollutants in storm water run-off on receiving waters. In addition to the combination of practices, the following requirements shall be utilized:

(1) Infiltration practices will not be allowed in wellhead protection areas.

(2) Discharges from an MS4 area will not be allowed directly into sinkholes or fractured bedrock without treatment that results in the discharge meeting Indiana ground water quality standards as referenced in 327 IAC 2-11.

(3) Any storm water practice that is a Class V injection well must ensure that the discharge from such practices meets Indiana ground water quality standards as referenced in 327 IAC 2-11.

(4) As site conditions allow, the rate at which water flows through the MS4 conveyances shall be regulated to reduce outfall scouring and stream bank erosion.

(5) As site conditions allow, a vegetated filter strip of appropriate width shall be maintained along unvegetated swales and ditches.

(6) New retail gasoline outlets, new municipal, state, federal, or institutional refueling areas, or outlets and refueling areas that replace their existing tank systems shall be required by MS4 ordinance or other regulatory means to design and install appropriate practices to reduce lead, copper, zinc, and polyaromatic hydrocarbons in storm water run-off.

(d) MS4 area personnel responsible for plan review, inspection, and enforcement of postconstruction BMPs shall receive, at a minimum, annual training addressing such topics as appropriate control measures, inspection protocol, and enforcement procedures.

(e) An MS4 operator shall develop and implement a written operational and maintenance plan for all storm water structural BMPs. A certification form that combines the completed requirements of this subsection and subsection (b) shall be completed and submitted to the department once the plan has been developed and implemented or seven hundred thirty (730) days from the date the initial NOI letter submittal was received by the department, whichever is earlier. In subsequent permit terms, the certification form does not need to be completed and submitted. At a minimum, every five (5) years the program shall be reviewed for adequacy and accuracy and updated as necessary.

(f) An MS4 operator shall develop measurable goals for this measure. To comply with this measure, specific reduction percentages and timetables must be identified. At a minimum, goals must address relevant regulatory mechanism implementation, planning and structural BMP strategies, new impervious surface reduction, and discharge quality improvement. *(Water Pollution Control Board; 327 IAC 15-13-16; filed Jul 7, 2003, 2:15 p.m.: 26 IR 3591)*

327 IAC 15-13-17 Storm water quality management plan municipal operations pollution prevention and good housekeeping MCM

Authority: IC 13-14-8; IC 13-15-1-2; IC 13-15-2-1; IC 13-18-3-1; IC 13-18-3-2
Affected: IC 13-18-4

Sec. 17. (a) An MS4 operator shall develop an SWQMP that includes a commitment to develop and implement a program to prevent or reduce pollutant run-off from municipal operations within the MS4 area.

(b) To the extent of their authority, an MS4 operator shall develop and implement a program to ensure that existing municipal, state, or federal operations are performed in ways that will reduce contamination of storm water discharges. A certification form must be completed and submitted to the department once the program has been developed and implemented or three hundred sixty-five (365) days from the date the initial NOI letter submittal was received by the department, whichever is earlier. In subsequent permit terms, the certification form does not need to be completed and submitted. At a minimum, every five (5) years the program shall be reviewed for adequacy and accuracy and updated as necessary. This program must include the following:

(1) Written documentation of maintenance activities, maintenance schedules, and long term inspection proce-

dures for BMPs to reduce floatables and other pollutants discharged from the separate storm sewers. Maintenance activities shall include, as appropriate, the following:

(A) Periodic litter pick up as defined in the MS4 area SWQMP.

(B) Periodic BMP structure cleaning as defined in the MS4 area SWQMP.

(C) Periodic pavement sweeping as defined in the MS4 area SWQMP.

(D) Roadside shoulder and ditch stabilization.

(E) Planting and proper care of roadside vegetation.

(F) Remediation of outfall scouring conditions.

(2) Controls for reducing or eliminating the discharge of pollutants from operational areas, including roads, parking lots, maintenance and storage yards, and waste transfer stations. Appropriate controls shall include the following:

(A) Covering or otherwise reducing the potential for polluted storm water run-off from deicing salt or sand storage piles.

(B) Establishing designated snow disposal areas that have minimal potential for pollutant run-off impact on MS4 area receiving waters.

(C) Providing facilities for containment of any accidental losses of concentrated solutions, acids, alkalies, salts, oils, or other polluting materials.

(D) Standard operating procedures for spill prevention and clean-up during fueling operations.

(E) BMPs for vehicular maintenance areas.

(F) Prohibition of equipment or vehicle wash waters and concrete or asphalt hydrodemolition waste waters into storm water run-off except under the allowance of an appropriate NPDES wastewater permit.

(G) Minimization of pesticide and fertilizer use. Pesticides shall be used, applied, handled, stored, mixed, loaded, transported, and disposed of via office of the Indiana state chemist's guidance requirements.

(H) Proper disposal of animal waste. If applicable, it is recommended that canine parks be sited at least one hundred fifty (150) feet away from a surface waterbody.

(3) Written procedures for the proper disposal of waste or materials removed from separate storm sewer systems and operational areas. All materials removed from separate storm sewer systems and operational areas, including dredge spoil, accumulated sediments, floatables, and debris, must be:

(A) reused or recycled; or

(B) disposed of in accordance with applicable solid waste disposal regulations.

(4) Written documentation that new flood management projects are assessed for their impacts on water quality and existing flood management projects are examined for incorporation of additional water quality protection devices or practices.

(5) Written documentation that appropriate MS4 entity employees have been properly trained, with periodic refresher sessions, on topics such as proper disposal of hazardous wastes, vegetative waste handling, fertilizer and pesticide application, and the function of implemented BMPs.

(c) An MS4 operator shall develop measurable goals for this MCM. To comply with this measure, specific reduction percentages and timetables must be identified. As applicable or, if not applicable, then appropriately justified, goals must address relevant catch basin cleaning and street sweeping procedures, employee training, recycling program implementation, pesticide, fertilizer and sand or salt usage reductions, floatables reduction, and maintenance schedule for BMPs.

(d) In combined sewer system municipalities designated under this rule, the current CSOOP and LTCP will need to be reviewed, and any necessary language changes to ensure consistency with the SWQMP must be included in the plans to ensure that this MCM requirement is met. *(Water Pollution Control Board; 327 IAC 15-13-17; filed Jul 7, 2003, 2:15 p.m.: 26 IR 3592)*

327 IAC 15-13-18 Reporting requirements

Authority: IC 13-14-8; IC 13-15-1-2; IC 13-15-2-1; IC 13-18-3-1; IC 13-18-3-2
Affected: IC 13-18-4

Sec. 18. (a) An MS4 operator regulated under this rule shall submit an annual report to the department the following information:

(1) Progress towards development, implementation, and enforcement of all MCMs, including updated programmatic indicator data.

(2) Summary of complaints received and follow-up investigation results related to storm water quality issues.

(3) Updated measurable goals.

(4) Storm water BMPs installed or initiated.

(5) Follow-up or additional water quality characterization.

(6) Updated active industrial facilities list.

(7) Implementation problems encountered, including BMP changes due to ineffectiveness or infeasibility.

(8) Funding sources and expenditures.

(9) Changes to MS4 area boundaries, including land areas added to the MS4 area via annexation or other similar means.

(10) Identified storm water quality improvement projects.

(11) Updated receiving water information.

The initial annual report shall be postmarked no later than three hundred sixty-five (365) days from the date the SWQMP-Part C: Program Implementation submittal was received by the department. Subsequent report submittals during the first five (5) year permit term shall be provided

no later that three hundred sixty-five (365) days from the previous report in years three (3), four (4), and five (5). In subsequent permit terms, reports must be submitted in years two (2) and four (4).

(b) An MS4 operator shall submit a monthly construction site project summary to the department containing a listing of all project names associated with section 15 of this rule, the project address, project duration, and an indication of enforcement actions undertaken. If no projects occur within a given month, a report does not need to be submitted. Reports must be postmarked no later than the last day of the following month. The commissioner may develop criteria for an alternative acceptable timetable for submission of this summary.

(c) The summary required under subsection (b) must address those projects for which there has been:

(1) an NOI letter submittal, or its equivalent, to the MS4 entity; or

(2) a Notice of Termination letter, or its equivalent, processed by the MS4 entity.

(d) An MS4 operator shall certify by signature on the annual report form that information provided is true and accurate. *(Water Pollution Control Board; 327 IAC 15-13-18; filed Jul 7, 2003, 2:15 p.m.: 26 IR 3593)*

327 IAC 15-13-19 Permit duration

Authority: IC 13-14-8; IC 13-15-1-2; IC 13-15-2-1; IC 13-18-3-1; IC 13-18-3-2
Affected: IC 13-18-4

Sec. 19. (a) The permits under this rule are valid for five (5) years from the date the initial NOI letter was received by the department. Renewal application for the permit is required at least sixty (60) days prior to the expiration date. Coverage under renewal NOI letters will begin on the date of expiration from the previous five (5) year permit term.

(b) If MS4 entity conditions change within an MS4 area, written notification of the changes must be submitted to the commissioner.

(c) For a complete renewal application to be sufficient, a new NOI letter and SWQMP-Part A: Initial Application must be submitted in accordance with sections 6 and 9 of this rule.

(d) Permits may be reissued on a watershed basis to take into account surface water quality monitoring strategies and sampling data analyses for individual drainage areas.

(e) Subsequent permits will require the MS4 operator to maintain and, where possible, improve their performance in implementing the six (6) MCMs. *(Water Pollution Control Board; 327 IAC 15-13-19; filed Jul 7, 2003, 2:15 p.m.: 26 IR 3594)*

327 IAC 15-13-20 Permit termination

Authority: IC 13-14-8; IC 13-15-1-2; IC 13-15-2-1; IC 13-18-3-1; IC 13-18-3-2
Affected: IC 13-18-4

Sec. 20. (a) An MS4 entity may request the department to terminate permit coverage under this rule if:

(1) based on physical changes in the MS4 area, the permit is no longer needed;

(2) based on a lack of cooperation between MS4 entities, a new general permit NOI letter is needed; or

(3) based on documented reductions in population, population density, occupancy, or enrollment that result in numbers below minimum designation criteria and a request based on this subdivision will only be considered once a permit under this rule has expired.

(b) The department may terminate permit coverage under this rule and require an MS4 entity to apply for an individual permit if one (1) of the six (6) cases referenced in 327 IAC 15-2-9(b) is applicable. *(Water Pollution Control Board; 327 IAC 15-13-20; filed Jul 7, 2003, 2:15 p.m.: 26 IR 3594)*

327 IAC 15-13-21 Standard conditions

Authority: IC 13-14-8; IC 13-15-1-2; IC 13-15-2-1; IC 13-18-3-1; IC 13-18-3-2
Affected: IC 13-14-10; IC 13-18-4; IC 13-30

Sec. 21. In addition to the conditions set forth in this rule, the standard conditions for the NPDES general permit rule under 327 IAC 15-4 shall apply also to this rule. *(Water Pollution Control Board; 327 IAC 15-13-21; filed Jul 7, 2003, 2:15 p.m.: 26 IR 3594)*

327 IAC 15-13-22 Inspection and enforcement

Authority: IC 13-14-8; IC 13-15-1-2; IC 13-15-2-1; IC 13-18-3-1; IC 13-18-3-2
Affected: IC 13-14-10; IC 13-18-4; IC 13-30

Sec. 22. (a) The commissioner may inspect an MS4 entity regulated under this rule at any time. Any documentation required in sections 6 through 20 of this rule or related to implementation of this rule must be available at the physical address corresponding to the MS4 operator or the primary contact individual for review by the commissioner during normal business hours.

(b) At a minimum, records shall be established and maintained at the address referenced in subsection (a) for the five (5) years of the permit term. The five (5) year period will be extended:

(1) automatically during the course of any unresolved litigation regarding the discharge of pollutants by the MS4 operator, or other MS4 entity regulated by the MS4 area permit, or regarding promulgated effluent guidelines applicable to the MS4 area; or

(2) as requested by the regional administrator of the United States Environmental Protection Agency or the commissioner.

(c) The commissioner may request data to facilitate the identification or quantification of pollutants that may be released to the environment from an MS4 conveyance or to determine effectiveness of the MCMs.

(d) The commissioner, or an authorized representative, upon providing appropriate credentials, may inspect an MS4 entity regulated under this rule at any time. As it pertains to sections 15 and 16 of this rule, the department of natural resources, division of soil conservation staff, or their designated representative, upon providing appropriate credentials, may inspect an MS4 entity regulated under this rule at any time. Record keeping and reporting requirements for sections 15 and 16 of this rule shall conform to 327 IAC 15-5.

(e) All persons or MS4 entities responsible for the MS4 conveyances shall be responsible for complying with the SWQMP for the MS4 area and the provisions of this rule. Any person or MS4 entity causing or contributing to a violation of any provisions of this rule shall be subject to IC 13-30 and IC 13-14-10.

(f) All projects within a regulated MS4 area meeting the applicability requirements of 327 IAC 15-5 are subject to inspection and enforcement by the department or their designated representative for violations associated with 327 IAC 15-5. *(Water Pollution Control Board; 327 IAC 15-13-22; filed Jul 7, 2003, 2:15 p.m.: 26 IR 3594)*

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TITLE 327 WATER POLLUTION CONTROL BOARD

LSA Document #01-238(F)

DIGEST

Amends the rules for the application of a biosolid, industrial waste products, and pollutant-bearing water in 327 IAC 6.1. The purpose of this rule change is to amend and clarify sections of the article that are creating unnecessary problems for the regulated community and IDEM staff. Indiana's rule regarding the land application of biosolid, industrial waste product, and pollutant-bearing water became effective June 14, 1998. Since that time both IDEM staff and the regulated community have concluded that some inconsequential and some substantive rule changes are required. Inconsequential changes are contextual in nature and provide more clarity. The substantial changes improve and enhance the program. The following are considered substantial changes: (1) A small-quantity generator notification program for nondomestic pollutant-bearing water land application programs. (2) Broadening the agricultural lime substitute notification program to include liquid waste products. (3) Delineation of the hybrid land application permit program. (4) Molybdenum concentrations of ≥ forty (40) mg/kg are prohibited from application to pasture land. (5) Standard detection limits for seven heavy metals. (6) Clarification of nutrient monitoring requirements and recognition of presampling for nutrients in some cases. (7) Deletion of the suspended solids limits and monitoring requirement for certain stabilization pond systems when disinfection is not required. (8) Recognition of alternative methods of pollutant-bearing water land application to include subsurface methods. (9) Clarification of storage structure applicability and requirements. (10) Elimination of seasonal high water table restrictions during land application. (11) Reduces the monitoring frequencies to times set by 40 CFR 503. Effective 30 days after filing with the secretary of state.

HISTORY

First Notice of Comment Period: August 1, 2001, Indiana Register (24 IR 3827).

Continuation of First Notice: October 1, 2001, Indiana Register (25 IR 206).

Second Notice of Comment Period: May 1, 2002, Indiana Register (25 IR 2592).

Notice of First Public Hearing: May 1,2002, Indiana Register (25 IR 2622).

Renotice of First Public Hearing: October 1, 2002, Indiana Register.

First Public Hearing: October 9, 2002.

Notice of Second Public Hearing and Third Comment Period: January 1, 2003, Indiana Register (26 IR 1158).

Second Public Hearing: March 12, 2003.

327 IAC 6.1-1-1
327 IAC 6.1-1-3
327 IAC 6.1-1-4
327 IAC 6.1-1-5
327 IAC 6.1-1-7
327 IAC 6.1-2-3
327 IAC 6.1-2-6
327 IAC 6.1-2-6.5
327 IAC 6.1-2-7
327 IAC 6.1-2-7.5
327 IAC 6.1-2-8
327 IAC 6.1-2-10
327 IAC 6.1-2-12
327 IAC 6.1-2-13
327 IAC 6.1-2-14
327 IAC 6.1-2-20.5
327 IAC 6.1-2-28
327 IAC 6.1-2-30
327 IAC 6.1-2-31.5
327 IAC 6.1-2-35
327 IAC 6.1-2-42
327 IAC 6.1-2-43
327 IAC 6.1-2-54
327 IAC 6.1-2-55
327 IAC 6.1-2-55.3
327 IAC 6.1-2-55.5
327 IAC 6.1-2-61
327 IAC 6.1-3-1
327 IAC 6.1-3-2
327 IAC 6.1-3-3
327 IAC 6.1-3-4
327 IAC 6.1-3-7
327 IAC 6.1-3-8
327 IAC 6.1-4-1
327 IAC 6.1-4-3
327 IAC 6.1-4-4
327 IAC 6.1-4-5
327 IAC 6.1-4-5.5

327 IAC 6.1-4-6
327 IAC 6.1-4-7
327 IAC 6.1-4-8
327 IAC 6.1-4-9
327 IAC 6.1-4-10
327 IAC 6.1-4-11
327 IAC 6.1-4-13
327 IAC 6.1-4-16
327 IAC 6.1-4-17
327 IAC 6.1-4-18
327 IAC 6.1-4-19
327 IAC 6.1-5-1
327 IAC 6.1-5-2
327 IAC 6.1-5-3
327 IAC 6.1-5-4
327 IAC 6.1-6-1
327 IAC 6.1-6-2
327 IAC 6.1-6-3
327 IAC 6.1-7-1
327 IAC 6.1-7-2
327 IAC 6.1-7-3
327 IAC 6.1-7-4
327 IAC 6.1-7-5
327 IAC 6.1-7-6
327 IAC 6.1-7-9
327 IAC 6.1-7-10
327 IAC 6.1-7-11
327 IAC 6.1-7.5
327 IAC 6.1-8-1
327 IAC 6.1-8-2
327 IAC 6.1-8-3
327 IAC 6.1-8-4
327 IAC 6.1-8-5
327 IAC 6.1-8-6
327 IAC 6.1-8-7
327 IAC 6.1-8-8

SECTION 1. 327 IAC 6.1-1-1 IS AMENDED TO READ AS FOLLOWS:

327 IAC 6.1-1-1 Purpose

Authority: IC 13-14-8-1; IC 13-15-1-2; IC 13-15-2-1; IC 13-18-3-1; IC 13-18-12-4
Affected: IC 13-11-2; IC 13-18-3

Sec. 1. (a) The purpose of this article is to establish procedures, requirements, and standards to implement IC 13-18-3 **regarding land application and related activities.** This article is being promulgated for the purpose of protecting and enhancing the quality of Indiana's environment and protecting the public health, safety, and well-being of its citizens.

(b) This article regulates the disposal of any biosolid, contaminant that is an industrial waste product, or pollutant-bearing water by application upon or incorporation into the soil. This article establishes standards for the following:

(1) General requirements.
(2) Site requirements.
(3) Pollutant limits.
(4) Pathogen ~~treatment~~ **reduction** requirements.
(5) Vector attraction reduction requirements.
(6) Monitoring and analysis requirements.
(7) Record keeping requirements.
(8) Reporting requirements.
(9) Storage.

(c) Unless specified in the incorporated by reference documents incorporated in this article, the version of documents referenced in the incorporated by reference documents is the latest version that is in effect on the date of the latest adoption of the incorporated by reference documents into this article. *(Water Pollution Control Board; 327 IAC 6.1-1-1; filed May 15, 1998, 10:20 a.m.: 21 IR 3776; readopted filed Jan 10, 2001, 3:23 p.m.: 24 IR 1518; filed Jul 7, 2003, 4:25 p.m.: 26 IR 3596)*

SECTION 2. 327 IAC 6.1-1-3 IS AMENDED TO READ AS FOLLOWS:

327 IAC 6.1-1-3 Applicability

Authority: IC 13-14-8-1; IC 13-15-1-2; IC 13-15-2-1; IC 13-18-3-1; IC 13-18-12-4
Affected: IC 13-11-2; IC 13-18; IC 13-22

Sec. 3. (a) This article applies to the following:

(1) Any person who prepares biosolid, industrial waste product, or pollutant-bearing water for land application or marketing and distribution in Indiana.
(2) Any person who applies biosolid, industrial waste product, or pollutant-bearing water to the land in Indiana.
(3) Biosolid, industrial waste product, or pollutant-bearing water applied to the land in Indiana.
(4) Biosolid or industrial waste product that is marketed or distributed for use as soil or soil amendment.
(5) Land in Indiana where biosolid, industrial waste product, or pollutant-bearing water is **land** applied.
(6) Storage structures for any ~~material,~~ **biosolid, industrial waste product, or pollutant-bearing water** regulated under this article.

(b) A land application permit is required for the disposal in Indiana of any biosolid, industrial waste product, or pollutant-bearing water by application upon or incorporation into the soil except for the exclusions listed under subsection (c).

(c) This article does not apply to the following:

(1) Materials that are:
  (A) Animal manures.
  (B) Not a solid waste as defined under 329 IAC 10-2-174.
  (C) Disposed of under **327 IAC 7.1,** 329 IAC 10-3-1(1), **or** 329 IAC 10-3-1(3) through 329 IAC 10-3-1(15). ~~and 327 IAC 7.~~
  (D) Determined to be hazardous waste in accordance with 329 IAC 3.1.
  (E) Grit, including sand, gravel, cinders, or other materials with a high specific gravity.
  (F) Screenings, including relatively large materials such as rags, generated during preliminary treatment of domestic sewage in a treatment works.
  ~~(G) Industrial storm water that does not exceed the pollutant concentrations in Table 10 in 327 IAC 6.1-7-1(d).~~
(2) Persons who apply biosolid or industrial waste product that is prepared or generated by another person in accordance with the terms of a marketing and distribution program permitted under 327 IAC 6.1-5.
(3) Land that receives only biosolid or industrial waste product prepared or generated in accordance with the terms of a marketing and distribution program permitted under 327 IAC 6.1-5.
(4) The selection of biosolid, industrial waste product, or pollutant-bearing water use or disposal practice. The determination of the manner in which biosolid, industrial waste

product, or pollutant-bearing water is used or disposed is a local determination.

(5) Industrial storm water that:

(A) does not ~~meet or~~ exceed the pollutant limits in Table 10 in 327 IAC 6.1-7-1(d); or

(B) is regulated by:

(i) a storm water pollution prevention plan under 327 IAC 15-6; or

(ii) an NPDES permit under 327 IAC 5-4-6.

(6) Lawn irrigation at wastewater treatment facilities that:

(A) have a valid NPDES permit under 327 IAC 5;

(B) are not in violation of any discharge limits;

(C) have restricted public access to the area to be irrigated; and

(D) disinfect the domestic wastewater prior to application to the facility grounds.

(Water Pollution Control Board; 327 IAC 6.1-1-3; filed May 15, 1998, 10:20 a.m.: 21 IR 3776; readopted filed Jan 10, 2001, 3:23 p.m.: 24 IR 1518; filed Jul 7, 2003, 4:25 p.m.: 26 IR 3596)

SECTION 3. 327 IAC 6.1-1-4 IS AMENDED TO READ AS FOLLOWS:

327 IAC 6.1-1-4 Enforcement

Authority: IC 13-14-8-1; IC 13-15-1-2; IC 13-15-2-1; IC 13-18-3-1; IC 13-18-12-4
Affected: IC 13-14-2-6; IC 13-18; IC 13-30-3

Sec. 4. No person shall conduct activities for which requirements are established in this ~~rule~~ **article** except in accordance with such requirements. The ~~administration and~~ enforcement of this article shall be in accordance with ~~IC 4-21.5, IC 13-11, 13-14, IC 13-15-7, IC 13-24, and~~ IC 13-30-3 **or IC 13-14-2-6.** *(Water Pollution Control Board; 327 IAC 6.1-1-4; filed May 15, 1998, 10:20 a.m.: 21 IR 3777; readopted filed Jan 10, 2001, 3:23 p.m.: 24 IR 1518; filed Jul 7, 2003, 4:25 p.m.: 26 IR 3597)*

SECTION 4. 327 IAC 6.1-1-5 IS AMENDED TO READ AS FOLLOWS:

327 IAC 6.1-1-5 Penalties

Authority: IC 13-14-8-1; IC 13-15-1-2; IC 13-15-2-1; IC 13-18-3-1; IC 13-18-12-4
Affected: IC 13-11-2; IC 13-14-12; IC 13-18; IC 13-30

Sec. 5. Penalties for violations of this article are ~~as outlined in IC 13-14-12 and IC 13-30.~~ **provided for at:**

(1) IC 13-30-4;

(2) IC 13-30-5; and

(3) IC 13-30-6.

(Water Pollution Control Board; 327 IAC 6.1-1-5; filed May 15, 1998, 10:20 a.m.: 21 IR 3777; readopted filed Jan 10, 2001, 3:23 p.m.: 24 IR 1518; filed Jul 7, 2003, 4:25 p.m.: 26 IR 3597)

SECTION 5. 327 IAC 6.1-1-7 IS AMENDED TO READ AS FOLLOWS:

327 IAC 6.1-1-7 Relationship to other rules

Authority: IC 13-14-8-7; IC 13-15-1-2; IC 13-15-2-1; IC 13-18-3-1; IC 13-18-12-4
Affected: IC 13-11-2; IC 13-14; IC 13-15; IC 13-18; IC 13-30

Sec. 7. (a) Disposal of a biosolid or industrial waste product in a municipal solid waste landfill unit, as defined in 329 IAC 10-2-117, that complies with the requirements in 329 IAC 10 and the municipal solid waste landfill permit, constitutes compliance with Section 405(d) of the Clean Water Act. ~~Any person who prepares a biosolid or industrial waste product that is disposed in a municipal solid waste landfill unit shall ensure that the biosolid or industrial waste product meets the requirements in 329 IAC 10-7 and 329 IAC 10-8 concerning the quality of biosolid or industrial waste product disposed in a municipal solid waste landfill unit.~~

(b) Any person who prepares or applies a biosolid, industrial waste product, or pollutant-bearing water that is applied to land in a delineated wellhead protection area shall comply with any applicable requirements under 327 IAC 8-4.1. *(Water Pollution Control Board; 327 IAC 6.1-1-7; filed May 15, 1998, 10:20 a.m.: 21 IR 3777; readopted filed Jan 10, 2001, 3:23 p.m.: 24 IR 1518; filed Jul 7, 2003, 4:25 p.m.: 26 IR 3597)*

SECTION 6. 327 IAC 6.1-2-3 IS AMENDED TO READ AS FOLLOWS:

327 IAC 6.1-2-3 "Agricultural land" defined

Authority: IC 13-14-8-7; IC 13-15-1-2; IC 13-15-2-1; IC 13-18-3-1; IC 13-18-12-4
Affected: IC 13-11-2; IC 13-12-3-1; IC 13-18; IC 13-30-2-1

Sec. 3. "Agricultural land" means land used for: ~~the following purposes:~~

(1) production of a food crop;

(2) production of a feed crop;

(3) production of a fiber crop;

(4) production of trees for harvest; **or**

(5) pasture for animals.

(Water Pollution Control Board; 327 IAC 6.1-2-3; filed May 15, 1998, 10:20 a.m.: 21 IR 3778; readopted filed Jan 10, 2001, 3:23 p.m.: 24 IR 1518; filed Jul 7, 2003, 4:25 p.m.: 26 IR 3597)

SECTION 7. 327 IAC 6.1-2-6 IS AMENDED TO READ AS FOLLOWS:

327 IAC 6.1-2-6 "Beneficial use" defined

Authority: IC 13-14-8-7; IC 13-15-1-2; IC 13-15-2-1; IC 13-18-3-1; IC 13-18-12-4
Affected: IC 13-11-2; IC 13-12-3-1; IC 13-18; IC 13-30-2-1

Sec. 6. "Beneficial use" means the use of a ~~material~~ **solid waste** for fertilizing or soil conditioning properties to:

(1) provide nutrients for growing plants or crops;

(2) increase organic matter;
(3) provide pH adjustment capabilities; or
(4) provide other benefits to the soil or crops as shown to the satisfaction of the commissioner through an approved research or demonstration project under 327 IAC 6.1-4-19.

(Water Pollution Control Board; 327 IAC 6.1-2-6; filed May 15, 1998, 10:20 a.m.: 21 IR 3778; readopted filed Jan 10, 2001, 3:23 p.m.: 24 IR 1518; filed Jul 7, 2003, 4:25 p.m.: 26 IR 3597)

SECTION 8. 327 IAC 6.1-2-6.5 IS ADDED TO READ AS FOLLOWS:

327 IAC 6.1-2-6.5 "BOD" defined

Authority: IC 13-14-8-7; IC 13-15-1-2; IC 13-15-2-1; IC 13-18-3-1; IC 13-18-12-4
Affected: IC 13-11-2; IC 13-12-3-1; IC 13-18; IC 13-30-2-1

Sec. 6.5. "BOD" means the quantity of oxygen used in the biochemical oxidation of organic matter in a specified time under specified conditions and is a standard test used in assessing wastewater strength. *(Water Pollution Control Board; 327 IAC 6.1-2-6.5; filed Jul 7, 2003, 4:25 p.m.: 26 IR 3598)*

SECTION 9. 327 IAC 6.1-2-7 IS AMENDED TO READ AS FOLLOWS:

327 IAC 6.1-2-7 "Biosolid" defined

Authority: IC 13-14-8-7; IC 13-15-1-2; IC 13-15-2-1; IC 13-18-3-1; IC 13-18-12-4
Affected: IC 13-11-2; IC 13-12-3-1; IC 13-18; IC 13-30-2-1

Sec. 7. (a) "Biosolid" means solid, semisolid, or liquid residue generated during the treatment of domestic sewage in a treatment works. Examples of biosolid include, **but are not limited to,** the following:

(1) Scum or solids removed in primary, secondary, or advanced wastewater treatment processes.
(2) A material derived from biosolid.
(3) An industrial waste product that contains domestic sewage or material under **subdivision** (1) or (2).

(b) Biosolid does not include ash generated during the firing of biosolid in a biosolid incinerator or grit and screenings generated during preliminary treatment of domestic sewage in a treatment works. *(Water Pollution Control Board; 327 IAC 6.1-2-7; filed May 15, 1998, 10:20 a.m.: 21 IR 3778; readopted filed Jan 10, 2001, 3:23 p.m.: 24 IR 1518; filed Jul 7, 2003, 4:25 p.m.: 26 IR 3598)*

SECTION 10. 327 IAC 6.1-2-7.5 IS ADDED TO READ AS FOLLOWS:

327 IAC 6.1-2-7.5 "Biosolid containing an industrial waste product" defined

Authority: IC 13-14-8-7; IC 13-15-1-2; IC 13-15-2-1; IC 13-18-3-1; IC 13-18-12-4
Affected: IC 13-11-2; IC 13-12-3-1; IC 13-18; IC 13-30-2-1

Sec. 7.5. "Biosolid containing an industrial waste product" means a biosolid where one (1) of the following conditions apply:

(1) The industrial waste product contains domestic sewage or material described under section 7(a)(1) or 7(a)(2) of this rule and is generated from one (1) source or generator.

(2) The industrial waste product contains blends of industrial waste products and biosolids from different sources or generators.

(Water Pollution Control Board; 327 IAC 6.1-2-7.5; filed Jul 7, 2003, 4:25 p.m.: 26 IR 3598)

SECTION 11. 327 IAC 6.1-2-8 IS AMENDED TO READ AS FOLLOWS:

327 IAC 6.1-2-8 "Cation exchange capacity" defined

Authority: IC 13-14-8-7; IC 13-15-1-2; IC 13-15-2-1; IC 13-18-3-1; IC 13-18-12-4
Affected: IC 13-11-2; IC 13-12-3-1; IC 13-18; IC 13-30-2-1

Sec. 8. "Cation exchange capacity" means the sum of exchangeable cations a soil can absorb expressed in milliequivalents per one hundred (100) grams of soil as determined by sampling the soil to the depth of cultivation, sludge waste product placement, or wastewater placement, whichever is greater, and analyzing by the summation method for distinctly acid soils* or the sodium acetate method for neutral, calcareous, or saline soils*.

*The summation method for distinctly acid soils and the sodium acetate method for neutral, calcareous, or saline soils can be found in "Methods of Soil Analysis, Agronomy Monograph No. 9.", C.A. Black, ed., pp. 149-157, 1982, available from American Society of Agronomy, Soil Science of America, Inc., 677 South Segoe Road, Madison, Wisconsin 53711. This method is also available for copying at the Indiana Department of Environmental Management, Office of ~~Solid and Hazardous Waste Mangement,~~ **Land Quality,** 100 North Senate Avenue, Room 1154, Indianapolis, Indiana 46204. *(Water Pollution Control Board; 327 IAC 6.1-2-8; filed May 15, 1998, 10:20 a.m.: 21 IR 3778; readopted filed Jan 10, 2001, 3:23 p.m.: 24 IR 1518; filed Jul 7, 2003, 4:25 p.m.: 26 IR 3598)*

SECTION 12. 327 IAC 6.1-2-13 IS AMENDED TO READ AS FOLLOWS:

327 IAC 6.1-2-13 "Dewatered" defined

Authority: IC 13-14-8-7; IC 13-15-1-2; IC 13-15-2-1; IC 13-18-3-1; IC 13-18-12-4
Affected: IC 13-11-2; IC 13-12-3-1; IC 13-18; IC 13-30-2-1

Sec. 13. "Dewatered" means the removal of free liquid from the biosolid or industrial waste product as determined by Method 9095* (Paint Filter Liquids Test).

*Method 9095 may be found in "Test Methods for Evaluating Solid Waste, Physical/Chemical Methods", EPA Publication

SW-846 [Third Edition, November 1986, as amended by Updates 1 (July 1992), 2 (September 1994), 2A (August 1993), and 2B (January 1995)], available from U.S. EPA. This method is also available for copying at the Indiana Department of Environmental Management, Office of ~~Solid and Hazardous Waste Management,~~ **Land Quality,** 100 North Senate Avenue, Room 1154, Indianapolis, Indiana 46204. *(Water Pollution Control Board; 327 IAC 6.1-2-13; filed May 15, 1998, 10:20 a.m.: 21 IR 3779; readopted filed Jan 10, 2001, 3:23 p.m.: 24 IR 1518; filed Jul 7, 2003, 4:25 p.m.: 26 IR 3598)*

SECTION 13. 327 IAC 6.1-2-14 IS AMENDED TO READ AS FOLLOWS:

327 IAC 6.1-2-14 "Discharge" defined

Authority: IC 13-14-8-7; IC 13-15-1-2; IC 13-15-2-1; IC 13-18-3-1; IC 13-18-12-4
Affected: IC 13-11-2; IC 13-12-3-1; IC 13-18; IC 13-30-2-1

Sec. 14. "Discharge" means any addition of any pollutant, or combination of pollutants, into any **surface** waters ~~of the state~~ **or ground water** from a point source such as any discernible, confined, and discrete conveyance, including the following:

(1) Pipe.
(2) Channel.
(3) Tunnel.
(4) Conduit.
(5) Well.
(6) Discrete fissure.
(7) Container.
(8) Rolling stock.
(9) Vessel.
(10) Other floating craft from which pollutants are or may be discharged.

The term does not include return flow from irrigated agriculture or agricultural storm water. *(Water Pollution Control Board; 327 IAC 6.1-2-14; filed May 15, 1998, 10:20 a.m.: 21 IR 3779; readopted filed Jan 10, 2001, 3:23 p.m.: 24 IR 1518; filed Jul 7, 2003, 4:25 p.m.: 26 IR 3599)*

SECTION 14. 327 IAC 6.1-2-20.5 IS ADDED TO READ AS FOLLOWS:

327 IAC 6.1-2-20.5 "Fixed volume" defined

Authority: IC 13-14-8-7; IC 13-15-1-2; IC 13-15-2-1; IC 13-18-3-1; IC 13-18-12-4
Affected: IC 13-11-2; IC 13-12-3-1; IC 13-18; IC 13-30-2-1

Sec. 20.5. "Fixed volume" means the amount of biosolid or industrial waste product prepared for land application where the volume does not change by either adding to or removing any of the biosolid or industrial waste product between sampling and land application. Examples of fixed volume include, but are not limited to, the following:

(1) Dewatered biosolid or industrial waste product stockpiled.

(2) Liquid biosolid or industrial waste product contained in a storage structure.

(Water Pollution Control Board; 327 IAC 6.1-2-20.5; filed Jul 7, 2003, 4:25 p.m.: 26 IR 3599)

SECTION 15. 327 IAC 6.1-2-28 IS AMENDED TO READ AS FOLLOWS:

327 IAC 6.1-2-28 "Industrial process wastewater" defined

Authority: IC 13-14-8-7; IC 13-15-1-2; IC 13-15-2-1; IC 13-18-3-1; IC 13-18-12-4
Affected: IC 13-11-2; IC 13-12-3-1; IC 13-18; IC 13-30-2-1

Sec. 28. "Industrial process wastewater" means liquid waste that is:

(1) generated by industrial or commercial facilities; ~~and~~
(2) does not contain domestic sewage; **and**
(3) contains less than one percent (1%) total solids.

(Water Pollution Control Board; 327 IAC 6.1-2-28; filed May 15, 1998, 10:20 a.m.: 21 IR 3781; readopted filed Jan 10, 2001, 3:23 p.m.: 24 IR 1518; filed Jul 7, 2003, 4:25 p.m.: 26 IR 3599)

SECTION 16. 327 IAC 6.1-2-30 IS AMENDED TO READ AS FOLLOWS:

327 IAC 6.1-2-30 "Industrial waste product" defined

Authority: IC 13-14-8-7; IC 13-15-1-2; IC 13-15-2-1; IC 13-18-3-1; IC 13-18-12-4
Affected: IC 13-11-2; IC 13-12-3-1; IC 13-18; IC 13-30-2-1

Sec. 30. "Industrial waste product" means the following:

~~(1) Material that is not considered biosolid or pollutant-bearing water under this article.~~

~~(2) Material that is generated as waste in the production process and may be disposed of through:~~

~~(A) surface application;~~
~~(B) injection; or~~
~~(C) incorporation into the soil.~~

~~(3)~~ **(1)** Material that meets the following criteria:

(A) Is a solid waste as defined under 329 IAC 10-2-174.
(B) Does not include material from any processes listed in 329 IAC 10-3-1.
(C) Is used for a beneficial use as defined under section 6 of this rule.
(D) Contains one percent (1%) or greater total solids.

(2) Solid waste that is not considered biosolid or pollutant-bearing water under this article.

(Water Pollution Control Board; 327 IAC 6.1-2-30; filed May 15, 1998, 10:20 a.m.: 21 IR 3781; readopted filed Jan 10, 2001, 3:23 p.m.: 24 IR 1518; filed Jul 7, 2003, 4:25 p.m.: 26 IR 3599)

SECTION 17. 327 IAC 6.1-2-31.5 IS ADDED TO READ AS FOLLOWS:

327 IAC 6.1-2-31.5 "Lagoon" defined

Authority: IC 13-14-8-7; IC 13-15-1-2; IC 13-15-2-1; IC 13-18-3-1; IC 13-18-12-4
Affected: IC 13-11-2; IC 13-12-3-1; IC 13-18; IC 13-30-2-1

Sec. 31.5. "Lagoon" means a type of storage structure

that is constructed wholly or partially below the original grade of the earth surface. A steel tank that is installed partially below ground is not a lagoon but a storage structure under 327 IAC 6.1-8. *(Water Pollution Control Board; 327 IAC 6.1-2-31.5; filed Jul 7, 2003, 4:25 p.m.: 26 IR 3599)*

SECTION 18. 327 IAC 6.1-2-35 IS AMENDED TO READ AS FOLLOWS:

327 IAC 6.1-2-35 "Land with a low potential for public exposure" defined

Authority: IC 13-14-8-7; IC 13-15-1-2; IC 13-15-2-1; IC 13-18-3-1; IC 13-18-12-4
Affected: IC 13-11-2; IC 13-12-3-1; IC 13-18; IC 13-30-2-1

Sec. 35. (a) "Land with a low potential for public exposure" means land that:

(1) has restricted access;

(2) is inaccessible to the public; or

(3) is not used by the public during normal work or recreational activities.

(b) Examples include, but are not limited to, the following:

(1) Agricultural land, except land in section ~~34(4)~~ **34(b)(4)** of this rule.

(2) Forest not included in section ~~34(1)~~ **34(b)(1)** of this rule.

(3) Solid waste land disposal facilities as defined in 329 IAC 10-2-176.

(4) Strip mines not located in a populated area or accessible to the public.

(5) Industrial sites not located in a populated area or accessible to the public.

(6) Construction sites not located in a populated area or accessible to the public.

(7) Other sites that the commissioner may consider to have a low potential for public exposure based on any of the following:

(A) Existing public roads.

(B) Population density.

(C) Recreational opportunity.

(D) Infrastructure development.

(E) Level of management of property.

(Water Pollution Control Board; 327 IAC 6.1-2-35; filed May 15, 1998, 10:20 a.m.: 21 IR 3782; readopted filed Jan 10, 2001, 3:23 p.m.: 24 IR 1518; filed Jul 7, 2003, 4:25 p.m.: 26 IR 3600)

SECTION 19. 327 IAC 6.1-2-42 IS AMENDED TO READ AS FOLLOWS:

327 IAC 6.1-2-42 "Person who applies" defined

Authority: IC 13-14-8-7; IC 13-15-1-2; IC 13-15-2-1; IC 13-18-3-1; IC 13-18-12-4
Affected: IC 13-11-2; IC 13-12-3-1; IC 13-18; IC 13-30-2-1

Sec. 42. "Person who applies" means any person who land applies a ~~material~~ **biosolid, industrial waste product, or pollutant-bearing water** under this article. *(Water Pollution Control Board; 327 IAC 6.1-2-42; filed May 15, 1998, 10:20 a.m.: 21 IR 3783; readopted filed Jan 10, 2001, 3:23 p.m.: 24 IR 1518; filed Jul 7, 2003, 4:25 p.m.: 26 IR 3600)*

SECTION 20. 327 IAC 6.1-2-43 IS AMENDED TO READ AS FOLLOWS:

327 IAC 6.1-2-43 "Person who prepares" defined

Authority: IC 13-14-8-7; IC 13-15-1-2; IC 13-15-2-1; IC 13-18-3-1; IC 13-18-12-4
Affected: IC 13-11-2; IC 13-12-3-1; IC 13-18; IC 13-30-2-1

Sec. 43. (a) "Person who prepares" means:

(1) the person who generates any ~~material~~ **biosolid, industrial waste product, or pollutant-bearing water** for application to the land **or for marketing and distribution** and **which is** regulated under this article; or

(2) the person who derives a ~~new material~~ **biosolid, industrial waste product, or pollutant-bearing water** for application to the land **or for marketing and distribution** from other ~~materials~~ **biosolid, industrial waste product, or pollutant-bearing water** regulated under this article.

(b) The term includes any person that mixes two (2) or more biosolids, industrial waste products, or pollutant-bearing waters.

(c) The term does not include a hazardous waste generator as regulated by 329 IAC 3.1 or a solid waste generator as defined under 329 IAC 10-2-78. *(Water Pollution Control Board; 327 IAC 6.1-2-43; filed May 15, 1998, 10:20 a.m.: 21 IR 3783; readopted filed Jan 10, 2001, 3:23 p.m.: 24 IR 1518; filed Jul 7, 2003, 4:25 p.m.: 26 IR 3600)*

SECTION 21. 327 IAC 6.1-2-54 IS AMENDED TO READ AS FOLLOWS:

327 IAC 6.1-2-54 "Stockpiling" defined

Authority: IC 13-14-8-7; IC 13-15-1-2; IC 13-15-2-1; IC 13-18-3-1; IC 13-18-12-4
Affected: IC 13-11-2; IC 13-12-3-1; IC 13-18; IC 13-30-2-1

Sec. 54. "Stockpiling" means the temporary placement of a dewatered biosolid or industrial waste product in a pile for more than twenty-four (24) hours but less than ~~five (5) working days~~ **six (6) months** at the land application site in accordance with an approved management plan. *(Water Pollution Control Board; 327 IAC 6.1-2-54; filed May 15, 1998, 10:20 a.m.: 21 IR 3784; readopted filed Jan 10, 2001, 3:23 p.m.: 24 IR 1518; filed Jul 7, 2003, 4:25 p.m.: 26 IR 3600)*

SECTION 22. 327 IAC 6.1-2-55 IS AMENDED TO READ AS FOLLOWS:

327 IAC 6.1-2-55 "Storage" defined

Authority: IC 13-14-8-7; IC 13-15-1-2; IC 13-15-2-1; IC 13-18-3-1; IC 13-18-12-4
Affected: IC 13-11-2; IC 13-12-3-1; IC 13-18; IC 13-30-2-1

Sec. 55. "Storage" means containment of biosolid, industrial

waste product, or pollutant-bearing water for a period of two (2) years or less at: ~~the following:~~

(1) **a** treatment plant;

(2) **a** generating facility; **or**

(3) **an** approved ~~off-site~~ storage structure. ~~or earthen lagoon.~~

(Water Pollution Control Board; 327 IAC 6.1-2-55; filed May 15, 1998, 10:20 a.m.: 21 IR 3784; readopted filed Jan 10, 2001, 3:23 p.m.: 24 IR 1518; filed Jul 7, 2003, 4:25 p.m.: 26 IR 3600)

SECTION 23. 327 IAC 6.1-2-55.3 IS ADDED TO READ AS FOLLOWS:

327 IAC 6.1-2-55.3 "Surface conduit to a subsurface feature" defined

Authority: IC 13-14-8-7; IC 13-15-1-2; IC 13-15-2-1; IC 13-18-3-1; IC 13-18-12-4
Affected: IC 13-11-2; IC 13-12-3-1; IC 13-18; IC 13-30-2-1

Sec. 55.3. "Surface conduit to a subsurface feature" means any surface expression of an enhanced pathway to a natural, geologic formation or manmade workings beneath the land surface. A surface conduit may include a sinkhole, slotted tile riser, or catch basin. A subsurface feature may include underground mines, aquifers, or underground streams. *(Water Pollution Control Board; 327 IAC 6.1-2-55.3; filed Jul 7, 2003, 4:25 p.m.: 26 IR 3601)*

SECTION 24. 327 IAC 6.1-2-55.5 IS ADDED TO READ AS FOLLOWS:

327 IAC 6.1-2-55.5 "Surface waters" defined

Authority: IC 13-14-8-7; IC 13-15-1-2; IC 13-15-2-1; IC 13-18-3-1; IC 13-18-12-4
Affected: IC 13-11-2; IC 13-12-3-1; IC 13-18; IC 13-30-2-1

Sec. 55.5. "Surface waters" means water present on the surface of the earth, including:

(1) streams;

(2) lakes;

(3) ponds;

(4) rivers;

(5) swamps;

(6) marshes; or

(7) wetlands.

(Water Pollution Control Board; 327 IAC 6.1-2-55.5; filed Jul 7, 2003, 4:25 p.m.: 26 IR 3601)

SECTION 25. 327 IAC 6.1-3-1 IS AMENDED TO READ AS FOLLOWS:

327 IAC 6.1-3-1 Permit applications

Authority: IC 13-14-8-7; IC 13-15-1-2; IC 13-15-2-1; IC 13-15-7-1; IC 13-18-3-1; IC 13-18-12-4
Affected: IC 13-11-2-77; IC 13-15-7; IC 13-30-6; IC 36-9-30-35

Sec. 1. (a) Permit applications under this article must be submitted on forms and in a format prescribed by the commissioner and include applicable accompanying documentation as described on the forms.

(b) ~~Except for permit applications submitted in accordance with section 4(c) or 4(d) of this rule,~~ A permit application must be submitted at least one hundred eighty (180) days prior to the proposed commencement of the operation.

(c) ~~Except for permit applications submitted in accordance with section 4(c) or 4(d) of this rule,~~ A permit application for renewal of an existing permit must be: ~~submitted~~

(1) postmarked;

(2) hand delivered to the office of land quality, Indiana department of environmental management; or

(3) deposited with a private carrier as shown by the receipt issued by the carrier, if the application is sent by the private carrier to the address for the department on the application;

at least one hundred eighty (180) days prior to the expiration of the existing permit **or the permit will be invalid upon expiration.**

(d) A permit may be renewed with new or modified conditions based on the information provided in the renewal application.

(e) The commissioner may:

(1) deny a permit application or a renewal application; or

(2) place additional conditions on a permit or renewal permit;

if the commissioner determines that one (1) or more of the criteria in subsection (f) demonstrate the applicant's inability or unwillingness to manage biosolid, industrial waste product, or pollutant-bearing water under the requirements of this article.

~~(d)~~ **(f)** The commissioner may deny ~~a permit application, including~~ **or place additional conditions on** a **permit or** renewal permit ~~or place conditions on a permit for~~ **based on one (1) or more of** the following:

(1) The applicant has been convicted of a crime under IC 13-30-6 or IC 36-9-30-35.

(2) The commissioner, under IC 13-15-7, has revoked the applicant's previous permit to operate under:

(A) this article; or

(B) 327 IAC 6, which was repealed in 1998.

(3) The applicant ~~is, at the time of the permit application or permit decision, not in compliance with the Environmental Protection Acts, or regulations~~ **has a history of one (1) or more violations of IC 13 or rules** promulgated ~~thereunder, or has a history of repeated violations of the Acts or regulations or material permit conditions that evidence an inability or unwillingness to comply with this article or a permit.~~ **by authority of IC 13.**

(4) The applicant was the subject of one (1) or more

administrative or judicial enforcement actions concerning land application under this article or 327 IAC 6, which was repealed in 1998.

(5) The applicant is the subject of one (1) or more pending administrative or judicial enforcement actions commended under authority of IC 13.

(g) The application for a permit or the issuance of a permit does not:

(1) convey any property rights of any sort or any exclusive privileges to the applicant or permittee;

(2) authorize:

(A) any injury to any person or private property;

(B) invasion of other property rights; or

(C) any infringement of federal, state, or local laws or regulations; or

(3) preempt any duty to comply with other federal, state, or local requirements.

~~(e)~~ **(h)** Proposals for equivalent methods for meeting requirements may be submitted for approval to the commissioner with the permit application for the following:

(1) Site restrictions in 327 IAC 6.1-4-6 and 327 IAC 6.1-7-5.

(2) The storage requirement in 327 IAC 6.1-4-8(a) and ~~327 IAC 6.1-7-9.~~ **327 IAC 6.1-7-9(a).**

(3) ~~Nutrient~~ Loading rates in 327 IAC 6.1-4-10 **and 327 IAC 6.1-7-10(a)(1) through 327 IAC 6.1-7-10(a)(3).**

(4) Vector attraction reduction requirements in 327 IAC 6.1-4-15.

(5) Monitoring and analysis requirements in 327 IAC 6.1-4-16 **and 327 IAC 6.1-7-2 through 327 IAC 6.1-7-4.**

~~(f)~~ **(i)** A management plan must be submitted to the commissioner with the permit application if any of the following are applicable:

(1) The management practice in 327 IAC 6.1-4-7(l) ~~and~~ **or** 327 IAC 6.1-7-6(j).

(2) The stockpiling requirement in ~~327 IAC 6.1-4-8(f).~~ **327 IAC 6.1-4-8(e).**

(3) Marketing and distribution in 327 IAC 6.1-5.

(Water Pollution Control Board; 327 IAC 6.1-3-1; filed May 15, 1998, 10:20 a.m.: 21 IR 3785; errata filed May 20, 1998, 1:15 p.m.: 21 IR 3939; readopted filed Jan 10, 2001, 3:23 p.m.: 24 IR 1518; filed Jul 7, 2003, 4:25 p.m.: 26 IR 3601)

SECTION 26. 327 IAC 6.1-3-2 IS AMENDED TO READ AS FOLLOWS:

327 IAC 6.1-3-2 Terms of land application permits

Authority: IC 13-14-8-7; IC 13-15-1-2; IC 13-15-2-1; IC 13-18-3-1; IC 13-18-12-4
Affected: IC 13-11-2-77

Sec. 2. **(a)** A land application permit shall conform with the following:

(1) The technical criteria and other requirements of the applicable sections of this article.

(2) If applicable, approved equivalent methods for meeting requirements under section ~~1(e)~~ **1(h)** of this rule that are developed by the applicant for the proposed operation.

(3) If applicable under section ~~1(f)~~ **1(i)** of this rule, an approved management plan specifically developed by the applicant for the proposed operation.

(b) The commissioner may include conditions to ensure compliance with this article. *(Water Pollution Control Board; 327 IAC 6.1-3-2; filed May 15, 1998, 10:20 a.m.: 21 IR 3786; readopted filed Jan 10, 2001, 3:23 p.m.: 24 IR 1518; filed Jul 7, 2003, 4:25 p.m.: 26 IR 3602)*

SECTION 27. 327 IAC 6.1-3-3 IS AMENDED TO READ AS FOLLOWS:

327 IAC 6.1-3-3 Discharges from land application operations

Authority: IC 13-15-1-2; IC 13-15-2-1; IC 13-18-3-1; IC 13-18-12-4
Affected: IC 13-11-2-77; IC 13-30-2-1

Sec. 3. There must be no discharge into ~~the~~ **surface** waters ~~of the state~~ **or ground water** from a land application operation except under a valid National Pollutant Discharge Elimination System (NPDES) permit issued in accordance with 327 IAC 5. *(Water Pollution Control Board; 327 IAC 6.1-3-3; filed May 15, 1998, 10:20 a.m.: 21 IR 3786; readopted filed Jan 10, 2001, 3:23 p.m.: 24 IR 1518; filed Jul 7, 2003, 4:25 p.m.: 26 IR 3602)*

SECTION 28. 327 IAC 6.1-3-4 IS AMENDED TO READ AS FOLLOWS:

327 IAC 6.1-3-4 Permit duration and transition requirements

Authority: IC 13-14-8-7; IC 13-15-1-2; IC 13-15-2-1; IC 13-18-3-1; IC 13-18-12-4
Affected: IC 13-15-3

Sec. 4. (a) Except as specifically provided for elsewhere in this article or Indiana statute, permits may be issued by the commissioner for any period of time not to exceed five (5) years as specified by IC 13-15-3.

(b) A permit application for the land application of biosolid, industrial waste product, or pollutant-bearing water submitted after the effective date of this article must comply with applicable sections of this article.

~~(c) For any person with a land application permit on the effective date of this article, a permit renewal application must be submitted within nine (9) months of the effective date of this article if the current permit:~~

~~(1) was issued before the effective date of this article; and~~

~~(2) has an expiration date that is less than or equal to two (2) years after the effective date of this article.~~

~~(d) For any person with a land application permit on the~~

~~effective date of this article, a permit renewal application must be submitted within one (1) year of the effective date of this article if the current permit:~~

~~(1) was issued before the effective date of this article; and~~

~~(2) has an expiration date that is more than two (2) years and less than five (5) years after the effective date of this article.~~

~~(c)~~ **(c)** If a person holding a valid permit under this article has made a timely and complete application for a renewal, ~~or new permit in accordance with this rule,~~ the existing permit does not expire until a final determination on the application is made by the commissioner. The commissioner may seek injunctive relief with regard to the continuing activity of the permit applicant while the permit application is pending if the continuing activity of the permit applicant constitutes a threat to the environment or the public health, safety, or welfare.

(d) Any permits granted under this article will continue to be in effect under the rules effective at the time the permit was issued until the permit is renewed as required. *(Water Pollution Control Board; 327 IAC 6.1-3-4; filed May 15, 1998, 10:20 a.m.: 21 IR 3786; readopted filed Jan 10, 2001, 3:23 p.m.: 24 IR 1518; filed Jul 7, 2003, 4:25 p.m.: 26 IR 3602)*

SECTION 29. 327 IAC 6.1-3-7 IS AMENDED TO READ AS FOLLOWS:

327 IAC 6.1-3-7 Responsibility of person who prepares

Authority: IC 13-14-8-7; IC 13-15-1-2; IC 13-15-2-1; IC 13-18-3-1; IC 13-18-12-4
Affected: IC 13-11-2-77; IC 13-30-2

Sec. 7. (a) A person who prepares a biosolid, industrial waste product, or pollutant-bearing water is legally responsible under this article for:

(1) the handling, transporting, storage, **marketing and distribution,** and land application ~~A person who prepares a~~ **of the** biosolid, industrial waste product, or pollutant-bearing water; ~~is responsible for~~ **and**

(2) compliance with the land application permit issued under this article and all applicable provisions of this article.

(b) In the event a person who prepares a biosolid, industrial waste product, or pollutant-bearing water provides a biosolid, industrial waste product, or pollutant-bearing water to another person for final land application **or for marketing and distribution,** and that **receiving** person alters the characteristics of the biosolid, industrial waste product, or pollutant-bearing water:

(1) the person who receives and alters the biosolid, industrial waste product, or pollutant-bearing water is considered the person who prepares the biosolid, industrial waste product, or pollutant-bearing water; and

(2) assumes ~~primary~~ responsibility for compliance with this article and ~~IC 13-30.~~ **IC 13-30-2.**

(c) In the event a person who prepares a biosolid, industrial waste product, or pollutant-bearing water:

(1) provides a biosolid, industrial waste product, or pollutant-bearing water to another person for final land application **or for marketing and distribution;** and

(2) that **receiving** person alters the characteristics of the biosolid, industrial waste product, or pollutant-bearing water;

the person who first prepares the biosolid, industrial waste product, or pollutant-bearing water shall submit ~~a letter~~ **the information as required by 327 IAC 6.1-4-18(a)** to the commissioner **stating the name of the facility** that ~~states who~~ received the biosolid, industrial waste product, or pollutant-bearing water.

(d) If the person who prepares a biosolid, industrial waste product, or pollutant-bearing water provides a biosolid, industrial waste product, or pollutant-bearing water to another person for final land application **or for marketing and distribution** and that **receiving** person does not alter the characteristics of the biosolid, industrial waste product, or pollutant-bearing water, then the person who applies **or markets and distributes** the biosolid, industrial waste product, or pollutant-bearing water is also responsible for complying with this article and ~~IC 13-30.~~ **IC 13-30-2.**

(e) When a person who prepares a biosolid or industrial waste product provides the biosolid or industrial waste product to:

(1) another person who prepares the biosolid or industrial waste product; or

(2) to a person who applies the biosolid or industrial waste product to the land **or for marketing and distribution;**

the person who provides the biosolid or industrial waste product shall provide the person who receives the biosolid or industrial waste product ~~notice and applicable~~ information to comply with this ~~rule~~ **article** and ~~IC 13-30.~~ **IC 13-30-2.** *(Water Pollution Control Board; 327 IAC 6.1-3-7; filed May 15, 1998, 10:20 a.m.: 21 IR 3787; readopted filed Jan 10, 2001, 3:23 p.m.: 24 IR 1518; filed Jul 7, 2003, 4:25 p.m.: 26 IR 3603)*

SECTION 30. 327 IAC 6.1-3-8 IS ADDED TO READ AS FOLLOWS:

327 IAC 6.1-3-8 Responsibility of person who prepares by receiving and blending

Authority: IC 13-14-8-7; IC 13-15-1-2; IC 13-15-2-1; IC 13-18-3-1; IC 13-18-12-4
Affected: IC 13-11-2-77; IC 13-30

Sec. 8. (a) If the person who prepares the biosolid or industrial waste product for land application blends either or both biosolid or industrial waste products, but does not treat the blend, the following apply:

(1) Biosolid or industrial waste product received for blending must not exceed the limits in Table 1 under 327 IAC 6.1-4-9(a).

(2) Dewatered biosolid received for blending must meet either:

(A) Class A under 327 IAC 6.1-4-13(a); or

(B) Class B under 327 IAC 6.1-4-13(c); standards.

(3) Blends that contain a biosolid and an industrial waste product must at the time of land application meet either:

(A) Class A under 327 IAC 6.1-4-13(a); or

(B) Class B under 327 IAC 6.1-4-13(c); standards.

(4) Liquid biosolid must meet one (1) of the following:

(A) When received for blending, meet either:

(i) Class A under 327 IAC 6.1-4-13(a); or

(ii) Class B under 327 IAC 6.1-4-13(c); standards.

(B) At the time of land application, meet either:

(i) Class A under 327 IAC 6.1-4-13(a); or

(ii) Class B under 327 IAC 6.1-4-13(c); standards.

(b) If the person who prepares the biosolid or industrial waste product for land application blends either or both biosolid or industrial waste products, but treats the blend, the following apply:

(1) Biosolid or industrial waste product received for blending must not exceed the limits in Table 1 under 327 IAC 6.1-4-9(a).

(2) Blends that contain a biosolid and industrial waste products must at the time of land application meet either:

(A) Class A under 327 IAC 6.1-4-13(a); or

(B) Class B under 327 IAC 6.1-4-13(c).

(Water Pollution Control Board; 327 IAC 6.1-3-8; filed Jul 7, 2003, 4:25 p.m.: 26 IR 3603)

SECTION 31. 327 IAC 6.1-4-1 IS AMENDED TO READ AS FOLLOWS:

327 IAC 6.1-4-1 Applicability

Authority: IC 13-14-8-7; IC 13-15-1-2; IC 13-15-2-1; IC 13-18-3-1; IC 13-18-12-4
Affected: IC 13-11-2-77; IC 13-18-14-1; IC 13-30-2-1

Sec. 1. This rule applies to any person who prepares a biosolid or industrial waste product that:

(1) is land applied; and

(2) meets the criteria set forth in section 4, ~~or~~ 5, **or 5.5** of this rule.

(Water Pollution Control Board; 327 IAC 6.1-4-1; filed May 15, 1998, 10:20 a.m.: 21 IR 3788; readopted filed Jan 10, 2001, 3:23 p.m.: 24 IR 1518; filed Jul 7, 2003, 4:25 p.m.: 26 IR 3604)

SECTION 32. 327 IAC 6.1-4-3 IS AMENDED TO READ AS FOLLOWS:

327 IAC 6.1-4-3 General requirements

Authority: IC 13-14-8-7; IC 13-15-1-2; IC 13-15-2-1; IC 13-18-3-1; IC 13-18-12-4
Affected: IC 13-11-2-77; IC 13-18-14-1; IC 13-30-2-1

Sec. 3. (a) Land application of biosolid or industrial waste product must be conducted under the supervision of:

(1) a certified wastewater treatment plant operator licensed under ~~327 IAC 8;~~ **327 IAC 5-22;** or

(2) a person with at least one (1) year of experience in land application management practices and procedures as demonstrated ~~through~~ **by specific facts contained in** a signed affidavit.

~~Notice~~ **The license number or the affidavit** must be submitted to the commissioner **with the permit application and within thirty (30) days** of any change in ~~the~~ supervisor of the activity.

(b) Any person who prepares or applies a biosolid or industrial waste product shall ensure that the applicable requirements in this article and the permit are met when the biosolid or industrial waste product is prepared for application to the land or is applied to land.

(c) No person shall apply a biosolid or industrial waste product to any site if any of the cumulative pollutant loading rates in Table 2 in section 9(b) of this rule have been ~~reached or~~ exceeded.

(d) The person who prepares a biosolid or industrial waste product that is applied to any land application site shall:

(1) provide the person who applies the biosolid or industrial waste product written notification of the ~~most recent nutrient concentrations as determined by testing under~~ **application rates necessary to comply with** section ~~16(i)~~ **4-10** of this rule; and

(2) provide any person that farms the land with nutrient loadings as determined by information provided by the person who applies the biosolid or industrial waste product.

(e) The person who prepares a biosolid or industrial waste product **to be applied** to the land shall obtain information needed to comply with the following requirements:

(1) Based on all available records, if a biosolid, ~~or~~ industrial waste product, **or pollutant-bearing water** has not been applied to the land application site, the cumulative amount for each pollutant listed in Table 2 in section 9(b) of this rule may be applied to the land application site in accordance with Table 2 in section 9(b) of this rule.

(2) If a biosolid, ~~or~~ industrial waste product, **or pollutant-bearing water** has been applied to the land application site and the cumulative amount of each pollutant ~~applied to the land application site in the biosolid or industrial waste product~~ is known, the cumulative amount ~~of each pollutant applied to the land application site~~ shall be used to determine the additional amount of each pollutant that can be applied to the land application site in accordance with Table 2 in section 9(b) of this rule.

(3) If a biosolid, ~~or~~ industrial waste product, **or pollutant-bearing water** has been applied to the land application site and the cumulative amount of each pollutant ~~applied to the land application site in the biosolid or industrial waste~~

~~product~~ is not documented, application of any additional biosolid, ~~or~~ industrial waste product, **or pollutant-bearing water** is prohibited.

(f) Before a biosolid, ~~or~~ industrial waste product, **or pollutant-bearing water** is applied to the land, the person who proposes to apply the biosolid, ~~or~~ industrial waste product, **or pollutant-bearing water** shall contact the commissioner to determine if a biosolid, ~~or~~ industrial waste product, **or pollutant-bearing water** has been applied to the land application site based on department records.

(g) The person who applies a biosolid or industrial waste product to the land shall provide the owner or lease holder of the land on which the biosolid or industrial waste product is applied ~~notice and applicable~~ information to comply with the management practices in section 7 of this rule.

(h) Any person who applies a biosolid or industrial waste product that was not generated in Indiana to land in Indiana must:

(1) be in compliance with IC 13-18-14-1; and

(2) obtain a permit under section 4, ~~or~~ 5, **or 5.5** of this rule from the commissioner.

(Water Pollution Control Board; 327 IAC 6.1-4-3; filed May 15, 1998, 10:20 a.m.: 21 IR 3788; readopted filed Jan 10, 2001, 3:23 p.m.: 24 IR 1518; filed Jul 7, 2003, 4:25 p.m.: 26 IR 3604)

SECTION 33. 327 IAC 6.1-4-4 IS AMENDED TO READ AS FOLLOWS:

327 IAC 6.1-4-4 Site-specific permits

Authority: IC 13-14-8-7; IC 13-15-1-2; IC 13-15-2-1; IC 13-18-3-1; IC 13-18-12-4
Affected: IC 13-11-2-77; IC 13-15; IC 13-30-2-1

Sec. 4. (a) For a biosolid to ~~be eligible for~~ **qualify under** a site-specific permit, the following criteria must be met:

(1) Either of the pathogen requirements:

(A) Class A in section 13(b) of this rule; or

(B) Class B in section 13(c) of this rule.

(2) Compliance with the vector attraction reduction requirements in section 15 of this rule.

(3) The pollutant limits in Table 1 in section 9(a) of this rule must not be exceeded.

(b) For an industrial waste product to ~~be eligible for~~ **qualify under** a site-specific permit, the pollutant limits in Table 1 in section 9(a) of this rule must not be ~~reached or~~ exceeded.

(c) A completed permit application must:

(1) be submitted to the commissioner on forms and in a format prescribed by the commissioner;

(2) include analytical data that demonstrates that pollutant concentrations do not exceed the limits in Table 1 in section 9(a) of this rule;

(3) for ~~biosolids,~~ **a biosolid,** provide the documentation of methods of pathogen ~~treatment~~ **reduction** and vector attraction reduction as required by sections 13 and 15 of this rule; and

(4) **include** any other information as may be required by the commissioner **to ensure compliance with this article.**

~~(d) A person who prepares a biosolid or a person applying for a permit shall comply with all applicable procedural requirements of the following:~~

~~(1) IC 13-15-4 pertaining to schedules for determinations on permits.~~

~~(2) IC 13-15-5 pertaining to comments on permit issuance or denial.~~

~~(3) IC 13-15-6 pertaining to an appeal of an agency determination.~~

~~(4) IC 13-15-8 pertaining to public notice.~~

~~(e)~~ **(d)** A person who prepares a biosolid **or industrial waste product** that has a site-specific permit shall comply with:

(1) all permit conditions;

(2) unless specified otherwise, all requirements under this rule; ~~and~~

(3) other applicable parts of this article; **and**

(4) the submission of monthly reports in accordance with section 18 of this rule.

~~(f) A person who prepares a biosolid that has a site-specific permit shall submit monthly reports in accordance with section 18 of this rule.~~ *(Water Pollution Control Board; 327 IAC 6.1-4-4; filed May 15, 1998, 10:20 a.m.: 21 IR 3789; readopted filed Jan 10, 2001, 3:23 p.m.: 24 IR 1518; filed Jul 7, 2003, 4:25 p.m.: 26 IR 3605)*

SECTION 34. 327 IAC 6.1-4-5 IS AMENDED TO READ AS FOLLOWS:

327 IAC 6.1-4-5 Nonsite-specific permits

Authority: IC 13-14-8-7; IC 13-15-1-2; IC 13-15-2-1; IC 13-18-3-1; IC 13-18-12-4
Affected: IC 13-11-2-77; IC 13-30-2-1

Sec. 5. (a) For a biosolid to ~~be eligible for~~ **qualify under** a nonsite-specific permit, the following criteria must be met:

(1) Either of the pathogen requirements:

(A) Class A in section 13(b) of this rule; or

(B) Class B in section 13(c) of this rule.

(2) Compliance with the vector attraction reduction requirements in section 15 of this rule.

(3) The pollutant concentrations ~~in Table 1 in section 9(a) of this rule and~~ in Table 3 in section 9(c) of this rule must not be exceeded.

(b) For an industrial waste product to ~~be eligible for~~ **qualify under** a nonsite-specific permit, the pollutant concentrations in ~~Table 1 in section 9(a) of this rule and~~ Table 3 in section 9(c) of

this rule must not be ~~reached or~~ exceeded.

(c) A completed permit application must:
(1) be submitted to the commissioner on forms and in a format prescribed by the commissioner;
(2) include analytical data that demonstrates that pollutant concentrations do not exceed the limits in ~~Table 1 in section 9(a) of this rule and~~ Table 3 in section 9(c) of this rule;
(3) include the names of all counties in which the biosolid or industrial waste product will be applied;
(4) for biosolid, provide the documentation of methods of pathogen ~~treatment~~ **reduction** and vector attraction reduction as required by sections 13 and 15 of this rule; and
(5) **include** any other information as may be required by the commissioner to ~~protect the environment or public health.~~ **ensure compliance with this article.**

(d) A person who prepares a biosolid or industrial waste product and that has a nonsite-specific permit shall:
(1) comply with all permit conditions;
(2) unless otherwise specified, comply with this rule;
(3) only apply to agricultural land;
(4) not apply a biosolid or industrial waste product within six hundred sixty (660) feet of any residence unless a signed waiver has been received from the owner and, if applicable, tenant of the residence; ~~and~~
(5) not apply a biosolid or industrial waste product within six hundred sixty (660) feet of any public building or public or nonpublic school building; **and**
(6) submit monthly reports in accordance with section 18 of this rule.

(e) Waivers must be obtained from the residence owner and, if applicable, tenant of the residence:
(1) for each year in which biosolid or industrial waste product is proposed to be applied at distances less than the setback distance in subsection (d)(4); and
(2) prior to the application of the biosolid or industrial waste product at distances less than the setback distance in subsection (d)(4).

~~(f) A person who prepares a biosolid or industrial waste product and that has a nonsite-specific permit shall submit monthly reports in accordance with section 10 of this rule.~~ *(Water Pollution Control Board; 327 IAC 6.1-4-5; filed May 15, 1998, 10:20 a.m.: 21 IR 3789; readopted filed Jan 10, 2001, 3:23 p.m.: 24 IR 1518; filed Jul 7, 2003, 4:25 p.m.: 26 IR 3605)*

SECTION 35. 327 IAC 6.1-4-5.5 IS ADDED TO READ AS FOLLOWS:

327 IAC 6.1-4-5.5 Hybrid permits

Authority: IC 13-14-8-7; IC 13-15-1-2; IC 13-15-2-1; IC 13-18-3-1; IC 13-18-12-4
Affected: IC 13-11-2-77; IC 13-30-2-1

Sec. 5.5. (a) A hybrid permit is a type of nonsite-specific permit in which some sites are identified. For a biosolid to qualify under a hybrid permit, the following criteria must be met:
(1) Either of the pathogen requirements:
(A) Class A in section 13(b) of this rule; or
(B) Class B in section 13(c) of this rule.
(2) Compliance with the vector attraction reduction requirements in section 15 of this rule.
(3) The pollutant concentrations in Table 3 in section 9(c) of this rule must not be exceeded.

(b) For an industrial waste product to qualify under a hybrid permit, the pollutant concentrations in Table 3 in section 9(c) of this rule must not be exceeded.

(c) A completed permit application must:
(1) be submitted to the commissioner on forms and in a format prescribed by the commissioner;
(2) include analytical data that demonstrates that pollutant concentrations do not exceed the limits in Table 3 in section 9(c) of this rule;
(3) include the names of all counties in which the biosolid or industrial waste product will be applied;
(4) for biosolid, provide the documentation of methods of pathogen reduction and vector attraction reduction as required by sections 13 and 15 of this rule;
(5) include site-specific information for those sites to be identified in the permit and presented in a format and on forms prescribed by the commissioner; and
(6) include any other information as may be required by the commissioner to ensure compliance with this article.

(d) A person who prepares a biosolid or industrial waste product and that has a hybrid permit shall comply with the following:
(1) The site restrictions in section 6 of this rule.
(2) For nonsite-specific sites:
(A) comply with all permit conditions;
(B) unless otherwise specified, comply with this rule;
(C) only apply the biosolid or industrial waste product to agricultural land;
(D) not apply a biosolid or industrial waste product within six hundred sixty (660) feet of any residence unless a signed waiver has been received from the owner and, if applicable, tenant of the residence; and
(E) not apply a biosolid or industrial waste product within six hundred sixty (660) feet of any public building or public or nonpublic school building.
(3) For site-specific sites:
(A) comply with all permit conditions; and
(B) unless otherwise specified, comply with this rule.
(4) Submission of monthly reports in accordance with section 18 of this rule.

(e) Waivers must be obtained from the residence owner and, if applicable, tenant of the residence:

(1) for each year in which biosolid or industrial waste product is proposed to be applied at distances less than the setback distance in subsection (d)(2)(D); and

(2) prior to the application of the biosolid or industrial waste product at distances less than the setback distance in subsection (d)(2)(D).

(Water Pollution Control Board; 327 IAC 6.1-4-5.5; filed Jul 7, 2003, 4:25 p.m.: 26 IR 3606)

SECTION 36. 327 IAC 6.1-4-6 IS AMENDED TO READ AS FOLLOWS:

327 IAC 6.1-4-6 Site restrictions

Authority: IC 13-14-8-7; IC 13-15-1-2; IC 13-15-2-1; IC 13-18-3-1; IC 13-18-12-4
Affected: IC 13-11-2-77; IC 13-30-2-1

Sec. 6. (a) **Land** application of a biosolid or industrial waste product must not be conducted

~~(1)~~ within: ~~thirty-three (33) feet of any waters of the state;~~

~~(2) except by subsurface injection or incorporation by the end of the day, within three hundred (300) feet of any waters of the state;~~

~~(3) except by subsurface injection, within three hundred (300) feet of any residence;~~

~~(4) within fifty (50) feet of any well;~~

~~(5) within two hundred (200) feet of a potable water well or drinking water spring;~~

~~(6) within fifty (50) feet of the property line of any public building or public or nonpublic school.~~

Feature	Surface Application	Injection	Incorporation by End of Day
Surface waters or the surface conduit to a subsurface feature	**300 feet**	**33 feet**	**33 feet**
Residence	**300 feet**	**To property line**	**300 feet**
Any well	**50 feet**	**50 feet**	**50 feet**
Potable well or drinking water spring	**200 feet**	**200 feet**	**200 feet**
Any public building or public or nonpublic school	**50 feet from property line**	**50 feet from property line**	**50 feet from property line**

(b) Waivers must be obtained from the residence owner and, if applicable, tenant of the residence:

(1) for each year in which biosolid or industrial waste product is proposed to be applied at distances less than the setback distance **for a residence** in subsection ~~(a)(3);~~ **(a);** and

(2) prior to the application of the biosolid or industrial waste product at distances less than the setback distance **for a residence** in subsection ~~(a)(3).~~ **(a).**

~~(c) Using soil survey data established by USDA Natural Resource Conservation Service, application of a biosolid or industrial waste product is prohibited if:~~

~~(1) the seasonal high water table is within eighteen (18) inches of the soil surface; and~~

~~(2) the seasonal high water table is:~~

~~(A) within thirty-six (36) inches of the soil surface; and~~

~~(B) any soil layer between eighteen (18) inches and thirty-six (36) inches below the surface has a permeability of greater than two (2) inches per hour.~~

~~(d) Requirements for application of a biosolid or industrial waste product onto a slope are as follows:~~

~~(1) Application of a biosolid or industrial waste product on slopes greater than eighteen percent (18%) is prohibited.~~

~~(2) Dewatered biosolid or industrial waste product may be applied by surface application on slopes that are no greater than twelve percent (12%).~~

~~(3) Dewatered biosolid or industrial waste product incorporated into the soil on the day of application may be applied to slopes that are no greater than eighteen percent (18%).~~

~~(4) Liquid biosolid or industrial waste product may be applied by surface application on slopes that are no greater than six percent (6%).~~

~~(5) Liquid biosolid or industrial waste product may be injected into the soil on slopes that are no greater than eighteen percent (18%).~~

(c) Land application of a biosolid or industrial waste product must not be conducted on slopes greater than:

	Surface Application	Injection	Incorporation by End of Day
Liquid	**6%**	**18%**	**6%**
Dewatered	**12%**	**NA**	**18%**

~~(e)~~ **(d)** Biosolid or industrial waste product must not be applied to land unless there is a minimum depth of twenty (20) inches of soil overlying bedrock.

~~(f) Except for a biosolid containing an industrial waste product with a cadmium level of two (2) milligrams per kilogram or greater,~~ **(e)** The soil pH must be 5.5 or greater at the time ~~a biosolid is applied unless the commissioner determines that the soil pH must be higher to protect the environment or public health.~~ **of land application for the following:**

(1) Biosolid.

(2) Biosolid containing an industrial waste product with a cadmium concentration of two (2) milligrams per kilogram or less than two (2) milligrams per kilogram.

(3) Industrial waste product with a cadmium concentration of two (2) milligrams per kilogram or less than two

(2) milligrams per kilogram.

~~(g)~~ **(f)** The soil pH must be 6.5 or greater at the time ~~an industrial waste product or a biosolid containing an industrial waste product with a cadmium level of two (2) milligrams per kilogram or greater is applied unless the commissioner determines that the soil pH must be higher to protect the environment or public health.~~ **of land application for the following:**

(1) Industrial waste product with a cadmium concentration greater than two (2) milligrams per kilogram.

(2) Biosolid containing an industrial waste product with a cadmium concentration greater than two (2) milligrams per kilogram.

~~(h)~~ **(g)** The soil pH value shall be:

(1) obtained by sampling the soil to the depth of cultivation or ~~a~~ **depth of placement of the** biosolid or industrial waste product, ~~placement,~~ whichever is greater; ~~and analyzing~~

(2) analyzed by the electrometric method*;

(3) collected as one (1) representative composite sample per every twenty-five (25) acres or fraction thereof within the application site; and

(4) be valid only if the analyses were performed within the last two (2) years of the date of application on the site.

*The electrometric method may be found in "Methods of Soil Analysis, Agronomy Monograph No. 9.", C.A. Black, ed., American Society of Agronomy, Madison, Wisconsin, pp. 199-209, 1982, available from the American Society of Agronomy, Soil Science of America, Inc., 677 South Segoe Road, Madison, Wisconsin 53711. This method is also available for copying at the Indiana Department of Environmental Management, Office of ~~Solid and Hazardous Waste Management,~~ **Land Quality,** 100 North Senate Avenue, Room 1154, Indianapolis, Indiana 46204. *(Water Pollution Control Board; 327 IAC 6.1-4-6; filed May 15, 1998, 10:20 a.m.: 21 IR 3790; readopted filed Jan 10, 2001, 3:23 p.m.: 24 IR 1518; filed Jul 7, 2003, 4:25 p.m.: 26 IR 3607)*

SECTION 37. 327 IAC 6.1-4-7 IS AMENDED TO READ AS FOLLOWS:

327 IAC 6.1-4-7 Management practices

Authority: IC 13-14-8-7; IC 13-15-1-2; IC 13-15-2-1; IC 13-18-3-1; IC 13-18-12-4
Affected: IC 13-11-2-77; IC 13-30-2-1; IC 14-20-1; IC 14-22-34

Sec. 7. (a) Food crops shall not be harvested for fourteen (14) months after application of a biosolid if the harvested part:

(1) touches the ground where biosolid has been applied; and

(2) has no harvested parts below the soil surface.

(b) Food crops shall not be harvested for twenty (20) months after application of a biosolid if:

(1) the biosolid remains on the land surface for four (4) months or longer prior to incorporation into the soil; and

(2) harvested parts are below the soil surface.

(c) Food crops shall not be harvested for thirty-eight (38) months after application of biosolid if:

(1) the biosolid remains on the land surface for less than four (4) months prior to incorporation into the soil; and

(2) harvested parts are below the soil surface.

(d) Unless subsection (a), (b), or (c) applies, food crops, feed crops, and fiber crops shall not be harvested for thirty (30) days after application of biosolid.

(e) Grazing of animals on land that has received biosolid is prohibited for thirty (30) days after application of the biosolid.

(f) **Except for a Class A biosolid under section 13(b) of this rule,** turf grown on land where biosolid is applied shall not be harvested for one (1) year after application of the biosolid if the harvested turf is placed on ~~either~~ land with a high potential for public exposure. ~~or a lawn unless otherwise approved by the commissioner.~~

(g) Except for a Class A biosolid under section 13(b) of this rule, public access to land with a high potential for public exposure shall be restricted for one (1) year after application of biosolid to that land.

(h) Except for a Class A biosolid under section 13(b) of this rule, public access to land with a low potential for public exposure shall be restricted for thirty (30) days after application of biosolid.

(i) A biosolid or industrial waste product shall not be applied to the land:

(1) if the biosolid or industrial waste product is likely to adversely affect a threatened or endangered species or its designated critical habitat; or

(2) in violation of ~~endangered species regulations at~~ IC 14-22-34.

(j) A biosolid or industrial waste product shall not be applied to the land in violation of historic preservation requirements under IC 14-20-1. ~~or 310 IAC 15-3.~~

(k) Application of biosolid or industrial waste product is prohibited if the moisture holding capacity of the soil is exceeded. ~~as a result of previous land application practices, precipitation occurrences, or flooding.~~

(l) A biosolid or industrial waste product may only be applied to land that is frozen or snow-covered if:

(1) the biosolid or industrial waste product does not enter ~~a wetland or other~~ **surface** waters ~~of the state;~~ **or ground water;** and

(2) a management plan has been submitted and approved by the commissioner including the following:

(A) ~~setbacks~~ **Setback distances from residences and public buildings, surface waters, wells, and other structures.**
(B) Application rates.
(C) Site characteristics, **including the following:**
(i) Flood plains.
(ii) Water table.
(iii) Slope.
(D) Supervision and operational oversight. ~~and~~
(E) Other ~~applicable~~ **relevant** information **to show that the land application will not violate this article.**

(m) A biosolid or industrial waste product may only be applied in a flood plain if **the biosolid or industrial waste product:**
(1) ~~the biosolid or industrial waste product~~ is injected or incorporated into the soil by the end of the day of placement in the flood plain; and
(2) ~~the biosolid or industrial waste product~~ does not enter ~~a wetland or other~~ **surface** waters ~~of the state~~ **or ground water.**

(n) A biosolid or industrial waste product with a concentration of molybdenum greater than forty (40) milligrams per kilogram is prohibited from being applied to pasture. *(Water Pollution Control Board; 327 IAC 6.1-4-7; filed May 15, 1998, 10:20 a.m.: 21 IR 3790; readopted filed Jan 10, 2001, 3:23 p.m.: 24 IR 1518; filed Jul 7, 2003, 4:25 p.m.: 26 IR 3608)*

SECTION 38. 327 IAC 6.1-4-8 IS AMENDED TO READ AS FOLLOWS:

327 IAC 6.1-4-8 Storage, stockpiling, and staging of biosolid or industrial waste product

Authority: IC 13-14-8-7; IC 13-15-1-2; IC 13-15-2-1; IC 13-18-3-1; IC 13-18-12-4
Affected: IC 13-11-2-77; IC 13-30-2-1

Sec. 8. (a) A minimum of ninety (90) days effective storage capacity is required for **storing** a biosolid or industrial waste product unless an equivalent method of meeting the requirement is approved by the commissioner.

(b) Except for ~~earthen~~ lagoons under 327 IAC 6.1-8, any storage structures, such as pits or tanks, which are subject to volume fluctuations due to precipitation events, must have a minimum of one (1) foot of freeboard at all times.

~~(c) A construction permit must be obtained from the commissioner under 327 IAC 3 prior to construction of storage structures located at the treatment works that generates the biosolid or industrial waste product.~~

~~(d) Off-site~~ **(c)** Storage structures for the storage of biosolid or industrial waste product must ~~be in accordance~~ **comply** with 327 IAC 6.1-8.

~~(e)~~ **(d)** A **fixed volume of** biosolid or industrial waste product for land application may be stored **in any storage structure** for no more than two (2) years.

~~(f)~~ **(e)** Stockpiling of a biosolid or industrial waste product at a land application site must be handled in accordance with an approved management plan, including the following:
(1) ~~Setbacks.~~ **Setback distances from residences and public buildings, surface waters, wells, and other structures.**
(2) Site characteristics, **including the following:**
(A) Flood plains.
(B) Water table.
(C) Slope.
(3) Handling practices, **including the following:**
(A) Length of time the biosolid or industrial waste product will be stockpiled.
(B) Run-off control measures.
(C) Berm construction.
(4) Nuisance control measures.
~~(4)~~ **(5)** Other applicable information.

~~(g)~~ **(f)** Staging of a biosolid or industrial waste product for less than twenty-four (24) hours must be handled in accordance with the following:
(1) The biosolid or industrial waste product must be dewatered.
(2) The permittee shall conduct the land application operation in such a manner that staging of dewatered biosolid or industrial waste product is minimized.
(3) The amount of biosolid or industrial waste product staged must not exceed the maximum amount that can be applied to that land application site within twenty-four (24) hours of placement at the land application site in accordance with this rule or the permit.
(4) Staging of dewatered biosolid or industrial waste product is prohibited:
(A) within three hundred (300) feet of any **surface** waters ~~of the state~~ or surface inlet to a subsurface drainage system;
(B) within six hundred sixty (660) feet of any residence unless a signed waiver has been received from the owner and, if applicable, tenant of the residence;
(C) within two hundred (200) feet of any potable water supply well or drinking water spring;
(D) on any area with a slope greater than two percent (2%); **and**
(E) on any area located in the flood plain unless applied by the end of same day it is staged. ~~and~~
~~(F) on any area with a seasonal high water table within three (3) feet of the surface.~~

~~(h)~~ **(g)** Waivers must be obtained from the residence owner and, if applicable, tenant of the residence for each year in which

biosolid or industrial waste product is proposed to be staged at distances less than the setback distance in subsection ~~(g)(4)(B).~~ **(f)(4)(B).**

~~(i)~~ **(h)** In addition to the requirements in subsection ~~(g),~~ **(f),** the following requirements apply to staging of a biosolid or industrial waste product for more than twenty-four (24) hours due to unforeseen circumstances, such as an extreme weather event or equipment failure:

(1) Except under subdivision (2), the biosolid or industrial waste product must be completely covered by a tarp or plastic sheet.

(2) If not covered in accordance with subdivision (1), the biosolid or industrial waste product must be applied to the land application site or returned to an approved storage site within forty-eight (48) hours of placement at the staging location.

(3) The person who prepares a biosolid or industrial waste product shall submit written notification within one (1) week to the commissioner that includes the following information:

(A) The date the biosolid or industrial waste product was placed at the land application site.

(B) The reason the biosolid or industrial waste product could not be applied within twenty-four (24) hours of staging.

(C) The date the biosolid or industrial waste product was applied to the land application site or returned to an approved storage site.

(Water Pollution Control Board; 327 IAC 6.1-4-8; filed May 15, 1998, 10:20 a.m.: 21 IR 3791; readopted filed Jan 10, 2001, 3:23 p.m.: 24 IR 1518; filed Jul 7, 2003, 4:25 p.m.: 26 IR 3609)

SECTION 39. 327 IAC 6.1-4-9 IS AMENDED TO READ AS FOLLOWS:

327 IAC 6.1-4-9 Pollutant limits

Authority: IC 13-14-8-7; IC 13-15-1-2; IC 13-15-2-1; IC 13-18-3-1; IC 13-18-12-4
Affected: IC 13-11-2-77; IC 13-30-2-1

Sec. 9. (a) Table 1 in this subsection lists ceiling concentrations of metal pollutants ~~*~~ for a biosolid or industrial waste product that is land applied. A biosolid or industrial waste product must not be applied to land if the concentration of pollutants in the biosolid or industrial waste product ~~as determined by EPA-600/4-79-020*, reaches or~~ exceeds any of the ceiling concentration limits established in the following:

Table 1
Ceiling Concentrations

Pollutant	Ceiling Concentration (milligrams per kilogram)[1]
Arsenic	75
Cadmium	85
Copper	4,300
Lead	840
Mercury	57
Molybdenum	75
Nickel	420
Selenium	100
Zinc	7,500

[1]Dry weight basis

(b) Table 2 in this subsection lists the cumulative pollutant loading rates ~~*~~ for sites on which a biosolid or industrial waste product is applied:

Table 2
Cumulative Pollutant Loading Rates ~~*~~

Pollutant	Cumulative Pollutant Loading Rates (pounds per acre)
Arsenic	~~37~~ **36**
Cadmium	~~35~~ **34**[1]
Copper	~~1,339~~ **1,338**
Lead	~~268~~ **267**
Mercury	15
Molybdenum	**not applicable**
Nickel	~~375~~ **374**
Selenium	89
Zinc	2,499

[1]**This number is** for biosolid only. The cumulative pollutant loading rate for cadmium ~~in~~ **from an** industrial waste product or **a** biosolid ~~that includes~~ **containing** an industrial waste product is four and one-half (4.5) pounds per acre for **a** soil cation exchange capacity of less than 5; nine (9) pounds per acre if the soil cation exchange capacity is between 5 and 15; and eighteen (18) pounds per acre if the soil cation exchange capacity is greater than 15.

(c) Table 3 in this subsection lists the pollutant concentrations for biosolid or industrial waste product ~~as determined by EPA-600/4-79-020*,~~ to be applied to the land in accordance with a nonsite-specific permit under section 5 of this rule, **a hybrid permit under section 5.5 of this rule,** or a marketing and distribution program permit under 327 IAC 6.1-5:

Table 3
Pollutant Concentrations

Pollutant	Pollutant Concentrations (milligrams per kilogram)[1]
Arsenic	41
Cadmium	39
Copper	1,500
Lead	300
Mercury	17
Molybdenum	**75**
Nickel	420
Selenium	100
Zinc	2,800

[1]Dry weight basis

(d) Table 4 in this subsection lists the maximum annual pollutant loading rates for sites where biosolid or industrial

waste product is land applied:

Table 4
Maximum Annual Pollutant Loading Rates

Pollutant	Annual Pollutant Loading Rate (pounds per acre per 365 day period)
Arsenic	1.8
Cadmium	0.45
Copper	66.0
Lead	13.4
Mercury	0.7
Molybdenum	**not applicable**
Nickel	18.7
Selenium	4.4
Zinc	124.9

(e) Table 4.5 in this subsection lists the maximum detection limits to be achieved for all analysis of industrial waste products and biosolid that have total solids of one percent (1%) or greater:

Table 4.5

Detection limits (milligrams per kilogram dry weight)	
Arsenic	**2**
Cadmium	**10**
Lead	**10**
Mercury	**2**
Molybdenum	**10**
Nickel	**10**
Selenium	**2**

~~(e)~~ **(f)** A permitted biosolid or industrial waste product that exceeds any pollutant ceiling concentrations in Table 1 in subsection (a) must not be applied to the land unless the commissioner approves the results of the following analyses prior to initial application:

(1) The person who prepares a biosolid or industrial waste product shall take at least four (4) representative samples of the biosolid or industrial waste product to be applied to analyze for any metal concentration in Table 1 in subsection (a) that has been exceeded.

(2) For a biosolid or industrial waste product that is receiving additional biosolid or industrial waste product, the four (4) samples must be taken:

(A) within a thirty (30) day period; and

(B) at least two (2) days apart.

(3) For a fixed volume of a biosolid or industrial waste product that is not receiving additional biosolid or industrial waste product, the four (4) samples must be taken within a thirty (30) day period.

(4) The analysis for each pollutant in all four (4) samples must be less than the comparable pollutant ceiling concentration in Table 1 in subsection (a).

~~(f)~~ **(g)** Under a nonsite-specific **or hybrid** permit, the person who prepares a biosolid or industrial waste product that exceeds any concentration of a metal listed in Table 3 in subsection (c) shall do either of the following:

(1) Within ninety (90) days of first receiving knowledge of the exceeded limit, the person who prepares a biosolid or industrial waste product shall apply for a site-specific permit for land application of the biosolid or industrial waste product. The biosolid or industrial waste product must be applied under a site-specific permit.

(2) Provide the following analysis within forty-five (45) days of first receiving knowledge of the exceeded limit for approval by the commissioner:

(A) The person who prepares a biosolid or industrial waste product shall take at least four (4) representative samples of the biosolid or industrial waste product to be applied to analyze for any metal concentration in ~~Table 1~~ **Table 3** in subsection ~~(a)~~ **(c)** that has been exceeded.

(B) For biosolid or industrial waste product that is ~~receiving additional biosolid or industrial waste product,~~ **not a fixed volume,** the four (4) samples must be taken:

(i) within a thirty (30) day period; and

(ii) at least two (2) days apart.

(C) For a fixed volume of biosolid or industrial waste product, ~~that is not receiving additional biosolid or industrial waste product,~~ the four (4) samples must be taken within a thirty (30) day period.

(D) The ~~analysis of the~~ average of the four (4) samples for each pollutant must be less than the comparable pollutant concentrations in Table 3 in subsection (c).

(E) If ~~any of the analyses of~~ the average of the four (4) samples for each pollutant exceeds the comparable pollutant concentrations in Table 3 in subsection (c), the person who prepares a biosolid or industrial waste product shall apply for a site-specific permit within sixty (60) days of receiving the results of the analysis in this subdivision.

~~(g)~~ **(h)** A person who prepares a biosolid or industrial waste product and that intends to reapply for a nonsite-specific **or hybrid** permit shall complete the following for approval by the commissioner:

(1) The person who prepares a biosolid or industrial waste product shall take at least eight (8) representative samples of the biosolid or industrial waste product to be applied to analyze for any metal concentration in Table 3 in subsection (c) that has been exceeded.

(2) The samples must be taken:

(A) within a twelve (12) month period; and

(B) at least thirty (30) days apart.

(3) All pollutant concentrations in all eight (8) samples must have pollutant concentrations less than the comparable pollutant concentrations in Table 3 in subsection (c).

~~*Methods referenced in this section may be obtained as follows:~~

~~(1) EPA-600/4-79-020, Methods for Chemical Analysis of Water and Wastes, March 1983, available from Environmental Protection Agency, Water Quality Office, Analytical~~

~~Quality Control Laboratory, 1014 Broadway, Cincinnati, Ohio 45202.~~

~~(2) For the purpose of determining annual pollutant loading rates and cumulative pollutant loading rates, methods for measuring inorganic pollutants may be found in "Test Methods for Evaluating Solid Waste, Physical/Chemical Methods", EPA Publication SW-846, [Third Edition, November 1986, as amended by Updates 1 (July 1992), 2 (September 1994), 2A (August 1993), and 2B (January 1995)], available from U.S. EPA.~~

~~These methods are also available for copying at the Indiana Department of Environmental Management, Office of Solid and Hazardous Waste Management, 100 North Senate Avenue, Room 1154, Indianapolis, Indiana 46204.~~ *(Water Pollution Control Board; 327 IAC 6.1-4-9; filed May 15, 1998, 10:20 a.m.: 21 IR 3792; readopted filed Jan 10, 2001, 3:23 p.m.: 24 IR 1518; filed Jul 7, 2003, 4:25 p.m.: 26 IR 3610)*

SECTION 40. 327 IAC 6.1-4-10 IS AMENDED TO READ AS FOLLOWS:

327 IAC 6.1-4-10 Loading rate limits

Authority: IC 13-14-8-7; IC 13-15-1-2; IC 13-15-2-1; IC 13-18-3-1; IC 13-18-12-4
Affected: IC 13-11-2-77; IC 13-30-2-1

Sec. 10. (a) Maximum crop and annual loading rates are determined for a biosolid or industrial waste products to be applied on the basis of the following parameters:

(1) Crop application rates, based on plant available nitrogen (PAN) loadings using the appropriate formulas in subsection (b), shall not exceed either of the following:

(A) PAN loading rates for crop production in Table 5 as follows:

Table 5

Plant Available Nitrogen Loading for Crop Production

Crop	Pounds of PAN Per Acre[1]
Corn	200
Soybeans	100
Hay**, pasture**	100
Cereal grain	100
Set aside/idle	50

[1]An equivalent method of meeting the nutrient management requirement may be submitted to the commissioner for approval for alternative nutrient loading rates that provide equivalent or greater protection to the environment and public health.

(B) The nitrogen removal rate for the proposed crop to be grown on the land application site adjusted to account for application of fertilizers, manure, and the presence of residual available nitrogen in the soil from previous applications of a biosolid, industrial waste product, or pollutant-bearing water.

(2) Annual loading rates of a biosolid or industrial waste product must not result in any of the annual pollutant loading rates in Table 4 in section 9(d) of this rule being exceeded. The following formula for annual loading rate calculation applies to this article and must be used to calculate the amount of biosolid or industrial waste product to be applied per acre per three hundred sixty-five (365) day period:

$$ALR = \frac{APLR}{C \times 0.002}$$

Where: ALR = Annual loading rate in dry tons per acre per three hundred sixty-five (365) day period **(dry, short ton of biosolid or industrial waste product/acre/year).**

APLR = Annual pollutant loading rate in pounds per acre per three hundred sixty-five (365) day period **(pounds/acre/year).**

C = Pollutant concentration in milligrams per kilogram ~~(mg/kg)~~ of total solids ~~as determined by Part 2540 G*.~~ **(mg of pollutant/kg of biosolid or industrial waste product dry weight).**

(3) Phosphorus loading requirements may be included as a permit condition if the commissioner determines it is necessary for protection of public health or the environment.

(b) The following formulas for PAN loading calculations apply to this article and must be used to calculate the amount of PAN in the biosolid or industrial waste product and the residual available nitrogen at the application site; all calculations are based on a percent dry weight basis:

(1) %Total N = %Total Kjeldahl N + %Nitrate N

(2) %Organic N = %Total N - (% ~~Ammonium~~ **Ammonia** N + %Nitrate N)

(3) Pounds Organic N per dry ton of industrial waste product or biosolid, except anaerobically digested biosolid, available during year of application = %Organic N × 6

(4) Pounds Organic N per dry ton of anaerobically digested biosolid available during year of application = %Organic N × 4

(5) Pounds of ~~Ammonium~~ **Ammonia** N per dry ton = % ~~Ammonium~~ **Ammonia** N × 20

(6) Pounds of Nitrate N per dry ton = %Nitrate N × 20

(7) Pounds PAN per dry ton = Pounds of Organic N per dry ton + Pounds of ~~Ammonium~~ **Ammonia** N per dry ton + Pounds of Nitrate N per dry ton

(8) Residual nitrogen from past biosolid or industrial waste product applications:

(A) Pounds of residual N from industrial waste product or biosolid, except anaerobically digested biosolid, available one (1) year after application = %Organic N × 3 × dry tons applied per acre

(B) Pounds of residual N from anaerobically digested biosolid available one (1) year after application = %Organic N × 2 × dry tons applied per acre

(C) Pounds of residual N from industrial waste product or biosolid, except anaerobically digested biosolid, available two (2) years after application = %Organic N × 1.6 × dry tons applied per acre

(D) Pounds of residual N from anaerobically digested

biosolid available two (2) years after application = %Organic N × dry tons applied per acre

(E) Pounds of residual N from industrial waste product or biosolid, except anaerobically digested biosolid, available three (3) years after application = %Organic N × 0.8 × dry tons applied per acre

(F) Pounds of residual N from anaerobically digested biosolid available three (3) years after application = %Organic N × 0.5 × dry tons applied per acre

Where: N = Nitrogen.

~~*Part 2540 G may be found in "Standard Methods for the Examination of Water and Wastewater", 18th Edition, 1992, available from American Public Health Association, 1015 15th Street, N.W., Washington, D.C. 20005. This method is also available for copying at the Indiana Department of Environmental Management, Office of Solid and Hazardous Waste Management, 100 North Senate Avenue, Room 1154, Indianapolis, Indiana 46204.~~ *(Water Pollution Control Board; 327 IAC 6.1-4-10; filed May 15, 1998, 10:20 a.m.: 21 IR 3794; readopted filed Jan 10, 2001, 3:23 p.m.: 24 IR 1518; filed Jul 7, 2003, 4:25 p.m.: 26 IR 3612)*

SECTION 41. 327 IAC 6.1-4-11 IS AMENDED TO READ AS FOLLOWS:

327 IAC 6.1-4-11 Land application of paper waste

Authority: IC 13-14-8-7; IC 13-15-1-2; IC 13-15-2-1; IC 13-18-3-1; IC 13-18-12-4
Affected: IC 13-11-2-77; IC 13-30-2-1

Sec. 11. (a) Any person who is applying for a permit to land apply paper waste shall analyze the paper waste using EPA Method 1613 B* to determine the total toxic equivalency factor (TEF) for tetrachlorodibenzo-p-dioxin (2,3,7,8-TCDD) and tetrachlorodibenzo-p-furan (2,3,7,8-TCDF) where:

Total TEF = 2,3,7,8-TCDD + 0.1(2,3,7,8-TCDF)

(b) Rather than conduct a new analysis under subsection (a), a person who prepares a biosolid or industrial waste product and that applies for a permit renewal to land apply paper waste may submit results of an analysis for 2,3,7,8-TCDD and 2,3,7,8-TCDF by EPA Method 1613 B* that is up to one (1) year old if the applicant also provides a signed statement that:

(1) the analysis is representative of the ~~material~~ **paper waste** currently being produced; and

(2) no significant **manufacturing or waste treatment** process changes have been made.

(c) Land application of any paper waste with a total toxic equivalency factor for 2,3,7,8-TCDD and 2,3,7,8-TCDF that is greater than or equal to seventy-five (75) parts per trillion is prohibited.

(d) Land application of any paper waste with a total toxic equivalency factor for 2,3,7,8-TCDD and 2,3,7,8-TCDF that is less than seventy-five (75) parts per trillion must be in accordance with applicable permit conditions.

(e) For purposes of this section, paper waste means a ~~material~~ **solid waste** generated in the production or recycling of paper or paper-like products.

*Method 1613 B may be found in EPA 821-B-94-005, October 1994, available from the Water Resource Center, Mail Code RC 4100, 401 M Street, S.W., Washington, D.C. 20460, (202) 260-7786. This method is also available for copying at the Indiana Department of Environmental Management, Office of ~~Solid and Hazardous Waste Management,~~ **Land Quality,** 100 North Senate Avenue, Room 1154, Indianapolis, Indiana 46204. *(Water Pollution Control Board; 327 IAC 6.1-4-11; filed May 15, 1998, 10:20 a.m.: 21 IR 3795; readopted filed Jan 10, 2001, 3:23 p.m.: 24 IR 1518; filed Jul 7, 2003, 4:25 p.m.: 26 IR 3613)*

SECTION 42. 327 IAC 6.1-4-13 IS AMENDED TO READ AS FOLLOWS:

327 IAC 6.1-4-13 Pathogen requirements

Authority: IC 13-14-8-7; IC 13-15-1-2; IC 13-15-2-1; IC 13-18-3-1; IC 13-18-12-4
Affected: IC 13-11-2-77; IC 13-30-2-1

Sec. 13. (a) This section contains the requirements for a biosolid to be classified either Class A or Class B with respect to pathogens.

(b) To be categorized as Class A, a biosolid must meet or exceed the following requirements:

(1) The pathogen requirements in subdivision (2) must be met either prior to, or at the same time as, the vector attraction reduction requirements in section 15(b)(1) through 15(b)(5), 15(b)(9), and 15(b)(10) of this rule.

(2) The requirements in one (1) of the following alternatives:

(A) For Class A, Alternative 1, except for composting, the following:

(i) ~~Either~~ The density of fecal coliform in the biosolid, as determined by Part 9221 E* or Part 9222 D*, must be less than one thousand (1,000) most probable number (MPN) per gram of total solids. ~~or the density of Salmonella sp. bacteria in the biosolid, as determined using Part 9260 D*, must be less than three (3) MPN per four (4) grams of total solids.~~

(ii) The temperature of the biosolid that is used or disposed must be maintained at a specific value for a period of time as applicable in the following:

(AA) When the percent total solids of the biosolid is seven percent (7%) or higher, the temperature of the biosolid must be fifty **(50)** degrees Celsius ~~(50°C)~~ or higher; the time period must be twenty (20) minutes or longer; and the temperature and time period must be determined using Equation 1 as follows, except when

small particles of biosolid are heated by either warmed gases or an immiscible liquid:

Equation 1:

$$D = \frac{131{,}700{,}000}{10^{0.14000t}}$$

Where: D = Time in days.

t = Temperature in degrees Celsius.

(BB) When the percent total solids of the biosolid is seven percent (7%) or higher and small particles of biosolid are heated by either warmed gases or an immiscible liquid, the temperature of the biosolid must be fifty **(50)** degrees Celsius ~~(50°C)~~ or higher; the time period must be fifteen (15) seconds or longer; and the temperature and time period must be determined using Equation 1 in subitem (AA).

(CC) When the percent total solids of the biosolid is less than seven percent (7%) and the time period is at least fifteen (15) seconds, but less than thirty (30) minutes, the temperature and time period must be determined using Equation 1 in subitem (AA).

(DD) When the percent total solids of the biosolid is less than seven percent (7%), the temperature of the biosolid is fifty **(50)** degrees Celsius ~~(50°C)~~ or higher; and the time period is thirty (30) minutes or longer, the temperature and time period must be determined using Equation 2 as follows:

Equation 2:

$$D = \frac{50{,}070{,}000}{10^{0.14000t}}$$

Where: D = Time in days.

t = Temperature in degrees Celsius.

(B) For Class A, Alternative 2, the following:

(i) ~~Either~~ The density of fecal coliform in the biosolid, as determined by Part 9221 E* or Part 9222 D*, must be less than one thousand (1,000) MPN per gram of total solids. ~~or the density of Salmonella sp. bacteria in the biosolid, as determined using Part 9260 D*, must be less than three (3) MPN per four (4) grams of total solids.~~

(ii) The pH of the biosolid must be raised to above 12 and shall remain above 12 for seventy-two (72) hours.

(iii) The temperature of the biosolid must be above fifty-two **(52)** degrees Celsius ~~(52°C)~~ for twelve (12) hours or longer during the period that the pH of the biosolid is above 12.

(iv) At the end of the seventy-two (72) hour period during which the pH of the biosolid is above 12, the biosolid must be air dried to achieve a percent total solids in the biosolid greater than fifty percent (50%).

(C) For Class A, Alternative 3, the following:

(i) ~~Either~~ The density of fecal coliform in the biosolid, as determined by Part 9221 E* or Part 9222 D*, must be less than one thousand (1,000) MPN per gram of total solids. ~~or the density of Salmonella sp. bacteria in the biosolid, as determined using Part 9260 D*, must be less than three (3) MPN per four (4) grams of total solids.~~

(ii) Regarding enteric viruses, the following:

(AA) The biosolid must be analyzed prior to pathogen treatment to determine whether the biosolid contains enteric viruses using ASTM Designation: D 4994-89*.

(BB) When the density of enteric viruses in the biosolid prior to pathogen treatment is less than one (1) plaque-forming unit (PFU) per four (4) grams of total solids the biosolid is Class A with respect to enteric viruses until the next monitoring required by section 16 of this rule for the biosolid.

(CC) When the density of enteric viruses in the biosolid prior to pathogen treatment is equal to or greater than one (1) PFU per four (4) grams of total solids the biosolid is Class A with respect to enteric viruses when the density of enteric viruses in the biosolid after pathogen treatment is less than one (1) PFU per four (4) grams of total solids and when the values or ranges of values for the operating parameters for the pathogen treatment process that produces the biosolid that meets the enteric virus density requirement are documented.

(DD) After the enteric virus reduction in subitem (CC) is demonstrated for the pathogen treatment process, the biosolid continues to be Class A with respect to enteric viruses when the values for the pathogen treatment process operating parameters are consistent with the values or ranges of values documented in subitem (CC).

(iii) Regarding viable helminth ova, the following:

(AA) Prior to pathogen treatment the biosolid must be analyzed to determine whether the biosolid contains viable helminth ova using methods in EPA 600/1-87-014*.

(BB) When the density of viable helminth ova in the biosolid prior to pathogen treatment is less than one (1) per four (4) grams of total solids the biosolid is Class A with respect to viable helminth ova until the next monitoring required by section 16 of this rule for the biosolid.

(CC) When the density of viable helminth ova in the biosolid prior to pathogen treatment is equal to or greater than one (1) per four (4) grams of total solids the biosolid is Class A with respect to viable helminth ova when the density of viable helminth ova in the biosolid after pathogen treatment is less than one (1) per four (4) grams of total solids and when the values or ranges of values for the operating parameters for the pathogen treatment process that produces the biosolid that meets the viable helminth ova density requirement are documented.

(DD) After the viable helminth ova reduction in subitem (CC) is demonstrated for the pathogen treatment process, the biosolid continues to be Class A with

respect to viable helminth ova when the values for the pathogen treatment process operating parameters are consistent with the values or ranges of values documented in subitem (CC).

(D) For Class A, Alternative 4, the following:

(i) ~~Either~~ The density of fecal coliform in the biosolid, as determined by Part 9221 E* or Part 9222 D*, must be less than one thousand (1,000) MPN per gram of total solids. ~~or the density of Salmonella sp. bacteria in the biosolid, as determined using Part 9260 D*, must be less than three (3) MPN per four (4) grams of total solids.~~

(ii) The density of enteric viruses in the biosolid must be less than one (1) PFU per four (4) grams of total solids.

(iii) The density of viable helminth ova in the biosolid must be less than one (1) per four (4) grams of total solids.

(E) For Class A, Alternative 5, the following:

(i) ~~Either~~ The density of fecal coliform in the biosolid, as determined by Part 9221 E* or Part 9222 D*, must be less than one thousand (1,000) MPN per gram of total solids. ~~or the density of Salmonella, sp. bacteria in the biosolid, as determined using Part 9260 D*, must be less than three (3) MPN per four (4) grams of total solids.~~

(ii) Biosolid must be treated in one (1) of the processes to further reduce pathogens described in section 14(b) of this rule.

(F) For Class A, Alternative 6, the following:

(i) ~~Either~~ The density of fecal coliform in the biosolid, as determined by Part 9221 E* or Part 9222 D*, must be less than one thousand (1,000) MPN per gram of total solids. ~~or the density of Salmonella, sp. bacteria in the biosolid, as determined using Part 9260 D*, must be less than three (3) MPN per four (4) grams of total solids.~~

(ii) A biosolid must be treated in a process that is equivalent to a process to further reduce pathogens as determined by the commissioner on the recommendation of EPA.

(c) To be categorized as Class B, a biosolid must meet one (1) of the following alternatives:

(1) For Class B, Alternative 1, the following:

(A) Seven (7) representative samples of the biosolid must be collected prior to land application.

(B) The geometric mean of the density of fecal coliform in the samples collected in ~~item (i)~~ **clause (A)** must be less than either two million (2,000,000) MPN per gram of total solids or two million (2,000,000) colony-forming units (CFU) per gram of total solids.

(2) For Class B, Alternative 2, the biosolid must be treated by one (1) of the processes to significantly reduce pathogens described in section 14(a) of this rule.

(3) For Class B, Alternative 3, the biosolid that is used or disposed must be treated in a process that is equivalent to a process to significantly reduce pathogens, as determined by the commissioner on the recommendation of EPA.

(d) For purposes of subsection (b)(2)(B), the pH of biosolid must be measured at twenty-five **(25)** degrees Celsius ~~(25°C)~~ or measured at another temperature and then converted to an equivalent value at twenty-five **(25)** degrees Celsius. ~~(25°C).~~

*Methods referenced in this section may be obtained as follows:

(1) Part 9221 E and Part 9222 D may be found in "Standard Methods for the Examination of Water and Wastewater", 18th Edition, 1992, available from American Public Health Association, 1015 15th Street, N.W., Washington, D.C. 20005.

~~(2) Part 9260 D may be found in "Standard Methods for the Examination of Water and Wastewater", 18th Edition, 1992, available from the American Public Health Association, 1015 15th Street, N.W., Washington, D.C. 20005; or Kenner, B.A. and H.P. Clark, "Detection and Enumeration of Salmonella and Pseudomonas Aeruginosa", Journal of the Water Pollution Control Federation, Vol. 46, no. 9, September 1974, pp. 2163-2171, available from Water Environment Federation, 601 Wythe Street, Alexandria, Virginia 22314.~~

~~(3)~~ **(2)** ASTM Designation: D 4994-89 may be found in "Standard Practice for Recovery of Viruses From Wastewater Sludges", 1996 Annual Book of ASTM Standards: Section 11.02, Water, Part 2, available from ASTM, 1916 Race Street, Philadelphia, Pennsylvania 19103-1187.

~~(4)~~ **(3)** EPA 600/1-87-014, Yanko, W.A., "Occurrence of Pathogens in Distribution and Marketing Municipal Sludges", January 1988, is available from National Technical Information Service, 5285 Port Royal Road, Springfield, Virginia 22161 (PB 88-154273/AS).

These methods are also available for copying at the Indiana Department of Environmental Management, Office of ~~Solid and Hazardous Waste Management,~~ **Land Quality,** 100 North Senate Avenue, Room 1154, Indianapolis, Indiana 46204. *(Water Pollution Control Board; 327 IAC 6.1-4-13; filed May 15, 1998, 10:20 a.m.: 21 IR 3795; errata, 21 IR 4537; readopted filed Jan 10, 2001, 3:23 p.m.: 24 IR 1518; filed Jul 7, 2003, 4:25 p.m.: 26 IR 3613)*

SECTION 43. 327 IAC 6.1-4-16 IS AMENDED TO READ AS FOLLOWS:

327 IAC 6.1-4-16 Monitoring and analysis

Authority: IC 13-14-8-7; IC 13-15-1-2; IC 13-15-2-1; IC 13-18-3-1; IC 13-18-12-4
Affected: IC 13-14-4-3

Sec. 16. (a) Characteristics of a biosolid or industrial waste product must be monitored as required in this section.

(b) The resulting analyses of such characteristics must be reported on both a wet weight and dry weight basis.

(c) Analyses of additional parameters may be required by the commissioner on a case-by-case basis to protect the environment or public health.

(d) Biosolid or industrial waste product that is to be applied

to the land must be monitored each day of land application for percent total solids.

(e) Prior to land application, representative samples of biosolid or industrial waste product that is to be applied to the land shall be collected and analyzed at the frequency listed in Table 6 in subsection (f) for the following parameters:

(1) Percent total solids.

(2) The following total metals, **as determined by EPA/600/4-91/010 or SW 846*, with detection limits not to exceed Table 4.5 of section 9(e) of this rule:**

(A) Arsenic.
(B) Cadmium.
(C) Copper.
(D) Lead.
(E) Mercury.
(F) Molybdenum.
(G) Nickel.
(H) Selenium.
(I) Zinc.

(3) Polychlorinated biphenyls (PCBs).

(4) The applicable pathogen density requirements in section 13 of this rule.

(5) The applicable vector attraction reduction requirements in section 15(b) of this rule or an equivalent vector attraction reduction requirement as determined by the commissioner.

(f) The results of the analysis in subsection (e) are valid for the applicable length of time listed in Table 6 as follows:

Table 6

Frequency of Monitoring

Amount of Biosolid or Industrial Waste Product[1] (dry tons per 365 day period)	Frequency of Monitoring[2]
Greater than 0 but less than ~~100~~ **319**	12 months
Equal to or greater than ~~100~~ **319** but less than ~~300~~ **1,653**	3 months
Equal to or greater than ~~300~~ **1,653** but less than ~~1,000~~ **16,530**	2 months
Equal to or greater than ~~1,000~~ **16,530**	1 month

[1]For existing facilities, either the amount of biosolid or industrial waste product generated in the previous year or the amount of biosolid or industrial waste product received by a person who prepares biosolid or industrial waste product that is marketed or distributed for application to the land, dry weight basis. For new facilities, the amount determined by engineering estimates for generation of biosolid or industrial waste product for the specific new facility.

[2]For the purposes of this table, a month is a 30 day period.

(g) After the biosolid or industrial waste product has been monitored for two (2) years at the frequency in Table 6 in subsection (f), the person who prepares a biosolid or industrial waste product may request a reduced frequency of monitoring from the commissioner for pollutant concentrations in subsection ~~(e).~~ **(e)(2) and (e)(4).**

(h) If the person who prepares a biosolid or industrial waste product can demonstrate to the satisfaction of the commissioner that the biosolid or industrial waste product has contained no detectable concentrations of PCBs for the previous two (2) years, the commissioner may reduce the required monitoring frequency for PCBs.

(i) For ~~each~~ **biosolid or industrial waste product that is a fixed volume, the person who prepares must, as specified in the permit, do either subdivision (1) or (2) as follows:**

(1) A representative sample of the biosolid or industrial waste product must be collected and analyzed for the parameters in subdivision (3) prior to land application. The results of this analysis are valid for reporting land application activities for a thirty (30) day period ~~that biosolid or industrial waste product is applied, a composite sample of the biosolid or industrial waste product sufficient for analysis must be collected and analyzed for the~~ following **the sample report date.**

(2) Collect a composite sample and analyze for the parameters in subdivision (3). The composite sample must consist of a representative sample collected during each day of application. The composite sample must be collected over no more than thirty (30) days.

(3) The following parameters must be analyzed:**

~~(1)~~ **(A)** Percent total solids.
~~(2)~~ **(B)** Total nitrogen.
~~(3)~~ **(C)** Ammonia nitrogen.
~~(4)~~ **(D)** Nitrate nitrogen.
~~(5)~~ **(E)** Phosphorus.
~~(6)~~ **(F)** Potassium.

(j) For biosolid or industrial waste product that is not a fixed volume, the person who prepares must collect a composite sample and analyze for the parameters in subsection (i)(3). The composite sample must consist of a representative sample collected during each day of application. The composite sample must be collected over no more than thirty (30) days.

~~(j)~~ **(k)** Alternative equivalent methods meeting the requirements of ~~327 IAC 6.1-3-1(e)(5)~~ **this section** may be used ~~if~~ **by** the person who prepares a biosolid or industrial waste product ~~receives prior written approval from~~ **if approved by** the commissioner.

***Methods referenced in this section may be obtained as follows:**

(1) EPA/600/4-91/010, "Methods for the Determination of Metals in Environmental Samples", June 1991, available from Environmental Protection Agency, Water Quality Office, Analytical Quality Control Laboratory, 1014 Broadway, Cincinnati, Ohio 45202.

(2) "Test Methods for Evaluating Solid Waste, Physi-

cal/Chemical Methods", EPA Publication SW-846, [Third Edition, November 1986, as amended by Updates 1 (July 1992), 2 (September 1994), 2A (August 1993), and 2B (January 1995) and 3 (December 1996)], available from U.S. EPA.

****EPA-600/4-79-020, "Methods for Chemical Analysis of Water and Wastes", March 1983, available from Environmental Protection Agency, Water Quality Office, Analytical Quality Control Laboratory, 1014 Broadway, Cincinnati, Ohio 45202.**

These methods are also available for copying at the Indiana Department of Environmental Management, Office of Land Quality, 100 North Senate Avenue, Room 1154, Indianapolis, Indiana 46204. *(Water Pollution Control Board; 327 IAC 6.1-4-16; filed May 15, 1998, 10:20 a.m.: 21 IR 3800; readopted filed Jan 10, 2001, 3:23 p.m.: 24 IR 1518; filed Jul 7, 2003, 4:25 p.m.: 26 IR 3615)*

SECTION 44. 327 IAC 6.1-4-17 IS AMENDED TO READ AS FOLLOWS:

327 IAC 6.1-4-17 Records and record keeping

Authority: IC 13-14-8-7; IC 13-15-1-2; IC 13-15-2-1; IC 13-18-3-1; IC 13-18-12-4
Affected: IC 13-14-4-3; IC 13-15-2

Sec. 17. (a) Information regarding application rates and site conditions must be recorded daily by the person who prepares a biosolid or industrial waste product or as otherwise specified by the permit.

(b) The person who prepares a biosolid or industrial waste product shall record the monitoring results and information required by section 16 of this rule. Such records must be:

(1) retained by the person who prepares the biosolid or industrial waste product for:

(A) a minimum of five (5) years; or

(B) a longer time if required by the commissioner in the permit; and

(2) accessible to department representatives at the facility or other location clearly identified in writing to the commissioner.

(c) For biosolid or industrial waste product that is applied to any land application site under 327 IAC 6.1-4 the following applies:

(1) The person who prepares the biosolid or industrial waste product shall develop the following information and shall retain the information for five (5) years:

(A) The results of the analyses conducted under section 16 of this rule.

(B) A certification statement on forms and in a format prescribed by the commissioner.

(C) A description of how the Class A pathogen requirements in section 13(b) of this rule or Class B pathogen requirements in section 13(c) of this rule are met.

(D) When one (1) of the vector attraction reduction requirements in section 15(b)(1) through 15(b)(8) of this rule is met, a description of how the vector attraction reduction requirement is met.

(E) The information in subdivision (3)(E) through (3)(G) provided by the person who applies the biosolid or industrial waste product.

(F) Documentation for the length of time for stockpiles under section 8(e)(3)(A) of this rule.

(2) The person who prepares the biosolid or industrial waste product shall develop the following information and shall retain the information indefinitely:

(A) The cumulative amount of each pollutant in pounds per acre listed in Table 2 in section 9(b) of this rule in the biosolid or industrial waste product applied to each site, including the amount in section 3(e)(3) of this rule.

(B) A description of how the requirements to obtain information in section 3(e) of this rule are met.

(C) The information in subdivision (3)(A) through (3)(D) provided by the person who applies the biosolid or industrial waste product.

(3) For each day in which biosolid or industrial waste product is applied, the person who applies the biosolid or industrial waste product shall develop the following information and provide it to the person who prepares the biosolid or industrial waste product:

(A) The location, indicated on a site map, of each site that biosolid or industrial waste product is applied.

(B) The number of acres in each site to which biosolid or industrial waste product is applied.

(C) The date biosolid or industrial waste product is applied to each site.

(D) The amount of biosolid or industrial waste product in dry tons applied to each site.

(E) A description of how the site restrictions in ~~section~~ **sections 5(d), 5.5(d), and** 6 of this rule and the management practices in section 7 of this rule are met for each site on which biosolid or industrial waste product is applied.

(F) When the vector attraction reduction requirement in either section 15(b)(9) or 15(b)(10) of this rule is met, a certification statement on forms prescribed by the commissioner.

(G) If the vector attraction reduction requirements in either section 15(b)(9) or 15(b)(10) of this rule are met, a description of how the requirements are met.

(4) The person who prepares by receiving and blending shall document the following:

(A) The generating source of the received biosolid or industrial waste product.

(B) The amount of the biosolid or industrial waste product.

(C) The date the biosolid or industrial waste product was received.

(d) A copy of the permit must be kept at the treatment

plant or generating facility. *(Water Pollution Control Board; 327 IAC 6.1-4-17; filed May 15, 1998, 10:20 a.m.: 21 IR 3801; readopted filed Jan 10, 2001, 3:23 p.m.: 24 IR 1518; filed Jul 7, 2003, 4:25 p.m.: 26 IR 3617)*

SECTION 45. 327 IAC 6.1-4-18 IS AMENDED TO READ AS FOLLOWS:

327 IAC 6.1-4-18 Reports and reporting

Authority: IC 13-14-8-7; IC 13-15-1-2; IC 13-15-2-1; IC 13-18-3-1; IC 13-18-12-4
Affected: IC 13-14-4-3; IC 13-15

Sec. 18. (a) Activities and analyses related to ~~land~~ ~~application~~ **disposal** of a biosolid or industrial waste product must be reported:

(1) to the commissioner ~~each~~ within thirty (30) days of the last day of each calendar month for the term of the permit; and

(2) submitted on forms and in a format prescribed by the commissioner **unless the commissioner makes a determination that only an electronic copy is needed**.

(b) The person who prepares a biosolid or industrial waste product shall notify the commissioner of the cumulative application on a land application site of any metal in Table 2 in section 9(b) of this rule for the applied biosolid or industrial waste product in a quantity equal to or greater than ninety percent (90%) of the quantity specified in Table 2 in section 9(b) of this rule within thirty (30) days after that level is reached.

(c) The quantity of all metals listed in Table 2 in section 9(b) of this rule that are applied to the land application site will be forwarded by the commissioner to the county recorder of the county where the land application site is located for inclusion in the permanent land records when ninety percent (90%) of the level of any metal is reached as per Table 2 in section 9(b) of this rule. *(Water Pollution Control Board; 327 IAC 6.1-4-18; filed May 15, 1998, 10:20 a.m.: 21 IR 3801; readopted filed Jan 10, 2001, 3:23 p.m.: 24 IR 1518; filed Jul 7, 2003, 4:25 p.m.: 26 IR 3618)*

SECTION 46. 327 IAC 6.1-4-19 IS AMENDED TO READ AS FOLLOWS:

327 IAC 6.1-4-19 Research and demonstration projects for biosolid or industrial waste product

Authority: IC 13-14-8-7; IC 13-15-1-2; IC 13-15-2-1; IC 13-18-3-1; IC 13-18-12-4
Affected: IC 13-11-2-77; IC 13-30-2-1

Sec. 19. Biosolid or industrial waste product may be used for research and demonstration projects in accordance with IC 13-30-2-1(7) if a plan with the following information is submitted and approved by the commissioner:

(1) Name, address, phone number, and authorizing signatures of:

(A) the person conducting the research or demonstration project;

(B) the responsible person designated from the facility providing the biosolid or industrial waste product; and

(C) the owner of the property upon which the research or demonstration project will be conducted.

(2) Narrative statement of goals and objectives of research or demonstration project.

(3) Description of experimental design.

(4) Description and quantity of ~~material.~~ **biosolid or industrial waste product.**

(5) Analytical data.

(6) Location of property upon which research or demonstration project will be conducted.

(7) Duration of project.

(8) Other applicable information.

(Water Pollution Control Board; 327 IAC 6.1-4-19; filed May 15, 1998, 10:20 a.m.: 21 IR 3802; readopted filed Jan 10, 2001, 3:23 p.m.: 24 IR 1518; filed Jul 7, 2003, 4:25 p.m.: 26 IR 3618)

SECTION 47. 327 IAC 6.1-5-1 IS AMENDED TO READ AS FOLLOWS:

327 IAC 6.1-5-1 Marketing and distribution permit eligibility criteria for biosolid

Authority: IC 13-14-8-7; IC 13-15-1-2; IC 13-15-2-1; IC 13-18-3-1; IC 13-18-12-4
Affected: IC 13-11-2-77; IC 13-18-14-1; IC 13-30-2-1

Sec. 1. For a biosolid to be eligible for a marketing and distribution permit, the following criteria must be met:

(1) The Class A pathogen requirements in 327 IAC 6.1-4-13(b).

(2) Compliance with at least one (1) of the vector attraction reduction requirements in 327 IAC 6.1-4-15(b)(1) through 327 IAC 6.1-4-15(b)(8) or an equivalent vector attraction reduction requirement as determined by the commissioner.

(3) The pollutant concentrations are less than the concentrations in ~~Table 1 in 327 IAC 6.1-4-9(a) and~~ Table 3 in 327 IAC 6.1-4-9(c).

(4) The biosolid must be dewatered.

(5) The biosolid must not contain a concentration of polychlorinated biphenyls (PCBs) of two (2) milligrams per kilogram or greater on a dry weight basis.

(Water Pollution Control Board; 327 IAC 6.1-5-1; filed May 15, 1998, 10:20 a.m.: 21 IR 3802; readopted filed Jan 10, 2001, 3:23 p.m.: 24 IR 1518; filed Jul 7, 2003, 4:25 p.m.: 26 IR 3618)

SECTION 48. 327 IAC 6.1-5-2 IS AMENDED TO READ AS FOLLOWS:

327 IAC 6.1-5-2 Marketing and distribution permit eligibility criteria industrial waste product

Authority: IC 13-14-8-7; IC 13-15-1-2; IC 13-15-2-1; IC 13-18-3-1; IC 13-18-12-4
Affected: IC 13-11-2-77; IC 13-18-14-1; IC 13-30-2-1

Sec. 2. For an industrial waste product to be eligible for a

marketing and distribution permit, the following criteria must be met:

(1) The pollutant concentrations are less than the concentrations in ~~Table 1 in 327 IAC 6.1-4-9(a) and~~ Table 3 in 327 IAC 6.1-4-9(c).

(2) The industrial waste product must be dewatered.

(3) The industrial waste product must not contain a concentration of polychlorinated biphenyls (PCBs) of two (2) milligrams per kilogram or greater on a dry weight basis.

(Water Pollution Control Board; 327 IAC 6.1-5-2; filed May 15, 1998, 10:20 a.m.: 21 IR 3802; readopted filed Jan 10, 2001, 3:23 p.m.: 24 IR 1518; filed Jul 7, 2003, 4:25 p.m.: 26 IR 3618)

SECTION 49. 327 IAC 6.1-5-3 IS AMENDED TO READ AS FOLLOWS:

327 IAC 6.1-5-3 Marketing and distribution permit application

Authority: IC 13-14-8-7; IC 13-15-1-2; IC 13-15-2-1; IC 13-18-3-1; IC 13-18-12-4
Affected: IC 13-11-2-77; IC 13-18-14-1; IC 13-30-2-1

Sec. 3. (a) Approval for a biosolid or industrial waste product marketing and distribution permit must be requested in an application on forms and in a format prescribed by the commissioner and submitted to the commissioner in accordance with 327 IAC 6.1-3. The application must include a proposed management plan submitted and approved by the commissioner, including the following:

(1) How the ~~material~~ **biosolid or industrial waste product** will be marketed.

(2) Quality control measures.

(3) Treatment process description.

(4) How the ~~material~~ **biosolid or industrial waste product** will be stored, including the following:

(A) Setback distances from residences and public buildings, **surface** waters, ~~of the state,~~ wells, and other structures.

(B) Location criteria including flood plains, ~~floodways,~~ slopes, ~~seasonal high~~ water table, soil pH, and other location criteria.

(C) Design and construction of storage structures.

(D) Nuisance control measures.

(5) Procedures for addressing noncomplying practices by ~~end~~ users, including:

(A) a written notification of the proper use of the ~~material~~ **biosolid or industrial waste product** to the noncomplying ~~end~~ user; and

(B) other applicable procedures.

(6) Other applicable information.

(b) To market or distribute biosolid or industrial waste product that is not generated in Indiana and that is to be applied to land in Indiana under a marketing and distribution permit, persons who prepare the biosolid or industrial waste product that was not generated in Indiana or marketers of the biosolid or industrial waste product that was not generated in Indiana must:

(1) be in compliance with IC 13-18-14-1; and

(2) obtain an Indiana permit by:

(A) requesting reciprocity from the commissioner; or

(B) submitting an application in accordance with subsection (a).

(c) Persons who prepare a biosolid or industrial waste product that was not generated in Indiana and that are requesting reciprocity shall hold a valid permit from another state that is at least as stringent as this article.

(d) The commissioner shall issue a permit that is valid for no longer than the expiration date of the out-of-state permit **or up to five (5) years, whichever is shorter,** to the person who prepares a biosolid or industrial waste product that was not generated in Indiana and that is for marketing and distribution program if:

(1) a submitted application or request for reciprocity is approved by the commissioner; and

(2) the commissioner determines that the operation of the program under the proposed project description does not pose a risk to the environment or public health.

(Water Pollution Control Board; 327 IAC 6.1-5-3; filed May 15, 1998, 10:20 a.m.: 21 IR 3802; readopted filed Jan 10, 2001, 3:23 p.m.: 24 IR 1518; filed Jul 7, 2003, 4:25 p.m.: 26 IR 3619)

SECTION 50. 327 IAC 6.1-5-4 IS AMENDED TO READ AS FOLLOWS:

327 IAC 6.1-5-4 Marketing and distribution permits; general

Authority: IC 13-14-8-7; IC 13-15-1-2; IC 13-15-2-1; IC 13-18-3-1; IC 13-18-12-4
Affected: IC 13-11-2-77; IC 13-30-2-1

Sec. 4. (a) Any person who prepares a biosolid or industrial waste product and that holds a marketing and distribution permit shall comply with the following:

(1) All permit conditions.

(2) The person who prepares a biosolid or industrial waste product shall develop and distribute an information sheet that includes the following:

(A) The name and address of the person who prepared the biosolid or industrial waste product that is marketed or distributed for application to the land.

(B) A statement that application of the biosolid or industrial waste product is prohibited, except in accordance with the instructions on the information sheet.

(C) Quality criteria based on current analytical data for the biosolid or industrial waste product.

(D) Recommended maximum application rates based upon nutrient content.

(E) For the information sheet for an industrial waste

product or a biosolid containing an industrial waste product containing more than two (2) milligrams per kilogram cadmium, a statement that the soil pH must be at least 6.5 when applied to land for food crops.

(F) For the information sheet for a biosolid or an industrial waste product containing more than forty (40) milligrams per kilogram of molybdenum, a statement that the biosolid or the industrial waste product must not be applied to pasture.

(3) This information sheet must be:

(A) kept on file for the duration of the permit and for five (5) years following the expiration of the permit;

(B) updated quarterly or as specified in the permit; and

(C) be accessible to department representatives at the facility or other location approved by the commissioner.

(4) Each person who prepares a biosolid or industrial waste product is responsible for informing users of a biosolid or industrial waste product of the biosolid or industrial waste product quality and proper amounts for specific needs.

(5) Annual reports must be submitted on forms and in a format prescribed by the commissioner by January 31 of each **subsequent** year. ~~the material is generated, distributed, or marketed. In addition to an updated copy of the information sheet to be distributed with the material,~~ The report must include the following information:

(A) The biosolid or industrial waste product ~~quality and~~ quantity ~~generated.~~ **distributed or marketed.**

~~(B) The name and address of recipients of more than one (1) metric ton per calendar quarter.~~

(B) An updated copy of the information sheet to be distributed with the biosolid or industrial waste product.

(C) The analytical data required under subsection (b).

(b) The person who prepares a biosolid or industrial waste product under a marketing and distribution permit shall collect and analyze representative samples for the parameters listed in 327 IAC 6.1-4-16(e) and 327 IAC 6.1-4-16(i) at the applicable frequency listed in Table 6 in 327 IAC 6.1-4-16(f), except for biosolid or industrial waste product in quantities of less than ~~one hundred (100)~~ **three hundred nineteen (319)** dry tons per three hundred sixty-five (365) day period that must be monitored at least twice per year.

(c) The person who prepares a biosolid or industrial waste product under a marketing and distribution permit in ~~327 IAC 6.1-5~~ **this rule** shall develop the following information and shall retain the information for five (5) years:

(1) Analyses conducted in accordance with ~~327 IAC 6.1-5-4(b).~~ **subsection (b).**

(2) A certification statement on forms prescribed by the commissioner.

(3) A description of how the Class A pathogen requirements in ~~section 13(b) of this rule~~ **327 IAC 6.1-4-13(b)** are met.

(4) A description of how one (1) of the vector attraction reduction requirements in ~~section 15(b)(1) through 15(b)(8) of this rule is~~ **327 IAC 6.1-4-15(b)(1) through 327 IAC 6.1-4-15(b)(8) are** met.

(5) Copies of all written notifications for noncomplying use of the ~~material~~ **biosolid or industrial waste product** that have been sent to ~~end~~ users.

(6) The name and address of recipients of more than one (1) dry ton per calendar quarter.

(Water Pollution Control Board; 327 IAC 6.1-5-4; filed May 15, 1998, 10:20 a.m.: 21 IR 3803; readopted filed Jan 10, 2001, 3:23 p.m.: 24 IR 1518; filed Jul 7, 2003, 4:25 p.m.: 26 IR 3619)

SECTION 51. 327 IAC 6.1-6-1 IS AMENDED TO READ AS FOLLOWS:

327 IAC 6.1-6-1 Notification eligibility criteria

Authority: IC 13-14-8-7; IC 13-15-1-2; IC 13-15-2-1; IC 13-18-3-1; IC 13-18-12-4
Affected: IC 13-11-2-77; IC 13-30-2-1

Sec. 1. (a) For an agricultural lime substitute to be eligible for the notification program under this rule, the following criteria must be met:

(1) Be an agricultural lime substitute that has greater than fifty percent (50%) calcium carbonate equivalency **(CCE)** or that has a calculated adjusted lime rate of two (2) tons per acre or less using a recommended agricultural lime rate of one (1) ton per acre and a depth factor of seventy-five hundredths (0.75).

(2) Contain no biosolid.

(3) Pollutant concentrations are less than the concentrations in ~~Table 1 in 327 IAC 6.1-4-9(a) and~~ Table 3 in 327 IAC 6.1-4-9(c).

~~(4) Be dewatered.~~

~~(5)~~ **(4)** Must not contain a concentration of polychlorinated biphenyls (PCBs) of two (2) milligrams per kilogram or greater on a dry weight basis.

(b) For purposes of this article, agricultural lime substitute does not include the following:

(1) Unprocessed fly ash.

(2) Cement kiln dust.

(3) Alum sludges from water treatment facilities.

(Water Pollution Control Board; 327 IAC 6.1-6-1; filed May 15, 1998, 10:20 a.m.: 21 IR 3804; readopted filed Jan 10, 2001, 3:23 p.m.: 24 IR 1518; filed Jul 7, 2003, 4:25 p.m.: 26 IR 3620)

SECTION 52. 327 IAC 6.1-6-2 IS AMENDED TO READ AS FOLLOWS:

327 IAC 6.1-6-2 Agricultural lime substitute notifications; general

Authority: IC 13-14-8-7; IC 13-15-1-2; IC 13-15-2-1; IC 13-18-3-1; IC 13-18-12-4
Affected: IC 13-11-2-77; IC 13-30-2-1

Sec. 2. (a) The person who prepares an agricultural lime

substitute under the notification program shall submit a written notification to the commissioner of the activity:

(1) at least thirty (30) days before initial application of the agricultural lime substitute; and

(2) by January 31 of each subsequent year in which the agricultural lime substitute will be applied.

(b) The written notification must contain the following information:

(1) The name and address of the person who prepares the agricultural lime substitute.

(2) The name and address of the person who applies the agricultural lime substitute.

(3) An analysis of the agricultural lime substitute ~~including~~ **that was obtained and analyzed within the previous three hundred sixty-five (365) days that includes** the following:

(A) Calcium carbonate equivalency **(CCE)*.**

(B) The pollutants listed in ~~Table 1 of 327 IAC 6.1-4-9(a).~~ **Table 3 in 327 IAC 6.1-4-9(c).**

(c) Unless notified by the commissioner within thirty (30) days after submitting a written notification, the person who prepares an agricultural lime substitute and that submitted the written notification may begin applying the agricultural lime substitute in compliance with this rule.

(d) Analyses for the following must be conducted ~~quarterly:~~ **semiannually:**

(1) The pollutants listed in ~~Table 1 of 327 IAC 6.1-4-9(a).~~ **Table 3 in 327 IAC 6.1-4-9(c).**

(2) The percent passing mesh size*.

(3) The calcium carbonate equivalency **(CCE)*.**

(e) The person who prepares an agricultural lime substitute and that is operating under the notification program shall maintain records of the following information for five (5) years and report to the commissioner the following information by January 31 of each **subsequent** year in which agricultural lime substitute was applied:

(1) The results of analyses in subsection (d).

(2) The quantity of the ~~material~~ **agricultural lime substitute** applied during the previous year.

*Methods for the percent passing mesh size and calcium carbonate equivalency may be found in ~~Agriculatural~~ **Agricultural** Liming Materials, Frank Johnson, Associate Chapter Editor, National Fertilizer Development Center, Tennessee Valley Authority, Official Methods of Analysis, Association of Official Analytical Chemists, Agricultural Chemicals; Contaminants; Drugs, Volume One, 15th Edition, 1990. Edited by Kenneth Helrich, available from the Association of Official Analytical Chemists, Inc., Suite 400, 2200 Wilson Boulevard, Arlington, Virginia 22201. This method is also available for copying at the Indiana Department of Environmental Management, Office of ~~Solid and Hazardous Waste Management,~~ **Land Quality,** 100 North Senate Avenue, Room 1154, Indianapolis, Indiana 46204. *(Water Pollution Control Board; 327 IAC 6.1-6-2; filed May 15, 1998, 10:20 a.m.: 21 IR 3804; readopted filed Jan 10, 2001, 3:23 p.m.: 24 IR 1518; filed Jul 7, 2003, 4:25 p.m.: 26 IR 3620)*

SECTION 53. 327 IAC 6.1-6-3 IS AMENDED TO READ AS FOLLOWS:

327 IAC 6.1-6-3 Agricultural lime substitute application

Authority: IC 13-14-8-7; IC 13-15-1-2; IC 13-15-2-1; IC 13-18-3-1; IC 13-18-12-4

Affected: IC 13-11-2-77; IC 13-30-2-1

Sec. 3. Agricultural lime substitute ~~may not~~ **must** be **evenly** applied ~~in excess of~~ **at rates based on** the adjusted lime rate as determined by Equation 4 as follows:

Equation 4:

Adjusted Lime Rate = RALR × FF × NF × DF

Where: RALR = Recommended agricultural lime rate **derived** from the soil analysis ~~of~~ **report for** the application site.

FF = Fineness factor.

NF = Neutralizing factor.

DF = Depth factor.

Table 7 Fineness Factor

Mesh Size	Percent Passing 8	Mesh 20	Mesh 60	Size 100	Fineness Factor (FF)
	100	100	100	100	.60
	100	100	95	80	.63
	100	95	70	60	.76
	95	70	50	40	1.00
	85	60	40	30	1.19
	80	50	30	20	1.45
	80	45	20	10	1.77
	80	40	15	5	2.03

Table 8 Neutralizing Factor

CCE*	Neutralizing Factor (NF)
110–119	.83
100–109	.90
90–99	1.00
80–89	1.12
70–79	1.27
60–69	1.46
50–59	1.73
40–49	2.00

*CCE = Calcium Carbonate Equivalency

Table 9 Depth Factor

Plowing Depth (Inches)	Depth Factor (DF)
~~2~~	~~.25~~
0–≤4	.50
>**4**–≤6	.75
>**6**–≤8	1.00
>**8**–≤10	1.25
>**10**–≤12	1.50

(Water Pollution Control Board; 327 IAC 6.1-6-3; filed May

15, 1998, 10:20 a.m.: 21 IR 3804; readopted filed Jan 10, 2001, 3:23 p.m.: 24 IR 1518; filed Jul 7, 2003, 4:25 p.m.: 26 IR 3621)

SECTION 54. 327 IAC 6.1-7-1 IS AMENDED TO READ AS FOLLOWS:

327 IAC 6.1-7-1 Pollutant-bearing water land application

Authority: IC 13-14-8-7; IC 13-15-1-2; IC 13-15-2-1; IC 13-18-3-1; IC 13-18-12-4
Affected: IC 13-11-2-77; IC 13-30-2-1

Sec. 1. (a) Land application or injection of pollutant-bearing water must be conducted under the supervision of:

(1) a certified wastewater treatment plant operator licensed under ~~327 IAC 8;~~ **327 IAC 5-22;** or

(2) a person with at least one (1) year of experience in land application management practices and procedures **as demonstrated by specific facts contained in a signed affidavit.**

~~Notice~~ **The license number or the affidavit** must be submitted to the commissioner **with the permit application and within thirty (30) days** of any change in supervisor of the activity.

(b) Any application of domestic wastewater or industrial process wastewater to the land is prohibited unless a valid site-specific land application permit in accordance with 327 IAC 6.1-1-3(b) has been obtained from the commissioner prior to the application of the domestic wastewater or industrial process wastewater.

(c) Any person who prepares industrial storm water that exceeds any of the pollutant concentrations in Table 10 of subsection (d) shall obtain a permit under subsection (b).

(d) Industrial storm water that exceeds any of the pollutant concentration limits in Table 10 is subject to this rule:

Table 10
Pollutant Concentrations
for Industrial Storm Water

Pollutant	mg/l
Arsenic	0.07
Cadmium	0.06
Copper	2.57
Lead	0.51
Mercury	0.02
Molybdenum	**0.06**
Nickel	0.72
Selenium	0.17
Zinc	4.80

(e) Land application of pollutant-bearing water is excluded from any other requirements of this rule as long as the following are applicable:

(1) Meets the requirements for notification under 327 IAC 6.1-7.5-1.

(2) Applies at a rate of less than two hundred fifty thousand (250,000) gallons per year.

(3) Applies at a rate of less than five thousand (5,000) gallons per acre per week.

(4) Applies at a rate of less than fifty thousand (50,000) gallons per acre per year.

(5) Applies a pollutant-bearing water that contains less than or equal to one thousand (1,000) pounds per million gallons of plant available nitrogen. Plant available nitrogen is calculated using the formula in subsection (f).

(6) Is not a domestic wastewater.

(7) Does not exceed pollutant concentration in Table 10 in subsection (d).

(f) The following formula for plant available nitrogen must be used to calculate the amount of plant available nitrogen required by subsection (e)(5):

Where:

Total N = Total Kjeldahl N + Nitrate N.

Organic N = Total N - (Ammonia N + Nitrate N).

Pounds Organic N = Organic N × 2.5.

Pounds of Ammonia N = Ammonia N × 8.34.

Pounds of Nitrate N = Nitrate N × 8.34.

Plant available nitrogen = Pounds of Organic N + Pounds of Ammonia N + Pounds of Nitrate N.

(Water Pollution Control Board; 327 IAC 6.1-7-1; filed May 15, 1998, 10:20 a.m.: 21 IR 3805; readopted filed Jan 10, 2001, 3:23 p.m.: 24 IR 1518; filed Jul 7, 2003, 4:25 p.m.: 26 IR 3622)

SECTION 55. 327 IAC 6.1-7-2 IS AMENDED TO READ AS FOLLOWS:

327 IAC 6.1-7-2 Pollutant-bearing water application on land with a high potential for public exposure

Authority: IC 13-14-8-7; IC 13-15-1-2; IC 13-15-2-1; IC 13-18-3-1; IC 13-18-12-4
Affected: IC 13-11-2-77; IC 13-30-2-1

Sec. 2. (a) Pollutant-bearing water applied to land with a high potential for public exposure must be treated by subdivisions (1) and (2) in the following order before being applied to the land:

(1) Secondary treatment and any additional treatment necessary to produce effluent in which both BOD is less than or equal to ten (10) milligrams per liter and suspended solids do not exceed five (5) milligrams per liter and that must include:

(A) activated sludge processes;

(B) trickling filters;

(C) rotating biological contactors;

(D) stabilization pond systems; or
(E) other secondary treatment approved by the commissioner in the permit.
(2) For domestic wastewater, disinfection by:
(A) chlorination;
(B) ozonation;
(C) chemical disinfectants;
(D) UV ~~radiation;~~ **irradiation;**
(E) membrane processes; or
(F) other processes approved by the commissioner in the permit.

(b) Pollutant-bearing water to be applied to land with a high potential for public exposure must meet the following water quality criteria at the time of application:
(1) The pH must be between 6 and 9 standard units.
(2) The BOD must be less than or equal to ten (10) milligrams per liter as determined from the five (5) day BOD test.
(3) For domestic wastewater, suspended solids must not exceed five (5) milligrams per liter averaged over a twenty-four (24) hour period prior to disinfection.
(4) For domestic wastewater, analysis for fecal coliform using Part 9221 E* or Part 9222 D* must include the following:
(A) Using values determined from the bacteriological results of the last seven (7) days for which analyses have been completed:
(i) no detectable fecal coliform is found using the median value; and
(ii) the number of fecal coliform organisms must not exceed fourteen (14) per one hundred (100) milliliters in any sample.
(B) Analysis must be completed using one (1) of the following:
(i) Membrane filter technique.
(ii) Fermentation tube technique.
(5) If chlorination is used as the means of disinfection, the total chlorine residual after a minimum contact time of thirty (30) minutes must be at least one (1) milligram per liter.
(6) All applicable permit conditions.

(c) Monitoring for pollutant-bearing water to be applied to land with a high potential for public exposure must be completed no less frequently than the following:
(1) pH must be monitored at least weekly.
(2) BOD must be monitored at least weekly.
(3) For domestic wastewater, suspended solids must be monitored daily.
(4) For domestic wastewater, coliform must be monitored daily.
(5) For domestic wastewater, residual chlorine must be monitored daily.
(6) Pollutants listed in Table ~~2 in 327 IAC 6.1-4-9(b)~~ **10 in section 1(d) of this rule** must be monitored at least annually **prior to initiation of land application.**
(7) Monitoring at least monthly is required for the following:
(A) Total nitrogen.
(B) ~~Ammonium~~ **Ammonia** nitrogen.
(C) Nitrate nitrogen.
(D) Phosphorus.
(E) Potassium.
(8) PCBs must be monitored at least annually.

*Part 9221 E and Part 9222 D may be found in "Standard Methods for the Examination of Water and Wastewater", 18th Edition, 1992, available from American Public Health Association, 1015 15th Street, N.W., Washington, D.C. 20005. This method is also available for copying at the Indiana Department of Environmental Management, Office of ~~Solid and Hazardous Waste Management,~~ **Land Quality,** 100 North Senate Avenue, Room 1154, Indianapolis, Indiana 46204. *(Water Pollution Control Board; 327 IAC 6.1-7-2; filed May 15, 1998, 10:20 a.m.: 21 IR 3805; readopted filed Jan 10, 2001, 3:23 p.m.: 24 IR 1518; filed Jul 7, 2003, 4:25 p.m.: 26 IR 3622)*

SECTION 56. 327 IAC 6.1-7-3 IS AMENDED TO READ AS FOLLOWS:

327 IAC 6.1-7-3 Domestic wastewater application on land with a low potential for public exposure

Authority: IC 13-14-8-7; IC 13-15-1-2; IC 13-15-2-1; IC 13-18-3-1; IC 13-18-12-4
Affected: IC 13-11-2-77; IC 13-30-2-1

Sec. 3. (a) Domestic wastewater to be applied to land with a low potential for public exposure must be treated by subdivisions (1) and (2) in the following order before application:
(1) Secondary treatment to produce effluent that has both BOD and suspended solids that do not exceed thirty (30) milligrams per liter and which must include:
(A) activated sludge processes;
(B) trickling filters;
(C) rotating biological contactors;
(D) stabilization pond systems; or
(E) other secondary treatment approved by the commissioner in the permit.
(2) Disinfection by:
(A) chlorination;
(B) ozonation;
(C) chemical disinfectants;
(D) UV ~~radiation;~~ **irradiation;**
(E) membrane processes; or
(F) other processes approved by the commissioner in the permit.

(b) Domestic wastewater to be applied to land with a low potential for public exposure must meet the following water quality criteria at the time of application:
(1) The pH must be between 6 and 9 standard units.
(2) The BOD must be less than or equal to thirty (30) milligrams per liter as determined from the five (5) day BOD test.

(3) Less than or equal to thirty (30) milligrams per liter suspended solids.

(4) The analysis for fecal coliform using Part 9221 E* and Part 9222 D* must include the following using values determined from the bacteriological results of the last seven (7) days for which analyses have been completed:

(A) The median fecal coliform level must be less than or equal to two hundred (200) fecal coliform per one hundred (100) milliliters.

(B) The number of fecal coliform organisms must not exceed eight hundred (800) per one hundred (100) milliliters in any sample.

(5) If chlorination is used as the means of disinfection, the total chlorine residual after a minimum contact time of thirty (30) minutes must be at least one (1) milligram per liter.

(c) **Monitoring for suspended solids under subsection (e)(3), the suspended solids limits under subsection (b)(3), and the requirement to disinfect under subsection (a)(2) may be exempted by the commissioner in the permit for multicelled** stabilization pond systems ~~approved by the commissioner may be used to meet coliform limits without the use of disinfection.~~ **with a minimum of one hundred twenty (120) days retention time. The exemption is conditional and only applies if the limits for fecal coliforms under subsection (b)(4)(A) are not exceeded. If the fecal coliform limit is exceeded under subsection (b)(4)(A), disinfection under subsection (a)(2) and monitoring of suspended solids under subsection (e)(3) must commence and the suspended solid limits under subsection (b)(3) apply immediately.**

(d) **If specified in the permit,** no restrictions are placed on fecal coliform organisms in domestic wastewater for land application on land to which public access is strictly restricted and food crops are not grown.

(e) Monitoring for domestic wastewater to be applied to land with a low potential for public exposure must be completed no less frequently than the following:

(1) pH must be monitored at least weekly.

(2) BOD must be monitored at least weekly.

(3) Suspended solids must be monitored daily.

(4) Coliform must be monitored daily **unless subsection (d) applies.**

(5) Residual chlorine must be monitored daily.

(6) Pollutants listed in Table ~~2 of 327 IAC 6.1-4-9(b)~~ **10 in section 1(d) of this rule** must be monitored at least annually **prior to initiation of land application.**

(7) Monitoring at least monthly is required for the following:

(A) Total nitrogen.

(B) ~~Ammonium~~ **Ammonia** nitrogen.

(C) Nitrate nitrogen.

(D) Phosphorus.

(E) Potassium.

(8) PCBs must be monitored at least annually.

*Part 9221 E and Part 9222 D may be found in "Standard Methods for the Examination of Water and Wastewater", 18th Edition, 1992, available from American Public Health Association, 1015 15th Street, N.W., Washington, D.C. 20005. This method is also available for copying at the Indiana Department of Environmental Management, Office of ~~Solid and Hazardous Waste Management,~~ **Land Quality,** 100 North Senate Avenue, Room 1154, Indianapolis, Indiana 46204. *(Water Pollution Control Board; 327 IAC 6.1-7-3; filed May 15, 1998, 10:20 a.m.: 21 IR 3806; readopted filed Jan 10, 2001, 3:23 p.m.: 24 IR 1518; filed Jul 7, 2003, 4:25 p.m.: 26 IR 3623)*

SECTION 57. 327 IAC 6.1-7-4 IS AMENDED TO READ AS FOLLOWS:

327 IAC 6.1-7-4 Industrial process wastewater and storm water application on land with a low potential for public exposure

Authority: IC 13-14-8-7; IC 13-15-1-2; IC 13-15-2-1; IC 13-18-3-1; IC 13-18-12-4
Affected: IC 13-11-2-77; IC 13-30-2-1

Sec. 4. (a) Industrial process wastewater and industrial storm water to be applied to land with a low potential for public exposure must have a pH between 6 and 9 standard units.

(b) Monitoring for industrial process wastewater and industrial storm water to be applied to land with a low potential for public exposure must be completed no less frequently than the following:

(1) pH must be monitored at least weekly.

(2) BOD must be monitored at least weekly.

(3) Volatile solids must be monitored at least weekly using Part 2540 G*.

(4) Pollutants listed in Table ~~3 of 327 IAC 6.1-4-9(c)~~ **10 in section 1(d) of this rule** must be monitored at least annually **prior to initiation of land application.**

(5) Monitoring at least monthly is required for the following:

(A) Total nitrogen.

(B) ~~Ammonium~~ **Ammonia** nitrogen.

(C) Nitrate nitrogen.

(D) Phosphorus.

(E) Potassium.

(6) PCBs must be monitored at least annually.

*Part 2540 G may be found in "Standard Methods for the Examination of Water and Wastewater", 18th Edition, 1992, available from American Public Health Association, 1015 15th Street, N.W., Washington, D.C. 20005. This method is also available for copying at the Indiana Department of Environmental Management, Office of ~~Solid and Hazardous Waste Management,~~ **Land Quality,** 100 North Senate Avenue, Room 1154, Indianapolis, Indiana 46204. *(Water Pollution Control Board;*

327 IAC 6.1-7-4; filed May 15, 1998, 10:20 a.m.: 21 IR 3807; readopted filed Jan 10, 2001, 3:23 p.m.: 24 IR 1518; filed Jul 7, 2003, 4:25 p.m.: 26 IR 3624)

SECTION 58. 327 IAC 6.1-7-5 IS AMENDED TO READ AS FOLLOWS:

327 IAC 6.1-7-5 Site restrictions

Authority: IC 13-14-8-7; IC 13-15-1-2; IC 13-15-2-1; IC 13-18-3-1; IC 13-18-12-4
Affected: IC 13-11-2-77; IC 13-30-2-1

Sec. 5. ~~(a) Pollutant-bearing water to be applied to land must be applied at least:~~

~~(1) two hundred (200) feet from potable water supply wells or drinking water springs;~~

~~(2) three hundred (300) feet from any waters of the state; and~~

~~(3) three hundred (300) feet from any residence.~~

(a) Land application of pollutant-bearing water must not be conducted within:

	Surface applied	Applied beneath the surface
Surface waters or the surface conduit to a subsurface feature	**300 feet**	**33 feet**
Residence	**300 feet**	**To property line**
Potable well or drinking water spring	**200 feet**	**200 feet**

(b) The soil pH must be 5.5 or greater at the time the pollutant-bearing water is applied unless the commissioner determines that the soil pH should be higher to protect the environment or public health. **The soil pH value shall be:**

(1) obtained by sampling the soil to the depth of cultivation or depth of placement of the pollutant-bearing water, whichever is greater;

(2) analyzed by the electrometric method*;

(3) collected as one (1) representative composite sample per every twenty-five (25) acres or fraction thereof within the application site; and

(4) valid only if the analyses were performed within the last two (2) years of the date of application on the site.

~~(c) Using soil survey data established by USDA Natural Resource Conservation Service, application of pollutant-bearing water is prohibited if:~~

~~(1) the seasonal high water table is within eighteen (18) inches of the soil surface; or~~

~~(2) the seasonal high water table is:~~

~~(A) within thirty-six (36) inches of the soil surface; and~~

~~(B) any soil layer between eighteen (18) inches and thirty-six (36) inches below the surface has a permeability of greater than two (2) inches per hour.~~

~~(d)~~ **(c)** Pollutant-bearing water must not be applied to land unless there is a minimum depth of twenty (20) inches of soil overlying bedrock.

~~(e)~~ **(d) Surface** application of pollutant-bearing water on slopes greater than six percent (6%) is prohibited.

***The electrometric method may be found in "Methods of Soil Analysis, Agronomy Monograph No. 9", C.A. Black, ed., American Society of Agronomy, Madison, Wisconsin, pp. 199-209, 1982, available from the American Society of Agronomy, Soil Science of America, Inc., 677 South Segoe Road, Madison, Wisconsin 53711. This method is also available for copying at the Indiana Department of Environmental Management, Office of Land Quality, 100 North Senate Avenue, Room 1154, Indianapolis, Indiana 46204.**
(Water Pollution Control Board; 327 IAC 6.1-7-5; filed May 15, 1998, 10:20 a.m.: 21 IR 3807; readopted filed Jan 10, 2001, 3:23 p.m.: 24 IR 1518; filed Jul 7, 2003, 4:25 p.m.: 26 IR 3625)

SECTION 59. 327 IAC 6.1-7-6 IS AMENDED TO READ AS FOLLOWS:

327 IAC 6.1-7-6 Management practices

Authority: IC 13-14-8-7; IC 13-15-1-2; IC 13-15-2-1; IC 13-18-3-1; IC 13-18-12-4
Affected: IC 13-11-2-77; IC 13-30-2-1; IC 14-20-1; IC 14-22-34

Sec. 6. (a) Food crops shall not be harvested for fourteen (14) months after land application of domestic wastewater if the harvested part:

(1) touches the ground where domestic wastewater has been land applied; and

(2) has no harvested parts below the soil surface.

(b) Food crops shall not be harvested for thirty-eight (38) months after land application of domestic wastewater if harvested parts are below the soil surface.

(c) Unless subsection (a) or (b) applies, food crops, feed crops, and fiber crops shall not be harvested for thirty (30) days after land application of domestic wastewater.

(d) **Except for domestic wastewater applied in accordance with section 2 of this rule,** turf grown on land where domestic wastewater is land applied shall not be harvested for one (1) year after application of the domestic wastewater if the harvested turf is placed on ~~either~~ land with a high potential for public exposure. ~~or a lawn unless otherwise approved by the commissioner.~~

(e) Public access to land with a low potential for public exposure shall be restricted for thirty (30) days after land application of domestic wastewater to that land.

(f) Grazing of animals on land that has received domestic wastewater is prohibited for thirty (30) days after application of the domestic wastewater.

(g) Pollutant-bearing water shall not be applied to the land:
(1) if the pollutant-bearing water is likely to adversely affect a threatened or endangered species or its designated critical habitat; or
(2) in violation of ~~endangered species regulations at~~ IC 14-22-34.

(h) Pollutant-bearing water shall not be applied to the land in violation of historic preservation requirements under IC 14-20-1. ~~or 310 IAC 15-3.~~

(i) Application of pollutant-bearing water is prohibited if the moisture holding capacity of the soil is exceeded. ~~as a result of previous land application practices, precipitation occurrences, or flooding.~~

(j) Pollutant-bearing water may only be applied to **the surface of** land that is frozen or snow-covered if:
(1) the pollutant-bearing water does not enter a wetland, ~~or other~~ **surface** waters, ~~of the state~~ **or ground water;** and
(2) a management plan has been submitted and approved by the commissioner, including the following:
(A) ~~Setbacks.~~ **Setback distances from residences and public buildings, surface waters, wells, and other structures.**
(B) Application rates.
(C) Site characteristics, **including the following:**
(i) Flood plains.
(ii) Slope.
(D) Supervision and operational oversight.
(E) Other applicable information **to show that the land application will not violate this article.**

(k) Pollutant-bearing water may only be applied in a flood plain if the pollutant-bearing water does not enter a wetland, ~~or other~~ **surface** waters, ~~of the state.~~ **or ground water.** *(Water Pollution Control Board; 327 IAC 6.1-7-6; filed May 15, 1998, 10:20 a.m.: 21 IR 3808; readopted filed Jan 10, 2001, 3:23 p.m.: 24 IR 1518; filed Jul 7, 2003, 4:25 p.m.: 26 IR 3625)*

SECTION 60. 327 IAC 6.1-7-9 IS AMENDED TO READ AS FOLLOWS:

327 IAC 6.1-7-9 Storage of pollutant-bearing water for application

Authority: IC 13-14-8-7; IC 13-15-1-2; IC 13-15-2-1; IC 13-18-3-1; IC 13-18-12-4
Affected: IC 13-11-2-77; IC 13-30-2-1

Sec. 9. (a) A minimum of ninety (90) days effective storage capacity is required for a pollutant-bearing water unless an equivalent method of meeting the requirement is approved by the commissioner.

(b) Except for ~~earthen~~ lagoons under 327 IAC 6.1-8, any storage structures ~~such as pits or tanks, which~~ **that** are subject to volume fluctuations due to precipitation events, must have a minimum of one (1) foot of freeboard at all times.

(c) ~~A construction permit must be obtained from the commissioner under 327 IAC 3 prior to construction of~~ Storage structures ~~located at the treatment works that generates~~ **for** the **storage of** pollutant-bearing water **must be approved, constructed, installed, maintained, and closed in accordance with 327 IAC 6.1-8.**

~~(d) Off-site storage structures for the storage of pollutant-bearing water must be constructed and maintained in accordance with 327 IAC 6.1-8.~~ *(Water Pollution Control Board; 327 IAC 6.1-7-9; filed May 15, 1998, 10:20 a.m.: 21 IR 3809; readopted filed Jan 10, 2001, 3:23 p.m.: 24 IR 1518; filed Jul 7, 2003, 4:25 p.m.: 26 IR 3626)*

SECTION 61. 327 IAC 6.1-7-10 IS AMENDED TO READ AS FOLLOWS:

327 IAC 6.1-7-10 Loading rates

Authority: IC 13-14-8-7; IC 13-15-1-2; IC 13-15-2-1; IC 13-18-3-1; IC 13-18-12-4
Affected: IC 13-11-2-77; IC 13-30-2-1

Sec. 10. (a) Maximum loading rates are determined for the pollutant-bearing water to be applied on the basis of the following parameters:
(1) Hydraulic loads must not exceed the rates established in Table 11 as follows and a rate of two (2) inches per seven (7) day period:

Table 11
Maximum Application Rates
Application Rate in Inches per Hour

Textural Class	Grass Sod	Cultivated
Sand	1.5	0.8
Loamy sand	1.3	0.7
Sandy loam	0.9	0.5
Fine sandy loam	0.8	0.5
Loam	0.7	0.4
Silt loam	0.7	0.4
Clay loam	0.6	0.3
Clay	0.5	0.2
Organic soils (muck)	1.0	1.0

(2) Organic loading for industrial process wastewaters must not exceed the following:
(A) One thousand four hundred (1,400) pounds per acre per week of **total** volatile solids as determined using Part 2540 G*.
(B) Nine hundred thirty-three (933) pounds per acre per week of BOD as determined by a five (5) day BOD test.
(C) The commissioner may approve a higher loading rate if the commissioner determines that adequate documentation has been presented to show effective operation at higher loading rates.

(3) Available nitrogen loadings must not exceed either of the following:

(A) The limits in Table 5 in 327 IAC 6.1-4-10(a)(1)(A) for crop production as determined using the methodology for calculating available and residual nitrogen values in subsection (b).

(B) The nitrogen removal rate for the proposed crop to be grown on the land application site adjusted to account for application of fertilizers and manure and the presence of residual available nitrogen in the soil from previous applications of a biosolid, industrial waste product, or pollutant-bearing water.

(4) Phosphorus loading requirements may be included as a permit condition if the commissioner determines it is necessary for protection of public health or the environment.

(5) Annual heavy metal loadings must not exceed the limits in Table 4 in 327 IAC 6.1-4-9(d).

(6) Cumulative heavy metal loading must not exceed the limits in Table 2 in 327 IAC 6.1-4-9(b).

(b) The following formulas for PAN loading calculations apply to this article and must be used to calculate the amount of PAN in the pollutant-bearing water and the residual available nitrogen at the application site; all calculations are based on a wet weight basis in milligrams per liter:

(1) Total N = Total Kjeldahl N + Nitrate N

(2) Organic N = Total N - ~~(Ammonium~~ **(Ammonia** N + Nitrate N)

(3) Pounds Organic N applied per acre =

$$\frac{\text{(Organic N)} \times \text{(gallons applied)} \times (8.34)}{(3.33) \times (1{,}000{,}000) \times \text{(acres applied to)}}$$

(4) Pounds of ~~Ammonium~~ **Ammonia** N applied per acre =

$$\frac{\text{~~(Ammonium~~ \textbf{(Ammonia} N)} \times \text{(gallons applied)} \times (8.34)}{(1{,}000{,}000) \times \text{(acres applied to)}}$$

(5) Pounds of Nitrate N applied per acre =

$$\frac{\text{(Nitrate N)} \times \text{(gallons applied)} \times (8.34)}{(1{,}000{,}000) \times \text{(acres applied to)}}$$

(6) Pounds PAN applied per acre = Pounds of Organic N applied per acre + Pounds of ~~Ammonium~~ **Ammonia** N applied per acre + Pounds of Nitrate N applied per acre

(7) Residual nitrogen from past biosolid or industrial waste products applications:

(A) Pounds of residual N available per acre after one (1) year =

$$\frac{\text{(Organic N)} \times \text{(gallons applied)} \times (8.34)}{(6.67) \times (1{,}000{,}000) \times \text{(acres applied to)}}$$

(B) Pounds of residual N available per acre after two (2) years =

$$\frac{\text{(Organic N)} \times \text{(gallons applied)} \times (8.34)}{(12.5) \times (1{,}000{,}000) \times \text{(acres applied to)}}$$

(C) Pounds of residual N available per acre after three (3) years =

$$\frac{\text{(Organic N)} \times \text{(gallons applied)} \times (8.34)}{(25) \times (1{,}000{,}000) \times \text{(acres applied to)}}$$

Where: N = Nitrogen.

*Part 2540 G may be found in "Standard Methods for the Examination of Water and Wastewater", 18th Edition, 1992, available from American Public Health Association, 1015 15th Street, N.W., Washington, D.C. 20005. This method is also available for copying at the Indiana Department of Environmental Management, Office of ~~Solid and Hazardous Waste Management,~~ **Land Quality,** 100 North Senate Avenue, Room 1154, Indianapolis, Indiana 46204. *(Water Pollution Control Board; 327 IAC 6.1-7-10; filed May 15, 1998, 10:20 a.m.: 21 IR 3809; readopted filed Jan 10, 2001, 3:23 p.m.: 24 IR 1518; filed Jul 7, 2003, 4:25 p.m.: 26 IR 3626)*

SECTION 62. 327 IAC 6.1-7-11 IS AMENDED TO READ AS FOLLOWS:

327 IAC 6.1-7-11 Records and record keeping

Authority: IC 13-14-8-7; IC 13-15-1-2; IC 13-15-2-1; IC 13-18-3-1; IC 13-18-12-4
Affected: IC 13-14-4-3; IC 13-15-2

Sec. 11. (a) Information regarding application rates and site conditions must be recorded daily or as otherwise specified in the permit by the person who prepares a pollutant-bearing water.

(b) The person who prepares a pollutant-bearing water shall record the applicable monitoring results and information required by sections 2(c), 3(e), and 4(b) of this rule. Such records must be:

(1) retained by the person who prepares the pollutant-bearing water for:

(A) a minimum of five (5) years; or

(B) a longer time if required by the commissioner; and

(2) accessible to department representatives at the facility or other location approved by the commissioner.

(c) For pollutant-bearing water that is applied to any land application site under ~~327 IAC 6.1-7,~~ **this rule,** the following applies:

(1) The person who prepares the pollutant-bearing water shall retain the information in subdivision (3)(E), provided by the person who applies the pollutant-bearing water, for five (5) years.

(2) The person who prepares the pollutant-bearing water shall develop the following information and shall retain the information indefinitely:

(A) The cumulative amount of each pollutant in pounds per acre listed in Table 2 in 327 IAC 6.1-4-9(b) in the pollutant-bearing water applied to each site.

(B) The information in subdivision (3)(A) through (3)(D) provided by the person who applies the pollutant-bearing water.

(3) For each day of land application of the pollutant-bearing water, the person who applies the pollutant-bearing water shall develop the following information and provide it to the person who prepares the pollutant-bearing water:

(A) The location, indicated on a site map, of each site that the pollutant-bearing water is applied.

(B) The number of acres to which pollutant-bearing water is applied.

(C) The date the pollutant-bearing water is applied to each site.

(D) The amount of pollutant-bearing water in gallons applied to each site.

(E) A description of how the site restrictions in section 5 of this rule and the management practices in section 6 of this rule are met for each site on which pollutant-bearing water is applied.

(Water Pollution Control Board; 327 IAC 6.1-7-11; filed May 15, 1998, 10:20 a.m.: 21 IR 3810; readopted filed Jan 10, 2001, 3:23 p.m.: 24 IR 1518; filed Jul 7, 2003, 4:25 p.m.: 26 IR 3627)

SECTION 63. 327 IAC 6.1-7.5 IS ADDED TO READ AS FOLLOWS:

Rule 7.5. Small Quantity Generators–Pollutant-Bearing Water

327 IAC 6.1-7.5-1 Requirements for small quantity generator notification

Authority: IC 13-14-8-7; IC 13-15-1-2; IC 13-15-2-1; IC 13-18-3-1; IC 13-18-12-4
Affected: IC 13-11-2-77; IC 13-30-2-1

Sec. 1. Land application of pollutant-bearing water that is excluded under 327 IAC 6.1-7-1(e) must comply with the following requirements:

(1) The person who prepares shall submit a written notification to the commissioner of the activity as follows:

(A) At least thirty (30) days before initial application of the pollutant-bearing water.

(B) Annually by January 31 of each subsequent year in which the pollutant-bearing water will be applied.

(C) The written notification on forms provided by the commissioner must contain the following information:

(i) The name and address of the person who prepares.

(ii) The name and address of the person who applies.

(iii) An analysis of the pollutant-bearing water that was completed within the past three hundred sixty-five (365) days, including the following:

(AA)Total nitrogen.

(BB) Ammonia nitrogen.

(CC) Nitrate nitrogen.

(DD) Phosphorus.

(EE) Potassium.

(FF) BOD.

(GG) Volatile solids.

(HH) pH.

(II) The pollutants listed in Table 10 of 327 IAC 6.1-7-1(d).

(iv) Location and specification of land application sites.

(D) Unless notified by the commissioner within thirty (30) days after submitting a written notification, the person who prepares the pollutant-bearing water and that submitted the written notification may begin applying the pollutant-bearing water in compliance with this rule.

(2) The person who prepares a pollutant-bearing water operating under this exclusion shall do the following:

(A) Retain all records regarding the pollutant-bearing water for a minimum of five (5) years.

(B) Provide for the records to be accessible to department representatives at the facility or, upon request, another location approved by the commissioner, provided the records are accessible to department representatives.

(C) Record the applicable monitoring results and information for the pollutant-bearing water.

(D) For each day of land application of the pollutant-bearing water, the person who applies the pollutant-bearing water shall develop the following information and provide it to the person who prepares the pollutant-bearing water:

(i) The location, indicated on a site map, of each site that the pollutant-bearing water is applied.

(ii) The number of acres to which pollutant-bearing water is applied.

(iii) The date the pollutant-bearing water is applied to each site.

(iv) The amount of pollutant-bearing water in gallons applied to each site.

(3) The person who prepares a pollutant-bearing water operating under this notification shall report activities and analyses related to land application of pollutant-bearing water to the commissioner within thirty (30) days of the last day of each month on forms provided by the commissioner.

(4) Pollutant-bearing water to be applied to land must be applied at least:

(A) two hundred (200) feet from potable water supply wells or drinking water springs;

(B) three hundred (300) feet from any surface waters or the surface conduit to a subsurface feature; and

(C) six hundred sixty (660) feet from any residence.

(5) The soil pH must be 5.5 or greater at the time the pollutant-bearing water is applied unless the commissioner determines that the soil pH should be higher to protect the environment or public health. The soil pH value shall be:

(A) obtained by sampling the soil to the depth of cultivation or depth of placement of the pollutant-bearing water, whichever is greater;

(B) analyzed by the electrometric method*;

(C) collected as one (1) representative composite sample per every twenty-five (25) acres or fraction thereof within the application site; and

(D) valid only if the analyses were performed within the last two (2) years of the date of application on the site.

(6) Pollutant-bearing water must not be applied to land unless there is a minimum depth of twenty (20) inches of soil overlying bedrock.

(7) Application of pollutant-bearing water on slopes greater than six percent (6%) is prohibited.

(8) For pollutant-bearing water, the following:

(A) A minimum of ninety (90) days effective storage capacity is required for a pollutant-bearing water unless an equivalent method of meeting the requirement is approved by the commissioner.

(B) Except for lagoons under 327 IAC 6.1-8, any storage structures, which are subject to volume fluctuations due to precipitation events, must have a minimum of one (1) foot of freeboard at all times.

(C) Storage structures for the storage of pollutant-bearing water must be constructed, installed, maintained, and closed in accordance with 327 IAC 6.1-8.

***The electrometric method may be found in "Methods of Soil Analysis, Agronomy Monograph No. 9", C.A. Black, ed., American Society of Agronomy, Madison, Wisconsin, pp. 199-209, 1982, available from the American Society of Agronomy, Soil Science of America, Inc., 677 South Segoe Road, Madison, Wisconsin 53711. This method is also available for copying at the Indiana Department of Environmental Management, Office of Land Quality, 100 North Senate Avenue, Room 1154, Indianapolis, Indiana 46204.** *(Water Pollution Control Board; 327 IAC 6.1-7.5-1; filed Jul 7, 2003, 4:25 p.m.: 26 IR 3628)*

SECTION 64. 327 IAC 6.1-8-1 IS AMENDED TO READ AS FOLLOWS:

Rule 8. Storage Structures

327 IAC 6.1-8-1 General requirements

Authority: IC 13-14-8-7; IC 13-15-1-2; IC 13-15-2-1; IC 13-18-3-1; IC 13-18-12-4
Affected: IC 13-18-12

Sec. 1. (a) This rule applies to all ~~off-site~~ storage structures for the storage of biosolid, industrial waste product, or pollutant-bearing water unless permitted, **registered, or notified** under **any of the following programs:**

(1) The marketing and distribution program in 327 IAC 6.1-5. ~~or~~

~~(2) the notification program in 327 IAC 6.1-6.~~

(2) A wastewater treatment plant permitted under 327 IAC 3.

(3) A solid waste processing facility permitted under 329 IAC 11.

(4) A composting facility registered under 329 IAC 14.

(5) A permitted land disposal facility under 329 IAC 10.

(b) ~~Except for in subsection (c), off-site~~ Storage structures for the storage of biosolid, industrial waste product, or pollutant-bearing water must be constructed, installed, maintained, and closed in accordance with this rule.

~~(c) Construction, installation, and operation of underground storage tanks for the storage of biosolid, industrial waste product, or pollutant-bearing water must be done in accordance with 329 IAC 9.~~

~~(d) Earthen~~ **(c)** Lagoons must not be constructed for the ~~off-site~~ storage of biosolid, industrial waste product, or pollutant-bearing water except in accordance with sections 2 and 6 of this rule.

~~(e)~~ **(d)** Except for ~~earthen lagoons and off-site~~ storage structures ~~approved under~~ **designated by** subsection ~~(f), off-site~~ **(e),** storage structures for the storage of biosolid, industrial waste product, or pollutant-bearing water must be constructed or installed in compliance with this rule and with written notification to the commissioner **at least thirty (30) days** prior to construction or installation of the ~~off-site~~ storage structure, to include the following:

(1) The location, indicated on a site map, of each ~~off-site~~ storage structure.

(2) The name, address, and phone number of the property owner of all locations in subdivision (1).

(3) The name, address, and phone number of the person who prepares the biosolid, industrial waste product, or pollutant-bearing water to be stored at the locations.

(4) The design of the ~~off-site~~ storage structure.

(5) The capacity of the ~~off-site~~ storage structure.

(6) A description of the biosolid, industrial waste product, or pollutant-bearing water to be stored.

~~(f)~~ **(e)** The notification requirement in subsection ~~(e)~~ **(d)** does not apply to ~~off-site~~ **any lagoons or to** storage structures that use alternatives to:

(1) the site restrictions listed in section 3 of this rule; or

(2) the construction performance standards listed in section 4 or 5 of this rule.

~~Off-site~~ Storage structures that use alternatives to the requirements listed in section 3, 4, or 5 of this rule must be ~~approved~~ **permitted** by the commissioner. **Lagoons must be permitted under section 2 of this rule.**

~~(g) Information about off-site storage structures, except earthen lagoons, constructed on or before the effective date of this rule must be submitted to the commissioner in a written notification that includes information in subsection (e)(1) through (e)(5) prior to use, or continued use, of the structure for the off-site storage of biosolid, industrial waste product, or pollutant-bearing water.~~

~~(h)~~ **(f)** Unless approved by the commissioner prior to ~~the effective date of this rule,~~ **June 14, 1998,** as-built plans for ~~earthen~~ lagoons constructed on or before ~~the effective date of this rule~~ **June 14, 1998,** must be submitted to the commissioner for ~~approval.~~ **a permit.**

~~(i)~~ **(g)** A notification ~~of off-site storage structures~~ or a request for ~~approval for an earthen lagoon~~ **a permit for any storage structure under this rule** must be accompanied by a signed statement from either the person who prepares the biosolid, industrial waste product, or pollutant-bearing water or the property owner accepting responsibility for closure ~~and abandonment~~ in compliance with section 8 of this rule. *(Water Pollution Control Board; 327 IAC 6.1-8-1; filed May 15, 1998, 10:20 a.m.: 21 IR 3811; readopted filed Jan 10, 2001, 3:23 p.m.: 24 IR 1518; filed Jul 7, 2003, 4:25 p.m.: 26 IR 3629)*

SECTION 65. 327 IAC 6.1-8-2 IS AMENDED TO READ AS FOLLOWS:

327 IAC 6.1-8-2 Application procedures for permitting lagoons

Authority: IC 13-14-8-7; IC 13-15-1-2; IC 13-15-2-1; IC 13-18-3-1; IC 13-18-12-4
Affected: IC 13-18-12

Sec. 2. (a) Requests for ~~approval of an earthen~~ **a permit for a** lagoon must be submitted at least ~~ninety (90)~~ **one hundred eighty (180)** days prior to the intended date of construction.

(b) The ~~request for approval~~ **permit application** must be accompanied by plans, specifications, and sufficient information to indicate compliance with the requirements of this article. The applicant shall submit such additional information as may be required by the commissioner to make a determination.

(c) Plans and specifications for ~~earthen~~ lagoons must be certified by a ~~registered~~ professional engineer ~~licensed to practice~~ **registered** in Indiana. *(Water Pollution Control Board; 327 IAC 6.1-8-2; filed May 15, 1998, 10:20 a.m.: 21 IR 3811; readopted filed Jan 10, 2001, 3:23 p.m.: 24 IR 1518; filed Jul 7, 2003, 4:25 p.m.: 26 IR 3630)*

SECTION 66. 327 IAC 6.1-8-3 IS AMENDED TO READ AS FOLLOWS:

327 IAC 6.1-8-3 Site restrictions for storage structures

Authority: IC 13-14-8-7; IC 13-15-1-2; IC 13-15-2-1; IC 13-18-3-1; IC 13-18-12-4
Affected: IC 13-18-12

Sec. 3. (a) ~~Off-site~~ Storage structures, except for ~~earthen~~ lagoons, must not be constructed or maintained:

(1) within one thousand (1,000) feet of any residence or public building;

(2) within three hundred (300) feet of any **surface** waters ~~of~~ **or** the ~~state;~~ **surface conduit to a subsurface feature;**

(3) within two hundred (200) feet of any well;

(4) in a flood plain; and

(5) in a manner that allows the biosolid, industrial waste product, or pollutant-bearing water to enter surface waters **or ground water.**

(b) ~~Earthen~~ Lagoons must not be constructed or maintained:

(1) within one thousand (1,000) feet of any:

(A) residence;

(B) public building; ~~or~~ **and**

(C) property line;

(2) within six hundred (600) feet of any **surface** waters ~~of~~ **or** the ~~state;~~ **surface conduit to a subsurface feature;**

(3) within two hundred (200) feet of any well;

(4) in a flood plain; and

(5) in a manner that allows the biosolid, industrial waste product, or pollutant-bearing water to enter surface waters **or ground water.**

(c) The distance established in subsections (a)(1) and (b)(1) applies unless the written consent to shorten the distance is obtained from the property owner or the property owner and the dwelling occupant if the property owner and dwelling occupant are different persons. This written consent must be recorded as a notation on the deed to the property on which the storage structure is located or on some other instrument that is normally examined during title search. *(Water Pollution Control Board; 327 IAC 6.1-8-3; filed May 15, 1998, 10:20 a.m.: 21 IR 3811; readopted filed Jan 10, 2001, 3:23 p.m.: 24 IR 1518; filed Jul 7, 2003, 4:25 p.m.: 26 IR 3630)*

SECTION 67. 327 IAC 6.1-8-4 IS AMENDED TO READ AS FOLLOWS:

327 IAC 6.1-8-4 Performance standards and construction standards for storage structures for liquid biosolid or industrial waste product, and pollutant-bearing water

Authority: IC 13-14-8-7; IC 13-15-1-2; IC 13-15-2-1; IC 13-18-3-1; IC 13-18-12-4
Affected: IC 13-18-12; IC 25-31.5-4

Sec. 4. Except for ~~earthen~~ lagoons, ~~off-site~~ storage structures for liquid biosolid or industrial waste product and for pollutant-bearing water must be constructed and maintained in accordance with the following:

(1) The structure material and wall thickness must be adequate to contain the contents.

(2) Steel tanks must be coated to prevent corrosion.

(3) Structures constructed of ~~other~~ materials **other than steel** must have prior approval of the commissioner and must be coated if necessary to prevent corrosion or afford further protection from leakage.

(4) The ~~off-site~~ storage structures must be adequately anchored, supported, and bedded to provide structural safety and prevent its movement.

(5) The structure must be supported by a concrete base.

(6) The bottom of any ~~off-site~~ storage structure ~~constructed below the ground surface~~ must be at least two (2) feet above the ~~seasonal high water table and~~ bedrock.

(7) The bottom of the storage structure must be at least

two (2) feet above the water table. The depth to the water table must be determined using:

(A) soil survey data established by the USDA Natural Resource Conservation Service; or

(B) information obtained from a professional soil scientist registered under IC 25-31.5-4;

unless it can be demonstrated that the water table has been or will be artificially lowered to two (2) feet or more from the bottom of the storage structure prior to use of the storage structure.

~~(7)~~ **(8)** Any discharge pipe from the ~~off-site~~ storage structure must be equipped with a water-tight valve and a sanitary cap or plug.

~~(8)~~ **(9)** The ~~off-site~~ storage structure must be of such construction or design as to allow inspection and sampling of the contents in the structure.

~~(9)~~ **(10)** The receiving or inlet facility or opening must be constructed or designed to prevent nuisance conditions, safety hazards, or the harborage and breeding of vectors.

(11) The structure must be constructed to prevent leaks and seepage and prevent spills that could enter surface waters or ground water.

(Water Pollution Control Board; 327 IAC 6.1-8-4; filed May 15, 1998, 10:20 a.m.: 21 IR 3812; readopted filed Jan 10, 2001, 3:23 p.m.: 24 IR 1518; filed Jul 7, 2003, 4:25 p.m.: 26 IR 3630)

SECTION 68. 327 IAC 6.1-8-5 IS AMENDED TO READ AS FOLLOWS:

327 IAC 6.1-8-5 Performance standards and construction standards for storage structures for dewatered biosolid and industrial waste product

Authority: IC 13-14-8-7; IC 13-15-1-2; IC 13-15-2-1; IC 13-18-3-1; IC 13-18-12-4
Affected: IC 13-18-12

Sec. 5. ~~The~~ ~~off-site~~ **Except for lagoons, a** storage structure for dewatered biosolid or industrial waste product must:

(1) have an impermeable base designed to support the stored dewatered biosolid or industrial waste product and the equipment utilized in handling the ~~material;~~ **stored dewatered biosolid or industrial waste product;**

(2) have leak-proof side walls at least three (3) feet in height or as otherwise approved by the commissioner;

(3) be designed and constructed to prevent contact with precipitation or to contain any contaminated storm water;

(4) be of such construction or design as to allow inspection and sampling of the contents; ~~and~~

(5) be constructed or designed to prevent nuisance conditions, safety hazards, or the harborage and breeding of vectors; **and**

(6) be constructed to prevent leaks and seepage and prevent spills that could enter surface waters or ground water.

(Water Pollution Control Board; 327 IAC 6.1-8-5; filed May 15, 1998, 10:20 a.m.: 21 IR 3812; readopted filed Jan 10, 2001, 3:23 p.m.: 24 IR 1518; filed Jul 7, 2003, 4:25 p.m.: 26 IR 3631)

SECTION 69. 327 IAC 6.1-8-6 IS AMENDED TO READ AS FOLLOWS:

327 IAC 6.1-8-6 Construction for lagoons

Authority: IC 13-14-8-7; IC 13-15-1-2; IC 13-15-2-1; IC 13-18-3-1; IC 13-18-12-4
Affected: IC 13-18-12; IC 25-31.5-4

Sec. 6. ~~Earthen~~ Lagoons must be constructed and maintained in accordance with the following:

(1) The ~~earthen~~ lagoon bottom must be a minimum distance of **ten (10) feet above the bedrock and** four (4) feet above the ~~seasonal high~~ water table. ~~and ten (10) feet above bedrock.~~ **The depth to the water table must be determined using:**

(A) soil survey data established by the USDA Natural Resource Conservation Service; or

(B) information obtained from a professional soil scientist registered under IC 25-31.5-4;

unless it can be demonstrated that the water table has been artificially lowered to four (4) feet or more from the bottom of the lagoon.

(2) The ~~earthen~~ lagoon bottom and walls must meet the design standards in "Recommended Standards for Wastewater Facilities"*.

(3) The ~~earthen~~ lagoon bottom must be ~~flat.~~ **level.**

(4) Slopes of **earthen** dikes must not be steeper than 1 vertical to 3 horizontal (1:3).

(5) Minimum **earthen** dike top width must be at least eight (8) feet.

(6) An all-weather off-loading area with drainage to the ~~earthen~~ lagoon must be provided at any point where the truck contents are off-loaded into the ~~earthen~~ lagoon or receiving facilities.

(7) ~~Earthen~~ Lagoons must be constructed in a manner to prevent entry of storm water from surrounding areas.

(8) Lagoons must be constructed to prevent leaks and seepage and prevent spills that could enter surface waters or ground water.

*The ~~earthen~~ lagoon bottom and walls design standards may be found in "Recommended Standards for Wastewater Facilities", 1990 Edition, available from Health Education Services, P.O. Box 7126, Albany, New York 12224, Chapter 90, Pond Bottom, pages 90-19 to 90-20. This method is also available for copying at the Indiana Department of Environmental Management, Office of ~~Solid and Hazardous Waste Management,~~ **Land Quality,** 100 North Senate Avenue, Room 1154, Indianapolis, Indiana 46204. *(Water Pollution Control Board; 327 IAC 6.1-8-6; filed May 15, 1998, 10:20 a.m.: 21 IR 3812; readopted filed Jan 10, 2001, 3:23 p.m.: 24 IR 1518; filed Jul 7, 2003, 4:25 p.m.: 26 IR 3631)*

SECTION 70. 327 IAC 6.1-8-7 IS AMENDED TO READ AS FOLLOWS:

327 IAC 6.1-8-7 Operational requirements for storage structures

Authority: IC 13-14-8-7; IC 13-15-1-2; IC 13-15-2-1; IC 13-18-3-1; IC 13-18-12-4
Affected: IC 13-18-12

Sec. 7. (a) The ~~off-site~~ storage structure must be maintained and operated to prevent any nuisance or health hazards as follows:

(1) Unauthorized access to the ~~off-site~~ storage structure must be prevented by locks or the facility must be adequately fenced and posted.

(2) ~~Off-site~~ Storage structures must be maintained such that there is no discharge or seepage of biosolid, industrial waste product, or pollutant-bearing water from the ~~off-site~~ storage structure other than controlled removal for final disposal or land application of the biosolid, industrial waste product, or pollutant-bearing water.

(3) ~~Off-site~~ Storage structures must be maintained to prevent nuisance conditions, safety hazards, or the harborage and breeding of vectors.

(4) ~~Off-site~~ Storage structures must be maintained such that there is no discharge of pollutants into the **surface** waters ~~of the state.~~ **or ground water.**

(b) The ~~earthen~~ lagoon must be maintained and operated in accordance with the following:

(1) ~~The~~ Earthen ~~lagoon~~ dikes must be maintained free of weeds, burrowing animals, and other conditions that may undermine the integrity of the dikes.

(2) ~~The~~ Earthen ~~lagoon~~ dikes and banks must be seeded with grass to provide cover to prevent erosion.

(3) The ~~earthen~~ lagoon location must be posted, fenced, or otherwise secured to prevent access by unauthorized persons and livestock.

(4) The minimum freeboard must be eighteen (18) inches at all times.

(Water Pollution Control Board; 327 IAC 6.1-8-7; filed May 15, 1998, 10:20 a.m.: 21 IR 3813; readopted filed Jan 10, 2001, 3:23 p.m.: 24 IR 1518; filed Jul 7, 2003, 4:25 p.m.: 26 IR 3632)

SECTION 71. 327 IAC 6.1-8-8 IS AMENDED TO READ AS FOLLOWS:

327 IAC 6.1-8-8 Closure of storage structures

Authority: IC 13-14-8-7; IC 13-15-1-2; IC 13-15-2-1; IC 13-18-3-1; IC 13-18-12-4
Affected: IC 13-18-12

Sec. 8. In the event ~~an off-site~~ **a** storage structure ceases to be operated or used for more than two (2) years, it is the responsibility of the person who signed the statement submitted in accordance with section ~~1(e)~~ **1(h)** of this rule to ~~abandon~~ **close** the ~~off-site~~ storage structure properly. The following steps are required:

(1) The commissioner shall be notified at least thirty (30) days in advance that the ~~off-site~~ storage site is to be ~~abandoned.~~ **closed.**

(2) The contents of ~~an off-site~~ **a** storage structure must be disposed of in a manner consistent with this article and as required by the commissioner.

(3) ~~An earthen~~ **A** lagoon must be either:

(A) leveled or filled with earth and its appurtenances removed; or

(B) cleaned and closed in an alternative manner that has been approved by the commissioner.

(4) ~~An off-site~~ **Except for lagoons, a** storage structure must be dismantled and removed or its interior filled with earth.

(5) The site shall be returned approximately to its natural contours and be mounded to allow for settling and to divert surface waters.

(6) Documentation indicating that the requirements of this section have been met must be sent to the commissioner **within thirty (30) days of the completion of closure.**

(Water Pollution Control Board; 327 IAC 6.1-8-8; filed May 15, 1998, 10:20 a.m.: 21 IR 3813; readopted filed Jan 10, 2001, 3:23 p.m.: 24 IR 1518; filed Jul 7, 2003, 4:25 p.m.: 26 IR 3632)

SECTION 72. THE FOLLOWING ARE REPEALED: 327 IAC 6.1-2-10; 327 IAC 6.1-2-12; 327 IAC 6.1-2-61.

LSA Document #01-238(F)
Proposed Rule Published: January 1, 2003; 26 IR 1158
Hearing Held: March 12, 2003
Approved by Attorney General: June 13, 2003
Approved by Governor: June 27, 2003
Filed with Secretary of State: July 7, 2003, 4:25 p.m.
Incorporated Documents Filed with Secretary of State: None

TITLE 405 OFFICE OF THE SECRETARY OF FAMILY AND SOCIAL SERVICES

LSA Document #02-207(F)

DIGEST

Amends 405 IAC 5-31-4 and adds 405 IAC 5-24-13 to add all legend and nonlegend water products to the facility's per diem rate. Effective on the first day of the calendar quarter following the thirtieth day after filing with the secretary of state.

405 IAC 5-24-13
405 IAC 5-31-4

SECTION 1. 405 IAC 5-24-13 IS ADDED TO READ AS FOLLOWS:

405 IAC 5-24-13 Legend and nonlegend solutions for nursing facility residents

Authority: IC 12-8-6-5; IC 12-15-1-10; IC 12-15-21-2
Affected: IC 12-13-7-3; IC 12-15

Sec. 13. The cost of legend and nonlegend water products, in all forms and for all uses, are included in the per diem rate for nursing facilities. When these drugs are furnished to a nursing facility resident, they are not separately reimbursable by Medicaid and are not to be billed separately to Medicaid by either the nursing facility or another Medicaid provider furnishing the products. *(Office of the Secretary of Family and Social Services; 405 IAC 5-24-13; filed Jun 5, 2003, 8:35 a.m.: 26 IR 3633, eff on the first day of the calendar quarter following the thirtieth day after filing with the secretary of state)*

SECTION 2. 405 IAC 5-31-4 IS AMENDED TO READ AS FOLLOWS:

405 IAC 5-31-4 Per diem services

Authority: IC 12-8-6-5; IC 12-15-1-10; IC 12-15-1-15; IC 12-15-21-2
Affected: IC 12-13-7-3; IC 12-15

Sec. 4. Those services and products furnished by the facility for the usual care and treatment of patients are reimbursed in the per diem rate in accordance with ~~405 IAC 14.6.~~ **405 IAC 1-14.6.** The per diem rate for nursing facilities includes the following services:

(1) Room and board (room accommodations, all dietary services, and laundry services). The per diem rate includes accommodations for semiprivate rooms. Medicaid reimbursement is available for medically necessary private rooms. Private rooms will be considered medically necessary only under one (1) or both of the following circumstances:

(A) The recipient's condition requires isolation for health reasons, such as communicable disease.

(B) The recipient exhibits behavior that is or may be physically harmful to self or others in the facility.

(2) Nursing care.

(3) The cost of all medical and nonmedical supplies and equipment, which includes those items generally required to assure adequate medical care and personal hygiene of patients, is included in the nursing facility per diem.

(4) Durable medical equipment (DME), and associated repair costs, routinely required for the care of patients, including, but not limited to:

(A) ice bags;
(B) bed rails;
(C) canes;
(D) walkers;
(E) crutches;
(F) standard wheelchairs; and
(G) traction equipment;

(H) oxygen and equipment and supplies for its delivery;

are covered in the per diem rate and may not be billed to Medicaid by the facility, an outside pharmacy, or any other provider. Nonstandard items of DME and associated repair costs that have received prior authorization must be billed to Medicaid directly by the DME provider. Facilities may not require recipients to purchase or rent such equipment with their personal funds. DME purchased with Medicaid funds becomes the property of the office of Medicaid policy and planning. The county office of family and children must be notified when the recipient no longer needs the equipment.

(5) Medically necessary and reasonable therapy services, which include physical, occupational, respiratory, and speech pathology services.

(6) Transportation to vocational/habilitation service programs.

(7) The cost of both legend and nonlegend water products in all forms and for all uses.

(Office of the Secretary of Family and Social Services; 405 IAC 5-31-4; filed Jul 25, 1997, 4:00 p.m.: 20 IR 3361; filed Sep 27, 1999, 8:55 a.m.: 23 IR 322; readopted filed Jun 27, 2001, 9:40 a.m.: 24 IR 3822; filed Jun 5, 2003, 8:35 a.m.: 26 IR 3633, eff on the first day of the calendar quarter following the thirtieth day after filing with the secretary of state)

SECTION 3. **For purposes of including legend and nonlegend water products in nursing facility per diem rates calculated on the effective date of this rule and subsequent calendar quarters until the end of the next reporting year end, new per diem rates for all nursing facilities shall include costs for legend and nonlegend water products based on Medicaid claims payment data for claims incurred in state fiscal year 2002. For per diem rates that shall be effective after the next reporting year end, nursing facility providers' costs for legend and nonlegend water products shall be reported on the annual cost report and included in the rate calculation.**

LSA Document #02-207(F)
Notice of Intent Published: 25 IR 3808
Proposed Rule Published: November 1, 2002; 26 IR 514
Hearing Held: November 22, 2002
Approved by Attorney General: May 20, 2003
Approved by Governor: June 2, 2003
Filed with Secretary of State: June 5, 2003, 8:35 a.m.
Incorporated Documents Filed with Secretary of State: None

TITLE 405 OFFICE OF THE SECRETARY OF FAMILY AND SOCIAL SERVICES

LSA Document #02-214(F)

DIGEST

Amends 405 IAC 1-16-2 to specify the payment level for hospice services on the date that an individual is discharged

from inpatient or respite hospice care. Amends 405 IAC 1-16-4 to specify that, in order to receive Medicaid reimbursement for room and board for nursing home residents receiving hospice services, the hospice must have a written agreement with the nursing facility. Amends 405 IAC 5-34-1 to specify that the hospice provider must provide all services in compliance with the Medicaid provider agreement, the appropriate provider manual and all other Medicaid policy documents issued to the provider at the time services were rendered, and any applicable state or federal statute or regulations. Amends 405 IAC 5-34-2 to specify licensure and certification requirements for Medicaid hospice providers. Amends 405 IAC 5-34-3 to specify the requirements for Medicaid reimbursement for hospice services provided by out-of-state hospice providers. Amends 405 IAC 5-34-4 to specify the requirements for obtaining authorization for hospice services. Adds 405 IAC 5-34-4.1 regarding appeals of hospice authorization determinations. Adds 405 IAC 5-34-4.2 to provide for retrospective audit of hospice services including review for medical necessity. Amends 405 IAC 5-34-5 to specify requirements relating to the hospice physician certification form. Amends 405 IAC 5-34-6 to specify requirements relating to election and revocation of hospice services. Amends 405 IAC 5-34-7 to specify requirements relating to the hospice plan of care. Effective 30 days after filing with the secretary of state.

405 IAC 1-16-2
405 IAC 1-16-4
405 IAC 5-34-1
405 IAC 5-34-2
405 IAC 5-34-3
405 IAC 5-34-4
405 IAC 5-34-4.1
405 IAC 5-34-4.2
405 IAC 5-34-5
405 IAC 5-34-6
405 IAC 5-34-7

SECTION 1. 405 IAC 1-16-2 IS AMENDED TO READ AS FOLLOWS:

405 IAC 1-16-2 Levels of care

Authority: IC 12-8-6-5; IC 12-15-1-10; IC 12-15-21-2; IC 12-15-40
Affected: IC 12-15

Sec. 2. (a) Reimbursement for hospice care shall be made according to the methodology and amounts calculated by the **Centers for Medicare and Medicaid Services (CMS), formerly the** Health Care Financing Administration (HCFA). Medicaid hospice reimbursement rates are based on Medicare reimbursement rates and methodologies, adjusted to disregard offsets attributable to Medicare coinsurance amounts. The rates will be adjusted for regional differences in wages using the geographical areas defined by ~~HCFA~~ **CMS** and hospice wage index published by ~~HCFA.~~ **CMS.**

(b) Medicaid reimbursement for hospice services will be made at one (1) of four (4) all-inclusive per diem rates for each day in which a Medicaid recipient is under the care of the hospice provider. The reimbursement amounts are determined within each of the following categories:

(1) Routine home care.
(2) Continuous home care.
(3) Inpatient respite care.
(4) General inpatient hospice care.

(c) The hospice will be paid at the routine home care rate for each day the recipient is at home, under the care of the hospice provider, and not receiving continuous home care. This rate is paid without regard to the volume or intensity of routine home care services provided on any given day.

(d) Continuous home care is to be provided only during a period of crisis. A period of crisis is defined as a period in which a patient requires continuous care that is primarily nursing care to achieve palliation and management of acute medical symptoms. Care must be provided by either a registered nurse or a licensed practical nurse, and a nurse must provide care for over half the total period of care. A minimum of eight (8) hours of care must be provided during a twenty-four (24) hour day that begins and ends at midnight. This care need not be continuous and uninterrupted. The continuous home care rate is divided by twenty-four (24) hours in order to arrive at an hourly rate. For every hour or part of an hour of continuous care furnished, the hourly rate will be reimbursed to the hospice provider for up to twenty-four (24) hours a day.

(e) The hospice provider will be paid at the inpatient respite care rate for each day that the recipient is in an approved inpatient facility and is receiving respite care. Respite care is short term inpatient care provided to the recipient only when necessary to relieve the family members or other persons caring for the recipient. Respite care may be provided only on an occasional basis. Payment for respite care may be made for a maximum of five (5) consecutive days at a time, including the date of admission, but not counting the date of discharge. Payment for the sixth and any subsequent days is to be made at the routine home care rate.

(f) Subject to the limitations in section 3 of this rule, the hospice provider will be paid at the general inpatient hospice rate for each day the recipient is in an approved inpatient hospice facility and is receiving services related to the terminal illness. The recipient must require general inpatient care for pain control or acute or chronic symptom management that cannot be managed in other settings. Documentation in the recipient's record must clearly explain the reason for admission and the recipient's condition during the stay in the facility at this level of care. No other fixed payment rate (i.e., routine home care) will be made for a day on which the patient receives general hospice inpatient care. Services provided in the inpatient setting must conform to the hospice patient's plan of care. The hospice provider is the professional manager of the patient's care, regardless of the physical setting of that care or the level of care. If the inpatient facility is not also the hospice provider, the hospice provider must have a contract with the

inpatient facility delineating the roles of each provider in the plan of care.

(g) When routine home care or continuous home care is furnished to a recipient who resides in a nursing facility, the nursing facility is considered the recipient's home.

(h) Reimbursement for inpatient respite care is available only for a recipient who resides in a private home. Reimbursement for inpatient respite care is not available for a recipient who resides in a nursing facility.

(i) When a recipient is receiving general inpatient or inpatient respite care, the applicable inpatient rate (general or respite) is paid for the date of admission and all subsequent inpatient days, except the day on which the patient is discharged. For the day of discharge, the appropriate home care rate is paid unless the patient dies as an inpatient. In the case where the member is discharged deceased, the applicable inpatient rate (general or respite) is paid for the date of discharge. *(Office of the Secretary of Family and Social Services; 405 IAC 1-16-2; filed Mar 9, 1998, 9:30 a.m.: 21 IR 2377; readopted filed Jun 27, 2001, 9:40 a.m.: 24 IR 3822; filed Jun 5, 2003, 8:30 a.m.: 26 IR 3634)*

SECTION 2. 405 IAC 1-16-4 IS AMENDED TO READ AS FOLLOWS:

405 IAC 1-16-4 Additional amount for nursing facility residents

Authority: IC 12-8-6-5; IC 12-15-1-10; IC 12-15-21-2; IC 12-15-40
Affected: IC 12-15

Sec. 4. (a) An additional per diem amount will be paid directly to the hospice provider for room and board of hospice residents in a certified nursing facility receiving routine or continuous care services, **when the office has determined that the recipient requires nursing facility level of care**. **Medicaid reimbursement is available for hospice services rendered to a nursing facility resident only if, prior to services being rendered, the hospice and the nursing facility enter into a written agreement under which the hospice takes full responsibility for the professional care management of the resident's hospice care and the nursing facility agrees to provide room and board to the individual.** In this context, "room and board" includes all assistance in the activities of daily living, socializing activities, administration of medication, maintaining the cleanliness of a resident's room, and supervision and assisting in the use of durable medical equipment and prescribed therapies.

(b) The room and board rate will be ninety-five percent (95%) of the lowest per diem reimbursement rate Indiana Medicaid would have paid to the nursing facility for any resident for those dates of service on which the recipient was a resident of that facility.

(c) Medicaid payment to the nursing facility for nursing facility care for the hospice resident is discontinued when the resident makes an election to receive hospice care. Any payment to the nursing facility for furnishing room and board to hospice patients is made by the hospice provider under the terms of its agreement with the nursing facility.

(d) The additional amount for room and board is not available for recipients receiving inpatient respite care or general inpatient care. *(Office of the Secretary of Family and Social Services; 405 IAC 1-16-4; filed Mar 9, 1998, 9:30 a.m.: 21 IR 2378; readopted filed Jun 27, 2001, 9:40 a.m.: 24 IR 3822; filed Jun 5, 2003, 8:30 a.m.: 26 IR 3635)*

SECTION 3. 405 IAC 5-34-1 IS AMENDED TO READ AS FOLLOWS:

405 IAC 5-34-1 Policy

Authority: IC 12-8-6-5; IC 12-15-1-10; IC 12-15-21-2; IC 12-15-40
Affected: IC 12-15

Sec. 1. (a) Medicaid reimbursement is available for hospice services subject to the limitations in this rule and 405 IAC 1-16. Hospice services consist of the following:

(1) Palliative care for the physical, psychological, social, spiritual, and other special needs of a hospice program patient during the final stages of the patient's terminal illness.

(2) Care for the psychological, social, spiritual, and other needs of the hospice program patient's family before and after the patient's death.

(b) In order to receive Medicaid reimbursement for hospice services, a hospice provider must meet the requirements of section 2 of this rule.

(c) Notwithstanding any prior approval by the office, the provision of all services shall comply with the Medicaid provider agreement, the appropriate provider manual applicable at the time such services were provided, all other Medicaid policy documents issued to providers, and any applicable state or federal statute or regulation. *(Office of the Secretary of Family and Social Services; 405 IAC 5-34-1; filed Mar 9, 1998, 9:30 a.m.: 21 IR 2379; readopted filed Jun 27, 2001, 9:40 a.m.: 24 IR 3822; filed Jun 5, 2003, 8:30 a.m.: 26 IR 3635)*

SECTION 4. 405 IAC 5-34-2 IS AMENDED TO READ AS FOLLOWS:

405 IAC 5-34-2 Provider enrollment

Authority: IC 12-8-6-5; IC 12-15-1-10; IC 12-15-21-2; IC 12-15-40
Affected: IC 12-15; IC 16-25-3

Sec. 2. (a) In order to enroll as a hospice provider in the Indiana Medicaid program, a provider must submit a provider enrollment agreement as specified in 405 IAC 5-4. A separate provider agreement for hospice services must be completed

even if the provider currently participates in the Indiana Medicaid program as a provider of another service.

(b) A hospice provider must be certified as a hospice provider in the Medicare program. A copy of the provider's Medicare Certification Letter from **the Centers for Medicare and Medicaid Services (CMS), formerly** the Health Care Financing Administration, must be submitted with the Medicaid provider enrollment agreement. **The hospice provider who operates at more than one (1) location must provide a copy of the Medicare Certification Letter from CMS that demonstrates that the regional office has approved each additional office location to be Medicare-certified as a either a satellite office of the home office location or as a separate hospice with its unique Medicare provider number.**

(c) The provider must comply with all state and federal requirements for Medicaid **and Medicare** providers in addition to the requirements in this section. **The hospice and all hospice employees must be licensed in accordance with applicable federal, state, and local laws and regulations as required under federal regulations at 42 CFR 418.72 and Indiana state hospice licensure at IC 16-25-3.**

(d) The hospice provider must designate an interdisciplinary group composed of individuals who are employees of the hospice and who provide or supervise care and services offered by the hospice provider. At a minimum, this group must include all of the following persons:

(1) A medical director, who must be a doctor of medicine or osteopathy.
(2) A registered nurse.
(3) A social worker.
(4) A pastoral or other counselor.

(e) The interdisciplinary group is responsible for the following:

(1) Participation in the establishment of the plan of care.
(2) Provision or supervision of hospice care and services.
(3) Review and updating of the plan of care.
(4) Establishment of policies governing the day-to-day provision of care and services.

(f) A hospice provider may not discontinue or diminish care provided to the Indiana Medicaid recipient because of the recipient's source of payment.

(g) The provider must demonstrate respect for a recipient's rights by ensuring that the election of hospice services is based on the informed, voluntary consent of the recipient or the recipient's representative.

(h) A hospice provider may discharge a recipient from hospice services only if one (1) or more of the following occurs:

(1) The recipient dies.
(2) The recipient is determined to have a prognosis greater than six (6) months.
(3) The recipient moves out of the hospice's service area.
(4) The safety of the recipient, other patients, or hospice staff is compromised.

(Office of the Secretary of Family and Social Services; 405 IAC 5-34-2; filed Mar 9, 1998, 9:30 a.m.: 21 IR 2380; readopted filed Jun 27, 2001, 9:40 a.m.: 24 IR 3822; filed Jun 5, 2003, 8:30 a.m.: 26 IR 3635)

SECTION 5. 405 IAC 5-34-3 IS AMENDED TO READ AS FOLLOWS:

405 IAC 5-34-3 Out-of-state providers

Authority: IC 12-8-6-5; IC 12-15-1-10; IC 12-15-21-2; IC 12-15-40
Affected: IC 12-15

Sec. 3. (a) Subject to the conditions in this section **and section 2 of this rule,** and any applicable state or federal licensing laws or regulations, an Indiana resident may receive hospice services from an out-of-state hospice provider if the provider is:

(1) located in a designated out-of-state city listed in 405 IAC 5-5-2(a); and
(2) enrolled in the Indiana Medicaid program.

(b) Prior authorization may be granted for an Indiana resident to receive hospice services from an out-of-state hospice provider not located in a designated out-of-state city if any one (1) of the criteria listed at 405 IAC 5-5-2(c) is met.

~~(b)~~ **(c)** Routine home care and continuous home care hospice services may be provided by out-of-state hospice providers to Indiana residents in their own home or in a nursing facility located in Indiana.

~~(c)~~ **(d)** Inpatient respite care and general inpatient care hospice services may be provided in an out-of-state hospice provider's facility.

~~(d)~~ **(e)** Routine home care and continuous home care hospice services cannot be provided to an Indiana resident in a nursing facility outside of Indiana, even if the nursing facility is located in an out-of-state designated city listed in 405 IAC 5-5-2(a). *(Office of the Secretary of Family and Social Services; 405 IAC 5-34-3; filed Mar 9, 1998, 9:30 a.m.: 21 IR 2380; readopted filed Jun 27, 2001, 9:40 a.m.: 24 IR 3822; filed Jun 5, 2003, 8:30 a.m.: 26 IR 3636)*

SECTION 6. 405 IAC 5-34-4 IS AMENDED TO READ AS FOLLOWS:

405 IAC 5-34-4 Hospice authorization and benefit periods

Authority: IC 12-8-6-5; IC 12-15-1-10; IC 12-15-21-2; IC 12-15-40
Affected: IC 12-15

Sec. 4. (a) Hospice services require ~~prior approval~~ **Medicaid**

hospice authorization by the office or its contractor. ~~In order~~ **Medicaid reimbursement is not available for hospice services furnished without authorization.**

(b) To ~~obtain prior approval~~ **request hospice authorization for Medicaid-only eligible recipients for each hospice benefit period,** the provider must submit all of the following ~~as detailed in this rule:~~ **documentation on forms approved by the office:**

(1) **Medicaid** recipient election statement.

(2) **Medicaid** physician certification.

(3) **Medicaid** plan of care.

(c) Dually-eligible Medicare/Medicaid recipients residing in nursing facilities who elect hospice benefits must enroll simultaneously in the Medicare and Medicaid hospice benefits. To obtain hospice authorization, the hospice provider must submit the following forms as approved by the office for a one (1) time enrollment in the Medicaid hospice benefit:

(1) Medicaid Hospice Authorization Notice for Dually-Eligible Medicare/Medicaid Nursing Facility Residents.

(2) A copy of the hospice agency form reflecting the recipient's election of the Medicare hospice benefit. The form must reflect the signature of the recipient or the recipient's representative and the date on which the form was signed.

The hospice provider is required to resubmit the forms described in this subsection when a dually-eligible Medicare/Medicaid hospice recipient residing in a nursing facility reelects the Medicare and the Medicaid hospice benefit following a previous hospice revocation or hospice discharge.

(d) Hospice authorization is not required for the dually-eligible Medicare/Medicaid hospice recipient residing at home as Medicare is reimbursing for the hospice care.

~~(b)~~ **(e)** Hospice ~~eligibility~~ **authorization for the Medicaid-only hospice recipient** is available in the following consecutive benefit periods:

(1) One (1) period of ninety (90) days.

(2) A second period of ninety (90) days.

(3) An unlimited number of periods of sixty (60) days.

~~(c) Approval~~ **(f) Hospice authorization** must be granted separately for each benefit period **for the Medicaid-only hospice recipient.** If benefit periods beyond the first ninety (90) days are necessary, then recertification on the physician certification form and an updated plan of care are required for ~~prior approval~~ **authorization** of the second and subsequent benefit periods. **For the dually-eligible Medicare/Medicaid hospice recipient residing in a nursing facility, hospice authorization is granted one (1) time at the time of enrollment in the Medicaid hospice benefit. Hospice authorization is not required for each hospice benefit period. Hospice authorization is required when the dually-eligible Medicare/Medicaid hospice recipient residing in a nursing facility reelects the Medicare and the Medicaid hospice benefit following a previous hospice revocation or hospice discharge.**

(g) In order to obtain authorization and reimbursement for hospice services, the provider must submit the documentation listed in this section to the office or its contractor within ten (10) business days of the effective date of the recipient's election, and within ten (10) business days of the beginning of the second and subsequent benefit periods if required under this section.

(h) When there is insufficient information submitted to render a hospice authorization decision or the documentation contains errors, a hospice authorization request will be suspended for thirty (30) days and the office or its contractor will request additional information from the provider. The provider must make the corrections and resubmit the proper documentation to the office or its contractor within thirty (30) calendar days after the additional information or correction is requested. If the provider fails to resubmit the documentation with the appropriate corrections within the thirty (30) day time period, the request for hospice authorization will be denied. If the provider submits additional documentation within thirty (30) days, but the documentation submitted does not provide sufficient information to render a decision, the office or its contractor may request additional information. The provider must submit the additional information within thirty (30) days after the additional information is requested. If the provider fails to submit the requested information within the additional thirty (30) days, or if the additional documentation does not provide sufficient information to render a decision, the request for hospice authorization will be denied.

(i) If a request for hospice authorization or supporting documentation are submitted after the time limits in this section, authorization may be granted only for services provided on or after the date that the request is received. Authorization for services furnished prior to the date of a request that does not comply with the time limits in this section may be granted only under the following circumstances:

(1) Pending or retroactive recipient eligibility. The hospice authorization request must be submitted within twelve (12) months of the date of the issuance of the recipient's Medicaid card.

(2) The provider was unaware that the recipient was eligible for services at the time services were rendered. Hospice authorization will be granted in this situation only if the following conditions are met:

(A) The provider's records document that the recipient

refused or was physically unable to provide the recipient identification (RID or Medicaid) number.

(B) The provider can substantiate that the provider continually pursued reimbursement from the patient until Medicaid eligibility was discovered.

(C) The provider submitted the request for prior authorization within sixty (60) days of the date Medicaid eligibility was discovered.

(3) Pending or retroactive approval of nursing facility level of care. The hospice authorization request must be submitted within one (1) year of the date nursing facility level of care is approved by the office.

(j) The office will rely on current professional guidelines, including the local Medicare medical review policies for hospice services, in making the hospice authorization determination.

~~(d)~~ **(k)** When approval for a benefit period has been granted, a hospice provider may manage a patient's care at the four (4) levels of care according to the medical needs determined by the interdisciplinary team and the requirements of the patient and the patient's family or primary caregivers. Changes in levels of care do not require prior approval as long as these levels are rendered within a prior approved hospice benefit period. *(Office of the Secretary of Family and Social Services; 405 IAC 5-34-4; filed Mar 9, 1998, 9:30 a.m.: 21 IR 2380; readopted filed Jun 27, 2001, 9:40 a.m.: 24 IR 3822; filed Jun 5, 2003, 8:30 a.m.: 26 IR 3636)*

SECTION 7. 405 IAC 5-34-4.1 IS ADDED TO READ AS FOLLOWS:

405 IAC 5-34-4.1 Appeals of hospice authorization determinations

Authority: IC 12-8-6-5; IC 12-15-1-10; IC 12-15-21-2; IC 12-15-40-8
Affected: IC 12-15

Sec. 4.1. (a) Medicaid recipients may appeal the denial or modification of hospice authorization under 405 IAC 1.1.

(b) Any provider submitting a request for hospice authorization under this rule, which has been denied either in whole or in part, may appeal the decision under 405 IAC 1.1 after first submitting a request for reconsideration of the hospice authorization in accordance with the procedures set out in 405 IAC 5-7-2 and 405 IAC 5-7-3 for administrative reconsideration of prior authorization decisions.

(c) When there is insufficient information submitted to render a decision, or the documentation contains errors, a hospice authorization request will be suspended pursuant to section 4 of this rule, and the office or its contractor will request additional information from the provider. Suspension is not a final decision on the merits of the request and is not appealable. If the provider does not submit sufficient information within the time frames set out in section 4(h) of this rule, the request shall be denied. Denial is a final decision and may be appealed pursuant to subsections (a) and (b). *(Office of the Secretary of Family and Social Services; 405 IAC 5-34-4.1; filed Jun 5, 2003, 8:30 a.m.: 26 IR 3638)*

SECTION 8. 405 IAC 5-34-4.2 IS ADDED TO READ AS FOLLOWS:

405 IAC 5-34-4.2 Audit

Authority: IC 12-8-6-5; IC 12-15-1-10; IC 12-15-21-2; IC 12-15-40-8
Affected: IC 12-15

Sec. 4.2. (a) The office or its contractor may conduct audits of hospice services, including services for which hospice authorization has been granted. Audit of hospice services shall include review of the medical record to determine the medical necessity of services based upon applicable current professional guidelines, including the local Medicare medical review policies for hospice services.

(b) If the office determines that hospice services for a member are not medically necessary, hospice authorization will be revoked for the dates during which hospice services did not meet medical necessity criteria for hospice care. Medicaid payment for hospice services is not available for services that the office determines are not medically necessary. *(Office of the Secretary of Family and Social Services; 405 IAC 5-34-4.2; filed Jun 5, 2003, 8:30 a.m.: 26 IR 3638)*

SECTION 9. 405 IAC 5-34-5 IS AMENDED TO READ AS FOLLOWS:

405 IAC 5-34-5 Physician certification

Authority: IC 12-8-6-5; IC 12-15-1-10; IC 12-15-21-2; IC 12-15-40
Affected: IC 12-15

Sec. 5. (a) In order for an individual to receive Medicaid-covered hospice services, a physician must certify **in writing** that the individual is terminally ill and expected to die from that illness within six (6) months. **For a dually-eligible Medicaid/Medicare recipient, the hospice provider must comply with Medicare physician certification requirements, but the provider is not required to complete the Medicaid physician certification form or to submit the physician certification to the office. For a Medicaid-only hospice recipient, the Medicaid physician certification form must be completed and submitted to office as set out in this section.**

(b) **As required by federal regulations,** the certification in subsection (a) must:

(1) be completed **for the first period of ninety (90) days** by:

(A) the medical director of the hospice program or **the physician member of the hospice interdisciplinary group; and**

(B) ~~the physician member of the disciplinary group and~~ the recipient's attending physician if the recipient has an attending physician;

(2) be completed by one (1) of the physicians listed in subdivision(1)(A) for the second and subsequent periods;

~~(2)~~ **(3)** be signed and dated;

~~(3)~~ **(4)** identify the diagnosis that prompted the individual to elect hospice services;

~~(4)~~ **(5)** include a statement that the prognosis **for life expectancy** is six (6) months or less; and

~~(5)~~ **(6)** be submitted to the office or its designee within the time frames in subsection (c).

(c) The **Medicaid** physician certification must be submitted for the first period within ten (10) business days of the effective date of the **Medicaid-only** recipient's election. For the second and subsequent periods, the **Medicaid** physician certification must be submitted within ten (10) business days of the beginning of the benefit period.

(d) For the Medicaid-only hospice recipient, the Medicaid physician certification form must be included in the recipient's medical chart in the hospice agency and the recipient's medical chart in the nursing facility. *(Office of the Secretary of Family and Social Services; 405 IAC 5-34-5; filed Mar 9, 1998, 9:30 a.m.: 21 IR 2381; readopted filed Jun 27, 2001, 9:40 a.m.: 24 IR 3822; filed Jun 5, 2003, 8:30 a.m.: 26 IR 3638)*

SECTION 10. 405 IAC 5-34-6 IS AMENDED TO READ AS FOLLOWS:

405 IAC 5-34-6 Election of hospice services

Authority: IC 12-8-6-5; IC 12-15-1-10; IC 12-15-21-2; IC 12-15-40
Affected: IC 12-15

Sec. 6. (a) In order to receive hospice services, a recipient must elect hospice services by filing an election statement with the hospice provider on forms specified by the office.

(b) Election of the hospice benefit requires the recipient to waive Medicaid coverage for the following services:

(1) Other forms of health care for the treatment of the terminal illness for which hospice care was elected, or for treatment of a condition related to the terminal illness.

(2) Services provided by another provider which are equivalent to the care provided by the elected hospice provider.

(3) Hospice services other than those provided by the elected hospice provider or its contractors.

(c) The recipient or recipient's representative may designate an effective date for the election that begins with the first day of hospice care or any other subsequent day of hospice care. The individual may not designate an effective date that is earlier than the date of election.

(d) **For Medicaid-only hospice recipient,** the **Medicaid** election form must be submitted to the office or its designee along with the **Medicaid** physician's certification required by section 5 of this rule when hospice services are initiated. It is not necessary to submit the **Medicaid** election form for the second and subsequent benefit periods unless the recipient has revoked the election and wishes to reelect hospice care.

(e) For the dually-eligible Medicare/Medicaid hospice recipient residing in the nursing facility, the hospice agency election form reflecting the Medicare hospice election date and the recipient's signature must be submitted with the Medicaid hospice authorization form for dually-eligible Medicare/Medicaid nursing facility residents. It is not necessary to submit the Medicare election form for the second and subsequent benefit periods unless the recipient has revoked the election and wishes to reelect hospice care under the Medicare and Medicaid hospice benefits.

~~(e)~~ **(f)** In the event that a recipient or the recipient's representative wishes to revoke the election of hospice services, the following apply:

(1) The individual must file a hospice revocation statement on a form approved by the office. The form includes a signed statement that the individual revokes the election of Medicaid hospice services for the remaining days in the benefit period. **The form must specify the date that the revocation is to be effective, if later than the date the form is signed by the individual or representative. An individual or representative may not designate an effective date earlier than the date that the revocation is made.**

(2) A recipient may elect to receive hospice care intermittently rather than consecutively over the benefit periods.

(3) If a recipient revokes hospice services during any benefit period, time remaining on that benefit period is forfeited.

(4) The revocation form must be completed for Medicaid-only hospice recipients as well as dually-eligible Medicare/Medicaid hospice recipients residing in nursing facilities. The hospice provider must submit this form to the office or its designee.

(5) The Medicaid hospice revocation form must be included in the recipient's medical chart in the hospice agency. If the Medicaid hospice recipient resides in a nursing facility, the Medicaid hospice revocation form must be included in the recipient's nursing facility medical chart as well.

~~(f)~~ **(g)** A recipient or a recipient's representative may change hospice providers once during any benefit period. This change does not constitute a revocation of services. **The following apply when a recipient changes hospice providers:**

(1) To change the designation of hospice programs, the individual or the individual's representative must complete the Medicaid Hospice Provider Change Request Between Indiana Hospice Providers Form or other form designated by the office for this purpose. This form is

required for the Medicaid-only hospice recipient and the dually-eligible Medicare/Medicaid hospice member residing in the nursing facility. The original provider must submit this form to the office or its designee.

(2) The Medicaid Hospice Provider Change Request Between Indiana Hospice Providers Form, or other form designated by the office for this purpose, must be included in the recipient's medical chart in the hospice agency. If the Medicaid hospice recipient resides in a nursing facility, this form must be included in the recipient's nursing facility chart. This documentation requirement is for the Medicaid-only hospice member as well as the dually-eligible Medicare/Medicaid hospice member residing in a nursing facility.

(Office of the Secretary of Family and Social Services; 405 IAC 5-34-6; filed Mar 9, 1998, 9:30 a.m.: 21 IR 2381; readopted filed Jun 27, 2001, 9:40 a.m.: 24 IR 3822; filed Jun 5, 2003, 8:30 a.m.: 26 IR 3639)

SECTION 11. 405 IAC 5-34-7 IS AMENDED TO READ AS FOLLOWS:

405 IAC 5-34-7 Plan of care

Authority: IC 12-8-6-5; IC 12-15-1-10; IC 12-15-21-2; IC 12-15-40
Affected: IC 12-15

Sec. 7. (a) When an eligible recipient elects to receive services from a certified hospice provider, the provider shall develop a plan of care. **For the Medicaid-only hospice recipients,** the provider must submit the **Medicaid** plan **of care form** to the office or the office's contractor with the **Medicaid** physician certification and the **Medicaid** election statement.

(b) In developing the plan of care, the provider must comply with the following procedures:

(1) The interdisciplinary team member who drafts the plan must confer with at least one (1) other member of the interdisciplinary team.

(2) One (1) of the conferees must be a physician or nurse and all other team members must review the plan of care.

(3) All services stipulated within the plan of care must be reasonable and necessary for the palliation or management of the terminal illness and related conditions.

(4) For the Medicaid-only hospice recipient, the Medicaid hospice plan of care must be included in the recipient's medical chart at the hospice agency. If the Medicaid-only recipient resides in a nursing facility, the Medicaid plan of care must also be included in the recipient's nursing facility medical chart.

(5) For the dually-eligible Medicare/Medicaid hospice recipient residing in a nursing facility, a coordinated plan of care prepared and agreed upon by the hospice and nursing facility must be included in the recipient's nursing facility medical chart.

(Office of the Secretary of Family and Social Services; 405 IAC 5-34-7; filed Mar 9, 1998, 9:30 a.m.: 21 IR 2382; readopted filed Jun 27, 2001, 9:40 a.m.: 24 IR 3822; filed Jun 5, 2003, 8:30 a.m.: 26 IR 3640)

LSA Document #02-214(F)
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Approved by Governor: June 2, 2003
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Incorporated Documents Filed with Secretary of State: None

TITLE 431 COMMUNITY RESIDENTIAL FACILITIES COUNCIL

LSA Document #02-211(F)

DIGEST

Adds 431 IAC 7 to establish standards for the approval of entities providing supported living services to eligible individuals with a developmental disability. Effective 30 days after filing with the secretary of state.

431 IAC 7

SECTION 1. 431 IAC 7 IS ADDED TO READ AS FOLLOWS:

ARTICLE 7. SUPPORTED LIVING SERVICES AND SUPPORTS

Rule 1. Purpose

431 IAC 7-1-1 Purpose

Authority: IC 12-28-5-10; IC 12-28-5-19
Affected: IC 12-28-5

Sec. 1. The purpose of this article is to establish standards for the approval of providers of supported living services and supports to individuals with a developmental disability. *(Community Residential Facilities Council; 431 IAC 7-1-1; filed Jun 5, 2003, 8:40 a.m.: 26 IR 3640)*

Rule 2. Applicability

431 IAC 7-2-1 Providers of services

Authority: IC 12-28-5-19
Affected: IC 12-28-5

Sec. 1. This article applies to the approval of providers of supported living services or supported living supports. *(Community Residential Facilities Council; 431 IAC 7-2-1; filed Jun 5, 2003, 8:40 a.m.: 26 IR 3640)*

Rule 3. Definitions

431 IAC 7-3-1 Applicability of definitions
Authority: IC 12-28-5-19
Affected: IC 12-28-5

Sec. 1. The definitions in this rule apply throughout this article. *(Community Residential Facilities Council; 431 IAC 7-3-1; filed Jun 5, 2003, 8:40 a.m.: 26 IR 3641)*

431 IAC 7-3-2 Definitions incorporated by reference
Authority: IC 12-28-5-19
Affected: IC 12-28-5

Sec. 2. The council incorporates by reference into this rule the definitions set forth in 460 IAC 6-3. *(Community Residential Facilities Council; 431 IAC 7-3-2; filed Jun 5, 2003, 8:40 a.m.: 26 IR 3641)*

Rule 4. Types of Supported Living Services and Supports

431 IAC 7-4-1 Incorporation by reference
Authority: IC 12-28-5-19
Affected: IC 12-11-1.1; IC 12-28-5

Sec. 1. The council incorporates by reference into this rule the types of supported living services and supports set forth in 460 IAC 6-4-1. *(Community Residential Facilities Council; 431 IAC 7-4-1; filed Jun 5, 2003, 8:40 a.m.: 26 IR 3641)*

Rule 5. Provider Qualifications

431 IAC 7-5-1 Applicability
Authority: IC 12-28-5-19
Affected: IC 12-28-5

Sec. 1. This rule applies to all supported living services and supports. *(Community Residential Facilities Council; 431 IAC 7-5-1; filed Jun 5, 2003, 8:40 a.m.: 26 IR 3641)*

431 IAC 7-5-2 Incorporation by reference
Authority: IC 12-28-5-10; IC 12-28-5-19
Affected: IC 12-28-5

Sec. 2. The council incorporates by reference into this rule the provider qualifications and provisions set forth in 460 IAC 6-5. *(Community Residential Facilities Council; 431 IAC 7-5-2; filed Jun 5, 2003, 8:40 a.m.: 26 IR 3641)*

Rule 6. Application and Approval Process

431 IAC 7-6-1 Applicability
Authority: IC 12-28-5-19
Affected: IC 12-28-5

Sec. 1. This rule applies to all supported living services and supports. *(Community Residential Facilities Council; 431 IAC 7-6-1; filed Jun 5, 2003, 8:40 a.m.: 26 IR 3641)*

431 IAC 7-6-2 Initial application
Authority: IC 12-28-5-11; IC 12-28-5-12; IC 12-28-5-19
Affected: IC 12-28-5

Sec. 2. To receive initial approval as a supported living services or supports provider, BDDS shall submit findings to the council regarding the following for each supported living service or support for which the applicant is seeking to be an approved provider:

(1) The application on a form prescribed by the BDDS.

(2) Evidence that the provider meets the qualifications for each supported living service or support that the provider is seeking to be approved to provide as specified in this article.

(3) Supporting documents specified on the application form to demonstrate the applicant's programmatic, financial, and managerial ability to provide supported living services or supports as set out in this article.

(4) A written and signed statement that the applicant will comply with the provisions of this article.

(5) A written and signed statement that the applicant will provide services to an individual as set out in the individual's ISP.

(Community Residential Facilities Council; 431 IAC 7-6-2; filed Jun 5, 2003, 8:40 a.m.: 26 IR 3641)

431 IAC 7-6-3 Action on application
Authority: IC 12-28-5-11; IC 12-28-5-12; IC 12-28-5-14; IC 12-28-5-19
Affected: IC 4-21.5; IC 12-28-5

Sec. 3. (a) The council, upon review of the recommendation of the BDDS, shall determine whether an applicant meets the requirements under this article.

(b) Upon review of the findings of the BDDS, the council shall either:

(1) approve the applicant for a period not to exceed three (3) years; or

(2) deny approval to an applicant that does not meet the approval requirements of this article.

(c) The council shall notify an applicant, in writing, of the council's determination within sixty (60) days of submission of a completed application.

(d) If an applicant is adversely affected or aggrieved by the council's determination, the applicant may request administrative review of the determination. Such request shall be made in writing and filed with the council within fifteen (15) days after the applicant receives written notice of the council's determination. Administrative review shall be conducted pursuant to IC 4-21.5. *(Community Residential Facilities Council; 431 IAC 7-6-3; filed Jun 5, 2003, 8:40 a.m.: 26 IR 3641)*

431 IAC 7-6-4 Additional approvals; bureau of developmental disabilities services
Authority: IC 12-28-5-19
Affected: IC 12-11-1.1-1; IC 12-28-5-11

Sec. 4. Before beginning to provide supported living

services or supports under this article, a provider shall also be approved by the BDDS pursuant to IC 12-11-1.1-1(e). *(Community Residential Facilities Council; 431 IAC 7-6-4; filed Jun 5, 2003, 8:40 a.m.: 26 IR 3641)*

431 IAC 7-6-5 Renewal of approval
Authority: IC 12-28-5-11; IC 12-28-5-12; IC 12-28-5-14; IC 12-28-5-19
Affected: IC 4-21.5; IC 12-28-5

Sec. 5. (a) A provider of supported living services or supports shall file a written request for renewal of the council's approval at least ninety (90) days prior to expiration of the council's previous approval. The written request shall include an assessment of provider performance developed by the council.

(b) Upon receiving a request for renewal of approved status, the council shall determine whether a provider continues to meet the requirements of this article.

(c) The BDDS shall provide to the council:
(1) a recommendation concerning the renewal of the council's approval; and
(2) any other information requested by the council.

(d) The council's determination on renewal of approval shall be based on verification that:
(1) the provider continues to meet the requirements of this article;
(2) the provider's operations have been surveyed either:
(A) within the preceding twelve (12) months; or
(B) as part of the renewal process; and
(3) there are no outstanding issues that endanger the health or safety of an individual receiving services from the provider.

(e) In considering a request for the renewal of approval, the council shall either:
(1) approve the applicant for a period not to exceed three (3) years;
(2) issue provisional approval to an applicant that does not qualify for approval under this article but that provides satisfactory evidence that the applicant will qualify within a period prescribed by the council, with the period not to exceed six (6) months; or
(3) deny approval to an applicant that does not meet the approval requirements of this article.

(f) The council shall notify a provider, in writing, of the council's determination at least thirty (30) days prior to the expiration of the provider's approval under this section, provided that:
(1) the provider has complied with subsection (a); and
(2) the council has received the information required in subsection (c).

(g) If a provider has complied with subsection (a) and if the council does not act upon the provider's request for renewal of approved status before the expiration of the provider's approved status, the provider's approved status shall continue until such time as the council acts upon the provider's request for renewal of approved status.

(h) If a provider is adversely affected or aggrieved by the council's determination, the provider may request administrative review of the determination. The request shall be made in writing and filed with the council within fifteen (15) days after the provider receives written notice of the determination. Administrative review shall be conducted pursuant to IC 4-21.5. *(Community Residential Facilities Council; 431 IAC 7-6-5; filed Jun 5, 2003, 8:40 a.m.: 26 IR 3642)*

431 IAC 7-6-6 Application to provide additional services
Authority: IC 12-28-5-11; IC 12-28-5-12; IC 12-28-5-19
Affected: IC 12-28-5

Sec. 6. (a) A provider seeking approval to provide an additional supported living service or support shall comply with section 2 of this rule.

(b) A provider seeking approval to provide an additional supported living service or support shall submit to the council an assessment of provider performance developed by the council.

(c) The BDDS shall provide to the council:
(1) a recommendation concerning the council's approval of the provider to provide additional services; and
(2) any other information requested by the council.

(d) Approval to provide additional supported living services or supports shall be granted by the council only if:
(1) the provider meets the requirements under this article;
(2) the provider's operations have been surveyed either:
(A) within the preceding twelve (12) months; or
(B) as part of the approval process to provide additional services; and
(3) there are no outstanding issues that endanger the health or safety of an individual.
(Community Residential Facilities Council; 431 IAC 7-6-6; filed Jun 5, 2003, 8:40 a.m.: 26 IR 3642)

Rule 7. Revocation of Approval; Administrative Review

431 IAC 7-7-1 Applicability
Authority: IC 12-28-5-19
Affected: IC 12-28-5

Sec. 1. This rule applies to all supported living services and supports. *(Community Residential Facilities Council; 431 IAC 7-7-1; filed Jun 5, 2003, 8:40 a.m.: 26 IR 3642)*

431 IAC 7-7-2 Revocation of approval
Authority: IC 12-28-5-13; IC 12-28-5-19
Affected: IC 4-21.5-3; IC 12-28-5

Sec. 2. The council shall revoke the approval of a provider under this rule that no longer meets the qualifications established under 431 IAC 7-5 after following the procedures prescribed by IC 4-21.5-3. *(Community Residential Facilities Council; 431 IAC 7-7-2; filed Jun 5, 2003, 8:40 a.m.: 26 IR 3643)*

431 IAC 7-7-3 Notice of intent to revoke approval
Authority: IC 12-28-5-13; IC 12-28-5-19
Affected: IC 12-28-5

Sec. 3. (a) The council shall give written notice of the council's intent to revoke the approval of a provider to:
(1) the provider;
(2) the individual or individuals receiving services from the provider;
(3) the legal representative, if applicable, of any individual receiving services from the provider;
(4) the case manager of each individual receiving services from the provider; and
(5) the director of BDDS.

(b) The written notice under subsection (a) shall include the following:
(1) The requirements of this article which the provider does not meet.
(2) The effective date, with at least thirty (30) days' notice, of the council's revocation of the provider's approval.
(3) The need for planning to obtain alternative services for an individual or individuals.
(4) The provider's right to seek administrative review of the council's action.
(Community Residential Facilities Council; 431 IAC 7-7-3; filed Jun 5, 2003, 8:40 a.m.: 26 IR 3643)

431 IAC 7-7-4 Administrative review
Authority: IC 12-28-5-19
Affected: IC 4-21.5; IC 12-28-5

Sec. 4. (a) To qualify for administrative review of an action or determination of the council under this rule, a provider shall file a written petition for review that does the following:
(1) States facts demonstrating that the provider is:
(A) a provider to whom the action is specifically directed;
(B) aggrieved or adversely affected by the action; or
(C) entitled to review under any law.
(2) Is filed with the council within fifteen (15) days after the provider receives notice of the council's action or determination.

(b) Administrative review shall be conducted in accordance with IC 4-21.5. *(Community Residential Facilities Council; 431 IAC 7-7-4; filed Jun 5, 2003, 8:40 a.m.: 26 IR 3643)*

LSA Document #02-211(F)
Notice of Intent Published: 25 IR 3809
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Incorporated Documents Filed with Secretary of State: None

TITLE 460 DIVISION OF DISABILITY, AGING, AND REHABILITATIVE SERVICES

LSA Document #02-319(F)

DIGEST

Adds 460 IAC 1-3.3, providing new criteria, reimbursement rates, and procedures for providers in the residential care assistance program in Indiana. Repeals 460 IAC 1-3-1, 460 IAC 1-3-2, 460 IAC 1-3-3, 460 IAC 1-3-4, 460 IAC 1-3-5, 460 IAC 1-3-6, 460 IAC 1-3-7, 460 IAC 1-3-8, 460 IAC 1-3-9, 460 IAC 1-3-10, 460 IAC 1-3-11, 460 IAC 1-3-12, 460 IAC 1-3-13, 460 IAC 1-3-14, and 460 IAC 1-3-15. Effective 30 days after filing with the secretary of state.

460 IAC 1-3-1	**460 IAC 1-3-9**
460 IAC 1-3-2	**460 IAC 1-3-10**
460 IAC 1-3-3	**460 IAC 1-3-11**
460 IAC 1-3-4	**460 IAC 1-3-12**
460 IAC 1-3-5	**460 IAC 1-3-13**
460 IAC 1-3-6	**460 IAC 1-3-14**
460 IAC 1-3-7	**460 IAC 1-3-15**
460 IAC 1-3-8	**460 IAC 1-3.3**

SECTION 1. 460 IAC 1-3.3 IS ADDED TO READ AS FOLLOWS:

Rule 3.3. Residential Care Assistance Program Reimbursement

460 IAC 1-3.3-1 Policy; scope
Authority: IC 12-8-8-4; IC 12-9-2-3; IC 12-10-6
Affected: IC 12-30; IC 16-28

Sec. 1. (a) This rule sets forth the per diem rate for reimbursement of providers providing residential care to recipients receiving residential care assistance from the division.

(b) Reimbursement is contingent upon current licensure by the Indiana state department of health for facilities

requiring licensure and a current provider agreement with the division.

(c) The per diem reimbursements set forth a per diem rate that is based on the costs that must be incurred by efficiently and economically operated facilities in order to provide room, board, laundry, and other services, along with administrative direction to recipients. *(Division of Disability, Aging, and Rehabilitative Services; 460 IAC 1-3.3-1; filed Jun 5, 2003, 8:30 a.m.: 26 IR 3643)*

460 IAC 1-3.3-2 Definitions
Authority: IC 12-8-8-4; IC 12-9-2-3; IC 12-10-6
Affected: IC 12-30; IC 16-28

Sec. 2. (a) The definitions in this section apply throughout this rule.

(b) "County home" means a residential facility owned, staffed, maintained, and operated by a county government that provides residential care to individuals.

(c) "Division" means the division of disability, aging, and rehabilitative services.

(d) "Facility" means a county home or residential home with a current contract with the division to provide residential care assistance.

(e) "Recipient" means an individual who is receiving residential care assistance.

(f) "Residential care" means room, board, and laundry, along with minimal administrative direction.

(g) "Residential care assistance" means state financial assistance through the division for residential care.

(h) "Residential home" means a facility licensed under IC 16-28 or an accredited Christian Science facility listed and certified by the Commission for Accreditation of Christian Science Nursing Organization/Facilities, Inc., that meets certain life safety standards considered necessary by the state fire marshal, that provides residential care to individuals. *(Division of Disability, Aging, and Rehabilitative Services; 460 IAC 1-3.3-2; filed Jun 5, 2003, 8:30 a.m.: 26 IR 3644)*

460 IAC 1-3.3-3 Per diem reimbursement rates
Authority: IC 12-8-8-4; IC 12-9-2-3; IC 12-10-6
Affected: IC 12-10-6-4; IC 12-30; IC 16-28

Sec. 3. (a) Subject to the availability of funds appropriated for the residential care assistance program, a facility that is not licensed under IC 16-28 that is providing residential care shall receive per diem reimbursement of twenty-seven dollars ($27) for each recipient. If such facility charges the general public a rate of less than twenty-seven dollars ($27), the facility shall receive per diem reimbursement from the division equal to the rate the facility charges the general public.

(b) Subject to the availability of funds appropriated for the residential care assistance program, a facility that is licensed under IC 16-28 that is providing residential care shall receive per diem reimbursement of thirty-nine dollars and thirty-five cents ($39.35) for each recipient receiving residential care assistance from the division. This per diem reimbursement takes into account the rules for residential care for facilities that are licensed under IC 16-28. If such facility charges the general public a rate of less than thirty-nine dollars and thirty-five cents ($39.35), the facility shall receive per diem reimbursement from the division equal to the rate the facility charges the general public.

(c) If a recipient has applied excess income toward residential care assistance pursuant to IC 12-10-6-4(b), the amount paid by the division to the affected provider will be reduced by the amount received by the recipient. *(Division of Disability, Aging, and Rehabilitative Services; 460 IAC 1-3.3-3; filed Jun 5, 2003, 8:30 a.m.: 26 IR 3644)*

460 IAC 1-3.3-4 Annual review of per diem reimbursement rate
Authority: IC 12-8-8-4; IC 12-9-2-3; IC 12-10-6
Affected: IC 12-30; IC 16-28

Sec. 4. (a) By March 1 of each year, providers receiving reimbursement from the division to provide residential care shall submit on a form approved by the division a summary of the provider's costs.

(b) Based upon the cost information submitted pursuant to subsection (a), the division shall annually review the per diem reimbursement rates established by this article. *(Division of Disability, Aging, and Rehabilitative Services; 460 IAC 1-3.3-4; filed Jun 5, 2003, 8:30 a.m.: 26 IR 3644)*

SECTION 2. THE FOLLOWING ARE REPEALED: 460 IAC 1-3-1; 460 IAC 1-3-2; 460 IAC 1-3-3; 460 IAC 1-3-4; 460 IAC 1-3-5; 460 IAC 1-3-6; 460 IAC 1-3-7; 460 IAC 1-3-8; 460 IAC 1-3-9; 460 IAC 1-3-10; 460 IAC 1-3-11; 460 IAC 1-3-12; 460 IAC 1-3-13; 460 IAC 1-3-14; 460 IAC 1-3-15.

LSA Document #02-319(F)
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Approved by Attorney General: May 23, 2003
Approved by Governor: June 2, 2003
Filed with Secretary of State: June 5, 2003, 8:30 a.m.
Incorporated Documents Filed with Secretary of State: None

TITLE 511 INDIANA STATE BOARD OF EDUCATION

LSA Document #02-170(F)

DIGEST

Amends 511 IAC 5-2-3 and 511 IAC 5-2-4 to change requirements for participation of limited English proficient students in ISTEP testing to coincide with requirements of federal law. Effective 30 days after filing with the secretary of state.

511 IAC 5-2-3
511 IAC 5-2-4

SECTION 1. 511 IAC 5-2-3 IS AMENDED TO READ AS FOLLOWS:

511 IAC 5-2-3 Applicability
Authority: IC 20-1-1-6; IC 20-10.1-16-5; IC 20-10.1-16-10
Affected: IC 20-1-1.2; IC 20-1-1.3; IC 20-10.1-17

Sec. 3. (a) Any nonpublic school seeking accreditation and all school corporations shall administer the ISTEP criterion-referenced test to each student in grades 3, 6, 8, and 10.

(b) A student ~~is exempt from participation in the ISTEP program if the student qualifies under one (1) of the following: (1) as determined by the student's case conference committee, a student who is a student~~ with a disability under 511 IAC 7 ~~who does not receive classroom instruction in English/language arts or mathematics that reflects the student's grade level achievement standards.~~ **shall participate in the ISTEP program as required by federal law.**

~~(2)~~ **(c)** A student whose primary language is other than English ~~has~~ **and who is a student with** limited **English** proficiency ~~in English, and reads at least two (2) years below grade level. Limited proficiency in English is evidenced by any of the following:~~

~~(A) The student does not understand, speak, read, or write English, but may know a few isolated words or expressions.~~

~~(B) The student understands simple sentences in English, especially when they are spoken slowly, but speaks only isolated words and expressions.~~

~~(C) The student:~~

~~(i) speaks English with hesitancy;~~

~~(ii) understands English with difficulty;~~

~~(iii) converses in English, but only with effort and assistance;~~

~~(iv) understands only some parts of lessons;~~

~~(v) cannot understand and follow simple directions; and~~

~~(vi) cannot write sentences that do not contain errors in syntax and fact.~~

shall participate in the ISTEP program as required by federal law.

~~(b)~~ **(d)** The building principal must document the exemption of a student from participation in the ISTEP program in the student's permanent educational record. ~~If the~~ **For a** student ~~is exempt~~ under subsection ~~(a)(1), that exemption~~ **(b), the student's participation** must be included in the student's IEP as defined under 511 IAC 7. *(Indiana State Board of Education; 511 IAC 5-2-3; filed May 4, 1988, 8:40 a.m.: 11 IR 3037; filed Nov 13, 2000, 8:01 a.m.: 24 IR 994; readopted filed Oct 12, 2001, 12:55 p.m.: 25 IR 937; filed Dec 2, 2001, 12:22 p.m.: 25 IR 1148; filed Jun 17, 2003, 9:30 a.m.: 26 IR 3645)*

SECTION 2. 511 IAC 5-2-4 IS AMENDED TO READ AS FOLLOWS:

511 IAC 5-2-4 Accommodations
Authority: IC 20-1-1-6; IC 20-10.1-16-10
Affected: IC 20-1-1.2; IC 20-1-1.3; IC 20-1-6; IC 20-10.1-16; IC 20-10.1-17

Sec. 4. (a) The case conference committee may determine that a testing accommodation is necessary for a student, who is a student with a disability under 511 IAC 7, to take the test. The accommodation must be documented in the student's individualized education program as defined in 511 IAC 7, the student's permanent educational record, and on the appropriate ISTEP document.

(b) For a student who has an unusual condition that significantly impairs the student's ability to take the test, but to whom subsection (a) does not apply, the building principal or principal's designee shall ensure that determinations about testing accommodations are made. Examples of these conditions range from temporary disabling conditions, such as a broken arm, to chronic conditions that affect motor ability, such as cerebral palsy. The accommodation must be documented in the student's permanent educational record and on the appropriate ISTEP document.

(c) The building principal or principal's designee may determine that a testing accommodation is necessary for a student whose primary language is a language other than English and who is a student with limited English proficiency. ~~as defined in section 3 of this rule.~~ The accommodation must be documented in the student's permanent educational record and on the appropriate ISTEP document.

(d) Subject to the requirements of federal law, IC 20-1-6, and the ISTEP program manual, testing accommodations include, but are not limited to:

(1) adaptive equipment;
(2) braille;
(3) increased testing time;
(4) large print; and
(5) a test assistant to fill in the answers indicated by the student on the answer document.

(Indiana State Board of Education; 511 IAC 5-2-4; filed May

4, 1988, 8:40 a.m.: 11 IR 3038; readopted filed Oct 12, 2001, 12:55 p.m.: 25 IR 937; filed Dec 2, 2001, 12:30 p.m.: 25 IR 1147; filed Jun 17, 2003, 9:30 a.m.: 26 IR 3645)

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Incorporated Documents Filed with Secretary of State: None

TITLE 511 INDIANA STATE BOARD OF EDUCATION

LSA Document #02-177(F)

DIGEST

Amends 511 IAC 6-7-6.5 to add integrated mathematics II and integrated mathematics III to the list of courses that count toward the academic honors diploma. Amends 511 IAC 6.1-5.1-5 to change the name of mathematical topics to integrated mathematics. Effective 30 days after filing with the secretary of state.

511 IAC 6-7-6.5
511 IAC 6.1-5.1-5

SECTION 1. 511 IAC 6-7-6.5 IS AMENDED TO READ AS FOLLOWS:

511 IAC 6-7-6.5 Academic honors diploma; additional course requirements

Authority: IC 20-1-1-6
Affected: IC 20-5-2-1.1

Sec. 6.5. (a) To be eligible for an academic honors diploma, a student must complete a minimum of forty-seven (47) high school credits. The following areas and courses are required:

(1) Language arts	8 credits
(2) Social studies	6 credits
(3) Mathematics	8 credits
(4) Science	6 credits
(5) Foreign language	6 or 8 credits
(6) Fine arts	2 credits
(7) Health and safety	1 credit
(8) Basic physical education	1 credit

(b) In addition to the minimum course requirements prescribed in section 6 of this rule, courses counting toward an academic honors diploma are subject to the following requirements:

(1) Language arts credits must include literature, composition, and speech.

(2) In addition to required courses in government and United States history, social studies credits must include courses with a major emphasis on economics and geography or world history.

(3) Mathematics credits must include:

(A) geometry **and** algebra ~~Level~~ II **or integrated mathematics II and integrated mathematics III;** and

(B) at least one (1) upper level mathematics course from those listed in ~~511 IAC 6.1-5.1-5(2)(I)~~ **511 IAC 6.1-5.1-5(2)(H)** through ~~511 IAC 6.1-5.1-5(2)(N),~~ **511 IAC 6.1-5.1-5(2)(M)** or a program of equal rigor. If a student has completed a junior high school curriculum that is equivalent to ~~high~~ school algebra ~~Level~~ I and is placed in high school algebra ~~Level~~ II **or a junior high curriculum that is equivalent to integrated mathematics I and is placed in high school integrated mathematics II,** that student must earn only six (6) high school mathematics credits.

(4) Science credits must include:

(A) two (2) credits in biology;

(B) two (2) credits in chemistry, physics, or integrated chemistry-physics;

(C) two (2) additional credits from:

(i) chemistry, physics, earth and space science, advanced biology, advanced chemistry, advanced environmental science, or advanced physics; or

(ii) a program of equal rigor.

(5) Foreign language credits must include:

(A) six (6) credits in one (1) language; or

(B) four (4) credits in one (1) language and four (4) in another.

If a student has completed a junior high school curriculum that is equivalent to a Level I high school foreign language and is placed in a Level II high school foreign language, that student must earn only four (4) credits in that language or two (2) credits in that language and four (4) credits in another foreign language.

(6) Only courses that have been approved by the department on recommendation of a review committee and in which a student has earned a grade of "C" or above may count toward an academic honors diploma. A student must have a grade point average of "B" or above.

(c) The school corporation shall note the awarding of an academic honors diploma on the student's grade transcript.

(d) The school corporation shall inform students, parents, and guardians of the availability of an academic honors diploma. *(Indiana State Board of Education; 511 IAC 6-7-6.5; filed Mar 24, 1987, 3:00 p.m.: 10 IR 1697; errata, 10 IR 2303; filed Oct 6, 1997, 5:20 p.m.: 21 IR 387; filed Sep 25, 1998, 4:50 p.m.: 22 IR 440; filed Jun 17, 2003, 9:05 a.m.: 26 IR 3646)*

SECTION 2. 511 IAC 6.1-5.1-5 IS AMENDED TO READ AS FOLLOWS:

511 IAC 6.1-5.1-5 Mathematics courses

Authority: IC 20-1-1-6; IC 20-1-1.2-18
Affected: IC 20-10.1

Sec. 5. The following courses may be offered in the mathematics area of study:

(1) The following Level I courses:
(A) Mathematical problem solving.
(B) Prealgebra.

(2) The following Level II–III courses:
(A) Algebra I.
(B) Algebra II.
(C) Geometry.
(D) Investigative geometry.
(E) Trigonometry.
(F) ~~Mathematical topics~~ **Integrated mathematics** I.
(G) ~~Mathematical topics~~ **Integrated mathematics** II.
(H) ~~Mathematical topics~~ **Integrated mathematics** III.
(I) Precalculus.
(J) Probability and statistics.
(K) Data analysis and probability.
(L) Discrete mathematics.
(M) Calculus.
(N) Mathematics, advanced placement or college credit.

(Indiana State Board of Education; 511 IAC 6.1-5.1-5; filed Nov 8, 1990, 3:05 p.m.: 14 IR 656; filed Aug 15, 1997, 8:50 a.m.: 21 IR 83, eff Jul 1, 1998; filed Nov 4, 1999, 10:08 a.m.: 23 IR 568, eff Jul 1, 2000; filed Jun 17, 2003, 9:05 a.m.: 26 IR 3646)

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Incorporated Documents Filed with Secretary of State: None

TITLE 511 INDIANA STATE BOARD OF EDUCATION

LSA Document #02-178(F)

DIGEST

Amends 511 IAC 6.1-5.1-5 to remove from the approved list of high school mathematics courses those courses that are remedial in nature or duplicate other courses. Adds a remedial mathematics course that will not count toward the high school graduation requirement in mathematics. Consolidates certain courses to more accurately reflect the manner in which the courses should be offered. Changes the names of courses to reflect the academic standards on which the courses are based. Effective July 1, 2004.

511 IAC 6.1-5.1-5

SECTION 1. 511 IAC 6.1-5.1-5, AS AMENDED AT 26 IR 3646, SECTION 2, IS AMENDED TO READ AS FOLLOWS:

511 IAC 6.1-5.1-5 Mathematics courses
Authority: IC 20-1-1-6; IC 20-1-1.2-18
Affected: IC 20-10.1

Sec. 5. The following courses may be offered in the mathematics area of study:

(1) The following Level I courses:
(A) ~~Mathematical problem solving.~~ **Mathematics lab.**
(B) Prealgebra.

(2) The following Level II–III courses:
(A) Algebra I.
(B) Algebra II.
(C) Geometry.
~~(D) Investigative geometry.~~
~~(E) Trigonometry.~~
~~(F)~~ **(D)** Integrated mathematics I.
~~(G)~~ **(E)** Integrated mathematics II.
~~(H)~~ **(F)** Integrated mathematics III.
(G) Investigative geometry.
~~(I) Precalculus.~~ **(H) Precalculus/trigonometry.**
~~(J)~~ **(I)** Probability and statistics.
~~(K) Data analysis and probability.~~
~~(L)~~ **(J)** Discrete mathematics.
~~(M)~~ **(K)** Calculus, **advanced placement.**
(L) Statistics, advanced placement.
~~(N)~~ **(M)** Mathematics, ~~advanced placement or~~ college credit.

(Indiana State Board of Education; 511 IAC 6.1-5.1-5; filed Nov 8, 1990, 3:05 p.m.: 14 IR 656; filed Aug 15, 1997, 8:50 a.m.: 21 IR 83, eff Jul 1, 1998; filed Nov 4, 1999, 10:08 a.m.: 23 IR 568, eff Jul 1, 2000; filed Jun 17, 2003, 9:05 a.m.: 26 IR 3646; filed Jun 17, 2003, 9:00 a.m.: 26 IR 3647, eff Jul 1, 2004)

LSA Document #02-178(F)
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Incorporated Documents Filed with Secretary of State: None

TITLE 511 INDIANA STATE BOARD OF EDUCATION

LSA Document #02-274(F)

DIGEST

Amends 511 IAC 6.1-5.1-8 to add new courses to the list of approved high school fine arts courses and designates advanced theatre arts as a laboratory course. Effective 30 days after filing with the secretary of state.

511 IAC 6.1-5.1-8

SECTION 1. 511 IAC 6.1-5.1-8 IS AMENDED TO READ AS FOLLOWS:

511 IAC 6.1-5.1-8 Fine arts courses
Authority: IC 20-1-1-6; IC 20-1-1.2-18
Affected: IC 20-10.1

Sec. 8. (a) The following courses may be offered in the fine arts area of study:
(1) The following art courses:
(A) The following general art courses:
(i) Introduction to two-dimensional art (L).
(ii) Introduction to three-dimensional art (L).
(iii) Advanced two-dimensional art (L).
(iv) Advanced three-dimensional art (L).
(B) The following historical art courses:
(i) Art history.
(ii) Advanced art history.
(iii) Fine arts connections.
(C) The following three-dimensional art courses:
(i) Ceramics (L).
(ii) Jewelry (L).
(iii) Sculpture (L).
(iv) Fiber arts (L).
(v) Studio art (drawing or general), advanced placement or college credit.
(D) The following two-dimensional art courses:
(i) Drawing (L).
(ii) Painting (L).
(iii) Printmaking (L).
(iv) Media arts.
(E) The following visual design courses:
(i) Computer graphics (L).
(ii) Visual communication.
(2) The following dance courses:
(A) Dance performance–ballet, modern, jazz, or ethnic-folk (L).
(B) Dance choreography–ballet, modern, jazz, or ethnic-folk (L).
(C) Dance history and appreciation.
(3) The following music courses:
(A) The following instrumental music courses:
(i) Beginning concert band (L).
(ii) Intermediate concert band (L).
(iii) Advanced concert band (L).
(iv) Instrumental ensemble (L).
(v) Jazz ensemble (L).
(vi) Beginning orchestra (L).
(vii) Intermediate orchestra (L).
(viii) Advanced orchestra (L).
(B) The following vocal music courses:
(i) Choral chamber ensemble (L).
(ii) Beginning chorus (L).
(iii) Intermediate chorus (L).
(iv) Advanced chorus (L).
(v) Vocal jazz (L).
(C) Other music courses as follows:
(i) Applied music (L).
(ii) Electronic music (L).
(iii) Piano and electronic keyboard (L).
(iv) Music history and appreciation.
(v) Music theory and composition (L).
(4) The following theatre arts courses:
(A) Theatre arts (L).
(B) Advanced theatre arts **(L).**
~~(C) Technical theatre (L).~~
~~(D)~~ **(C)** Theatre production (L).
~~(E)~~ **(D)** Theatre arts history.
(E) Advanced acting (L).
(F) Technical theatre (L).
(G) Advanced technical theatre (L).
(H) Theatre arts special topic (L).
(I) Musical theatre (L).

(b) In order to use the courses listed in this section toward the thirty-eight (38) credit requirements, any course that is suffixed with a capital "L" in parentheses is to be presented as a laboratory course, as defined at 511 IAC 6.1-1-2(l). *(Indiana State Board of Education; 511 IAC 6.1-5.1-8; filed Nov 8, 1990, 3:05 p.m.: 14 IR 657; filed Nov 4, 1999, 10:08 a.m.: 23 IR 569, eff Jul 1, 2000; filed Jul 7, 2003, 3:45 p.m.: 26 IR 3648)*

LSA Document #02-274(F)
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Hearing Held: February 6, 2003
Approved by Attorney General: June 24, 2003
Approved by Governor: June 27, 2003
Filed with Secretary of State: July 7, 2003, 3:45 p.m.
Incorporated Documents Filed with Secretary of State: None

TITLE 816 BOARD OF BARBER EXAMINERS

LSA Document #02-320(F)

DIGEST

Amends 816 IAC 1-3-1 to revise the fees collected for the examination of an applicant to practice as a barber and to revise the fee for the issuance of an initial four year license to practice barbering by an applicant applying on the basis of reciprocity. Effective 30 days after filing with the secretary of state.

816 IAC 1-3-1

SECTION 1. 816 IAC 1-3-1 IS AMENDED TO READ AS FOLLOWS:

816 IAC 1-3-1 Fees
Authority: IC 25-7-5-14; IC 25-7-5-15; IC 25-1-8-2
Affected: IC 25-7-6-1; IC 25-7-11-5

Sec. 1. The following fees shall be collected:

(1) For the examination of an applicant to practice as a barber, ~~thirty~~ **fifty** dollars ~~($30).~~ **($50).**

(2) For the issuance of an initial four (4) year license to practice barbering by an applicant applying on the basis of reciprocity, ~~fifty~~ **one hundred** dollars ~~($50).~~ **($100).**

(Board of Barber Examiners; 816 IAC 1-3-1; filed Feb 20, 1986, 3:00 p.m.: 9 IR 1660; filed Jan 20, 1993, 4:00 p.m.: 16 IR 1511; filed Jun 14, 1996, 3:00 p.m.: 19 IR 3098; readopted filed Jun 22, 2001, 8:59 a.m.: 24 IR 3823; filed Jun 17, 2003, 9:19 a.m.: 26 IR 3648)

LSA Document #02-320(F)
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Proposed Rule Published: February 1, 2003; 26 IR 1725
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Incorporated Documents Filed with Secretary of State: None

TITLE 848 INDIANA STATE BOARD OF NURSING

LSA Document #02-183(F)

DIGEST

Adds 848 IAC 6 concerning the interstate nurse licensure compact and multistate licensure privileges. Effective July 1, 2003. *NOTE: IC 4-22-2-36 suspends the effectiveness of a rule document for 30 days after filing with the secretary of state. This document was filed June 17, 2003.*

848 IAC 6

SECTION 1. 848 IAC 6 IS ADDED TO READ AS FOLLOWS:

ARTICLE 6. INTERSTATE NURSE LICENSURE COMPACT AND MULTISTATE LICENSURE PRIVILEGES

Rule 1. General Provisions

848 IAC 6-1-1 Definitions
Authority: IC 25-23-1-7; IC 25-23.2-3-5
Affected: IC 25-23-1; IC 25-23.2-1

Sec. 1. (a) The following definitions apply throughout this article:

(1) "Board" means the regulatory body responsible for issuing nurse licenses.

(2) "Compact" means the Interstate Nurse Licensure Compact.

(3) "Coordinated licensure information system" or "CLIS" means the integrated process for collecting, sorting, and sharing information on nurse license and enforcement activities related to nurse licensure laws, which is administered by the National Council of State Boards of Nursing, Inc. (NCSBN), a nonprofit organization composed of and controlled by state nurse licensing boards.

(4) "Home state" means the party state that is the nurse's primary state of residence.

(5) "Party state" means any state that has adopted the Interstate Nurse Licensure Compact.

(6) "Primary state of residence" means the state of an individual's declared fixed permanent and principal home for legal purposes; domicile.

(7) "Public" means any individual or entity other than designated staff or representatives of party state boards or the National Council of State Boards of Nursing, Inc.

(b) Other terms used in this article are defined as in the Interstate Nurse Licensure Compact under IC 25-23.2-1.

(Indiana State Board of Nursing; 848 IAC 6-1-1; filed Jun 17, 2003, 9:10 a.m.: 26 IR 3649, eff Jul 1, 2003 [IC 4-22-2-36 suspends the effectiveness of a rule document for thirty (30) days after filing with the secretary of state. LSA Document #02-183(F) was filed Jun 17, 2003.])

848 IAC 6-1-2 Issuance of a license by a compact party state
Authority: IC 25-23-1-7; IC 25-23.2-3-5
Affected: IC 25-23-1; IC 25-23.2

Sec. 2. (a) For the purpose of the compact, this section applies.

(b) A nurse applying for a license in Indiana as the nurse's home party state shall produce evidence of the nurse's primary state of residence. Such evidence shall include a declaration signed by the licensee and the following:

(1) Either of the following requirements of evidence must be provided:

(A) Current driver's license with the nurse's home address.

(B) Other state or federally issued identification card that includes the nurse's home address.

(2) At least one (1) of the following documents must be provided:

(A) Voter registration card displaying a home address.

(B) A federal income tax return declaring the primary state of residence.

(C) Such other evidence of residence as deemed acceptable by the board.

(c) A nurse changing primary state of residence, from another party state to Indiana, may continue to practice under the former home state license and multistate licensure privilege during the processing of the nurse's license application in

Indiana for a period not to exceed thirty (30) days if the nurse complies with section 4 of this rule.

(d) The former home state license shall no longer be valid upon the issuance of an Indiana license.

(e) If the nurse has been granted a multistate privilege under section 4 of this rule so that the nurse may practice in this state, the board may limit or revoke a nurse's authority.

(f) If the Indiana board denies licensure, the Indiana board shall notify the former home state within ten (10) business days and the former home state may take action in accordance with that state's laws and rules.

(g) A nurse licensed in a party state and who has had an action taken limiting practice and/or requires monitoring may practice in Indiana only with prior written authorization from the home state and the Indiana board. *(Indiana State Board of Nursing; 848 IAC 6-1-2; filed Jun 17, 2003, 9:10 a.m.: 26 IR 3649, eff Jul 1, 2003 [IC 4-22-2-36 suspends the effectiveness of a rule document for thirty (30) days after filing with the secretary of state. LSA Document #02-183(F) was filed Jun 17, 2003.])*

848 IAC 6-1-3 Coordinated licensure information system; levels of access

Authority: IC 25-23-1-7; IC 25-23.2-3-5
Affected: IC 5-14-3; IC 25-23-1; IC 25-23.2

Sec. 3. (a) The public shall have access to nurse licensure information as required under IC 5-14-3.

(b) The licensee may request, in writing, that the Indiana board, if Indiana is the licensee's home state, review the data relating to the licensee in the coordinated licensure information system. In the event a licensee asserts that any data relating to him or her is inaccurate, the burden of proof shall be upon the licensee to provide evidence that substantiates such claim. The board shall verify and correct inaccurate data to the coordinated licensure information system.

(c) The board shall report the following to the coordinated licensure information system:

(1) Disciplinary action, agreement, or order requiring participation in alternative programs or which limit practice or require monitoring (except agreements and orders relating to participation in alternative programs required to remain nonpublic by contributing state authority).

(2) Dismissal of complaint.

(3) Changes in status of disciplinary action or licensure encumbrance.

(Indiana State Board of Nursing; 848 IAC 6-1-3; filed Jun 17, 2003, 9:10 a.m.: 26 IR 3650, eff Jul 1, 2003 [IC 4-22-2-36 suspends the effectiveness of a rule document for thirty (30) days after filing with the secretary of state. LSA Document #02-183(F) was filed Jun 17, 2003.])

848 IAC 6-1-4 Multistate licensure privilege form; requirements

Authority: IC 25-23-1-7; IC 25-23.2-3-5
Affected: IC 25-23-1; IC 25-23.2

Sec. 4. (a) A nurse who is licensed in a party state and who obtains employment as a nurse in Indiana shall file a multistate licensure privilege form with the health professions bureau and pay the fee established in 848 IAC 1-1-14.

(b) A nurse filing a multistate licensure privilege form shall produce evidence of the nurse's primary state of residence. Such evidence shall include a declaration signed by the nurse and the following:

(1) Either of the following requirements of evidence must be provided:

(A) Current driver's license with the nurse's home address.

(B) Other state or federal issued identification card that includes the nurse's home address.

(2) At least one (1) of the following documents must be provided:

(A) Voter registration card displaying a home address.

(B) A federal income tax return declaring the primary state of residence.

(C) Such other evidence of residence as deemed acceptable by the board.

(c) Approval from the Indiana state board of nursing must be obtained prior to commencing employment. *(Indiana State Board of Nursing; 848 IAC 6-1-4; filed Jun 17, 2003, 9:10 a.m.: 26 IR 3650, eff Jul 1, 2003 [IC 4-22-2-36 suspends the effectiveness of a rule document for thirty (30) days after filing with the secretary of state. LSA Document #02-183(F) was filed Jun 17, 2003.])*

848 IAC 6-1-5 Updating the multistate licensure privilege form

Authority: IC 25-23-1-7; IC 25-23.2-3-5
Affected: IC 25-23-1; IC 25-23.2

Sec. 5. (a) The application form for updating the multistate licensure privilege form will be provided to registered nurses in odd-numbered years and to practical nurses in even-numbered years.

(b) Applicants for updating the multistate licensure privilege form shall pay a fee established by 848 IAC 1-1-14.

(c) Notification of the need to submit an application for updating the multistate licensure privilege form shall be provided to the last known address of the nurse holding the

multistate licensure privilege. Failure to receive the notification to update the multistate licensure privilege form shall not relieve the nurse of the responsibility for updating the multistate licensure privilege form by the expiration date. *(Indiana State Board of Nursing; 848 IAC 6-1-5; filed Jun 17, 2003, 9:10 a.m.: 26 IR 3650, eff Jul 1, 2003 [IC 4-22-2-36 suspends the effectiveness of a rule document for thirty (30) days after filing with the secretary of state. LSA Document #02-183(F) was filed Jun 17, 2003.])*

848 IAC 6-1-6 Participation in the impaired nurses program

Authority: IC 25-23-1-7; IC 25-13.2-3-5
Affected: IC 25-23-1-31; IC 25-23.2

Sec. 6. (a) Nurses who have on file with the Indiana board an approved current multistate licensure privilege form are eligible to participate in the board-designated nurse rehabilitation program established under IC 25-23-1-31 only if approval to participate is granted by the Indiana board.

(b) The board may require a nurse holding a multistate licensure privilege for practice in Indiana to participate in the board-designated nurse rehabilitation program as a condition of authorization to remain in or return to practice. *(Indiana State Board of Nursing; 848 IAC 6-1-6; filed Jun 17, 2003, 9:10 a.m.: 26 IR 3651, eff Jul 1, 2003 [IC 4-22-2-36 suspends the effectiveness of a rule document for thirty (30) days after filing with the secretary of state. LSA Document #02-183(F) was filed Jun 17, 2003.])*

848 IAC 6-1-7 Name and address changes

Authority: IC 25-23-1-7; IC 25-13.2-3-5
Affected: IC 25-23-1; IC 25-23.2

Sec. 7. (a) Name changes shall be submitted to the board in writing accompanied by a copy of a marriage certificate or court order verifying the change of name.

(b) Address changes must be reported to the board in writing within thirty (30) days of the change. A nurse must submit proof of identification with the address change. *(Indiana State Board of Nursing; 848 IAC 6-1-7; filed Jun 17, 2003, 9:10 a.m.: 26 IR 3651, eff Jul 1, 2003 [IC 4-22-2-36 suspends the effectiveness of a rule document for thirty (30) days after filing with the secretary of state. LSA Document #02-183(F) was filed Jun 17, 2003.])*

LSA Document #02-183(F)
Notice of Intent Published: 25 IR 3211
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Hearing Held: April 17, 2003
Approved by Attorney General: June 3, 2003
Approved by Governor: June 16, 2003
Filed with Secretary of State: June 17, 2003, 9:10 a.m.
Incorporated Documents Filed with Secretary of State: None

TITLE 848 INDIANA STATE BOARD OF NURSING

LSA Document #02-239(F)

DIGEST

Amends 848 IAC 1-1-14 concerning fees for licensure to practice nursing; fees for renewal of a license to practice nursing; penalty fees for late renewal; fees for temporary permits; fees for verification of licensure to another state or jurisdiction; fees for filing a multistate licensure privilege form; and fees for updating a multistate licensure privilege form. Effective 30 days after filing with the secretary of state.

848 IAC 1-1-14

SECTION 1. 848 IAC 1-1-14 IS AMENDED TO READ AS FOLLOWS:

848 IAC 1-1-14 Fees

Authority: IC 25-1-8-2; IC 25-23-1-7; IC 25-23.2-3-5
Affected: IC 25-1-8-6; IC 25-23-1-10.5; IC 25-23.2-3-4

Sec. 14. (a) The fee for licensure by examination ~~shall be a~~ **is the** cost equal to the fee charged by the national provider of the exam and an additional administrative fee of fifty dollars ($50) for the registered nurse examination or fifty dollars ($50) for the practical nurse examination.

(b) The fee for licensure by endorsement ~~shall be~~ **is** fifty dollars ($50).

(c) Verification of licensure to another state or jurisdiction shall be obtained through Nursys, the nurse license verification system of the National Council of State Boards of Nursing, Inc., 35331 Eagle Way, Chicago, Illinois 60678-1353, http://www.ncsbn.org. The individual requesting verification of licensure is responsible for paying the fee assessed by Nursys.

~~(c)~~ **(d) If verification is not available through Nursys,** the fee for ~~endorsement out~~ **verification** of ~~Indiana shall be~~ **licensure to another state or jurisdiction is** ten dollars ($10).

~~(d)~~ **(e)** The fee for licensure renewal ~~shall be a total of~~ **is** fifty dollars ($50) for the biennium or any part thereof. ~~three dollars ($3) of which will go toward the funding of the impaired nurses program.~~

~~(e)~~ **(f)** The penalty fee for ~~for~~ late renewals is as established by the health professions bureau.

~~(f)~~ **(g)** The fee for a temporary permit to practice nursing as an applicant awaiting licensure by endorsement, pursuant to IC 25-23-1-10.5, ~~shall be~~ **is** ten dollars ($10).

~~(g)~~ **(h)** The fee for a duplicate wall certificate ~~shall be~~ **is** ten dollars ($10).

(i) The filing fee for a multistate licensure privilege form is twenty-five dollars ($25).

(j) The fee for updating the multistate licensure privilege form is twenty-five dollars ($25) per biennium.

(k) The fee for reinstatement of a license invalidated under IC 25-23.2-3-4 is to be determined by IC 25-1-8-6.
(Indiana State Board of Nursing; 848 IAC 1-1-14; filed Mar 29, 1985, 10:43 a.m.: 8 IR 1028; filed Sep 12, 1985, 3:29 p.m.: 9 IR 289; filed Jun 6, 1996, 9:00 a.m.: 19 IR 3105; readopted filed Jul 30, 2001, 2:07 p.m.: 24 IR 4237; filed Jun 17, 2003, 8:50 a.m.: 26 IR 3651)

LSA Document #02-239(F)
Notice of Intent Published: 25 IR 4132
Proposed Rule Published: March 1, 2003; 26 IR 2123
Hearing Held: April 17, 2003
Approved by Attorney General: June 3, 2003
Approved by Governor: June 16, 2003
Filed with Secretary of State: June 17, 2003, 8:50 a.m.
Incorporated Documents Filed with Secretary of State: None

TITLE 848 INDIANA STATE BOARD OF NURSING

LSA Document #02-247(F)

DIGEST

Amends 848 IAC 1-1-2.1 concerning definitions. Amends 848 IAC 1-1-6 and 848 IAC 1-1-7 concerning requirements for licensure to practice nursing by examination or endorsement. Effective July 1, 2003. *NOTE: IC 4-22-2-36 suspends the effectiveness of a rule document for 30 days after filing with the secretary of state. This document was filed June 23, 2003.*

848 IAC 1-1-2.1
848 IAC 1-1-6
848 IAC 1-1-7

SECTION 1. 848 IAC 1-1-2.1 IS AMENDED TO READ AS FOLLOWS:

848 IAC 1-1-2.1 Definitions

Authority: IC 25-23-1-7
Affected: IC 25-23-1-1

Sec. 2.1. The following definitions apply throughout this article:

(1) "Approved" or "accredited", terms used interchangeably, means those programs that have met requirements of the board. The term also includes approval granted by voluntary, regional, and other state agencies.

(2) "Associate degree program" means a program leading to an associate degree in nursing, conducted by an educational unit in nursing, within the structure of a college or university.

(3) "Audit" means attending a class or course without receiving credit.

(4) "Baccalaureate degree program" means a program leading to a baccalaureate degree in nursing conducted by an educational unit in nursing within the structure of a senior college or university.

(5) "Board" means the Indiana state board of nursing.

(6) "Clinical laboratory experience" means the learning experiences provided in facilities appropriate to the curriculum objectives.

(7) "Clinical preceptor" means an individual employed by the cooperating agency who also has the responsibility to supervise a student in the clinical facility.

(8) "Controlling organization" means the agency which assumes the responsibility for overall administration of the program.

(9) "Cooperating agency" means an institution which cooperates with the nursing program to provide facilities for the clinical laboratory experiences of students.

(10) "Curriculum" means the whole body of courses offered in the nursing program.

(11) "Diploma program" means a program leading to a diploma in nursing conducted by a school under the control of a hospital.

(12) "Director" means the registered nurse who is delegated responsibility for the implementation and administration of the nursing program regardless of the official title in any specific institution.

(13) "Enroll" means attending a class or course for the purpose of receiving credit.

(14) "Faculty" means individuals employed to administer and to teach in the educational program.

(15) "Failure rate" is calculated on the number of first time candidates who fail to be licensed and is computed annually from April 1 through March 31.

(16) "May" indicates discretionary use.

(17) "Practical nursing program" means a program leading to a diploma or certificate in practical nursing conducted by an educational institution or hospital.

(18) "Primary state of residence" means the state of an individual's declared fixed permanent and principal home for legal purposes; domicile.

~~(18)~~ **(19)** "Program" means the curriculum and all the supporting activities organized independently, under an educational institution or hospital, to prepare students for nursing licensure and the practice of nursing.

~~(19)~~ **(20)** "Rate of successful completion" means the annual number of first time candidates who successfully complete the National Council Licensure examination and is computed annually from April 1 through March 31.

~~(20)~~ **(21)** "Rule" or "requirement" means a mandatory standard which a program shall meet in order to be accredited.

~~(21)~~ **(22)** "Shall" indicates a mandatory rule, regulation, or requirement.

~~(22)~~ **(23)** "Should" indicates a recommendation.

~~(23)~~ **(24)** "Survey visit" means an on-site visit of a nursing program, including clinical facilities by a designated representative of the board for the purpose of evaluating the program of learning.

(Indiana State Board of Nursing; 848 IAC 1-1-2.1; filed Jul 30, 1998, 4:59 p.m.: 21 IR 4525; readopted filed Nov 6, 2001, 4:18 p.m.: 25 IR 939; filed Jun 23, 2003, 4:12 p.m.: 26 IR 3652, eff Jul 1, 2003 [IC 4-22-2-36 suspends the effectiveness of a rule document for thirty (30) days after filing with the secretary of state. LSA Document #02-247 was filed Jun 23, 2003.])

SECTION 2. 848 IAC 1-1-6 IS AMENDED TO READ AS FOLLOWS:

848 IAC 1-1-6 Licensure by examination

Authority: IC 25-23-1-7
Affected: IC 25-23-1-11; IC 25-23-1-12

Sec. 6. (a) Any person who makes application to the board for a license shall submit to the board written evidence, verified by oath, that the registered nurse applicant meets IC 25-23-1-11 and the licensed practical nurse applicant meets IC 25-23-1-12.

(b) A copy of a marriage certificate or court order shall be submitted by a candidate who wishes to change her **or** his name after the application is filed.

(c) Candidates shall present the authorization to test and a photo identification for entrance to the testing center.

(d) The required Indiana passing criteria for the licensure examination is set by the National Council of State Boards of Nursing using the computerized adaptive testing methodology.

(e) An applicant may take the examination at any testing center in the United States approved by the National Council for State Boards of Nursing. An authorization to test must be provided by the Indiana board prior to testing.

(f) Graduates of foreign schools of nursing shall meet the following qualifications before being licensed in Indiana:

(1) Be licensed in the territory or country in which they graduated.

(2) Meet the qualifications required in Indiana as determined by the board.

(3) Obtain the official records from the territory or country in which the applicant graduated verifying academic qualifications or be referred to state accredited nursing programs to establish the necessary credits if the original records are unobtainable.

(4) Show evidence of having passed the examination prepared by the commission on graduates of foreign nursing schools.

(5) Pass the appropriate nurse licensing examination in Indiana.

(g) Requirements for unsuccessful candidates are as follows:

(1) Any candidate who fails the Indiana licensing examination shall not be licensed until she or he has passed the licensing examination.

(2) A complete application shall be submitted each time an examination is taken.

(3) The full examination fee shall be charged for each reexamination.

(4) A candidate who has failed the licensing examination (in any jurisdiction) should undertake a special study program before retaking the examination. This study program may include one (1) or all of the following:

(A) Auditing nursing courses at an approved program in nursing.

(B) Self-study program, such as review of course work or professional reading.

(C) Tutoring.

(D) Reenrollment in a state-accredited program of nursing.

(h) Written informed consent from the candidate is necessary before individual licensing examination scores are released to anyone other than the candidate.

(i) Candidates applying for the licensing examination shall be required to meet the board's curricular requirements for the program in nursing as stated in the rules in effect at the time of their graduation.

(j) An applicant shall produce evidence of the applicant's primary state of residence. Such evidence shall include a declaration signed by the applicant and the following:

(1) Either of the following requirements of evidence must be provided:

(A) Current driver's license with the applicant's home address.

(B) Other state or federal issued identification card that includes the applicant's home address.

(2) At least one (1) of the following documents must be provided:

(A) Voter registration card displaying a home address.

(B) A federal income tax return declaring the primary state of residence.

(C) Such other evidence of residence as deemed acceptable by the board.

(Indiana State Board of Nursing; Reg 6; filed Mar 1, 1978, 8:51 a.m.: Rules and Regs. 1979, p. 162; filed Mar 18, 1980, 4:00 p.m.: 3 IR 961; filed Feb 18, 1982, 2:18 p.m.: 5 IR 735; filed Mar 29, 1985, 10:43 a.m.: 8 IR 1026; filed Sep 12, 1985, 3:27 p.m.: 9 IR 287; readopted filed Nov 21, 2001, 10:23 a.m.: 25 IR 1326; filed Jun 23, 2003, 4:12 p.m.: 26 IR 3653, eff Jul 1, 2003 [IC 4-22-2-36 suspends the effectiveness of a rule document for thirty (30) days after filing with the

secretary of state. LSA Document #02-247 was filed Jun 23, 2003.])

SECTION 3. 848 IAC 1-1-7 IS AMENDED TO READ AS FOLLOWS:

848 IAC 1-1-7 Licensure by endorsement
Authority: IC 25-23-1-7
Affected: IC 25-23-1-11; IC 25-23-1-12

Sec. 7. (a) An applicant who was originally licensed by the National Council Licensing Examination (NCLEX®) or an equivalent examination in another jurisdiction will be accepted for registration in Indiana by endorsement from the board that granted the original license if the applicant meets the following qualifications:

(1) Is of good moral character.

(2) Has graduated from high school or the equivalent thereof.

(3) Has graduated from a state approved program in nursing.

(b) Applicants who are graduates of foreign schools of nursing are eligible for Indiana licensure by endorsement providing the following conditions are met:

(1) Have written and passed the National Council Licensing Examination (NCLEX®) or an equivalent examination in another jurisdiction or country.

(2) Have achieved Indiana's passing scores in all areas.

(3) Submit copies of all scholastic records.

(4) Submit proof of good moral character.

(5) Submit proof of high school graduation or equivalent thereof.

(6) Submit proof of having graduated from a program in nursing with concurrent theory and clinical experience in all areas.

(c) The completed application accompanied by the fee, photograph, and proof of current licensure in another jurisdiction shall be submitted to the Indiana board of nursing. The fee is nonrefundable.

(d) An applicant shall produce evidence of the applicant's primary state of residence. Such evidence shall include a declaration signed by the applicant and the following:

(1) Either of the following requirements of evidence must be provided:

(A) Current driver's license with the applicant's home address.

(B) Other state or federal issued identification card that includes the applicant's home address.

(2) At least one (1) of the following documents must be provided:

(A) Voter registration card displaying a home address.

(B) A federal income tax return declaring the primary state of residence.

(C) Such other evidence of residence as deemed acceptable by the board.

(Indiana State Board of Nursing; Reg 7; filed Mar 1, 1978, 8:51 a.m.: Rules and Regs. 1979, p. 165; filed Mar 18, 1980, 4:00 p.m.: 3 IR 963; filed Mar 29, 1985, 10:43 a.m.: 8 IR 1028; readopted filed Nov 21, 2001, 10:23 a.m.: 25 IR 1327; filed Jun 23, 2003, 4:12 p.m.: 26 IR 3654, eff Jul 1, 2003 [IC 4-22-2-36 suspends the effectiveness of a rule document for thirty (30) days after filing with the secretary of state. LSA Document #02-247 was filed Jun 23, 2003.])

SECTION 4. **SECTIONS 1 through 3 of this document take effect July 1, 2003.** *NOTE: IC 4-22-2-36 suspends the effectiveness of a rule document for thirty (30) days after filing with the secretary of state. LSA Document #02-247 was filed Jun 23, 2003.*

LSA Document #02-247(F)
Notice of Intent Published: 25 IR 4132
Proposed Rule Published: March 1, 2003; 26 IR 2124
Hearing Held: April 17, 2003
Approved by Attorney General: June 3, 2003
Approved by Governor: June 16, 2003
Filed with Secretary of State: June 23, 2003, 4:12 p.m.
Incorporated Documents Filed with Secretary of State: None

TITLE 872 INDIANA BOARD OF ACCOUNTANCY

LSA Document #02-301(F)

DIGEST

Amends 872 IAC 1-1-10 to revise the fee schedule. Adds 872 IAC 1-4 to establish the requirements for nonlicensee owners of a firm under IC 25-2.1-5-4. Effective 30 days after filing with the secretary of state.

872 IAC 1-1-10
872 IAC 1-4

SECTION 1. 872 IAC 1-1-10 IS AMENDED TO READ AS FOLLOWS:

872 IAC 1-1-10 Application; fees
Authority: IC 25-1-8-2; IC 25-2.1-2-15
Affected: IC 4-21.5-3-1; IC 25-2.1

Sec. 10. (a) Applications to take the May examination must be filed by the preceding March 1. Application to take the November examination must be filed by the preceding September 1. If March 1 or September 1 is a Saturday, a Sunday, a legal holiday under state statute, or a day that the Indiana professional licensing agency's offices are closed during regular business hours, the deadline shall be the first day thereafter that is not a Saturday, a Sunday, a legal holiday under state statute, or a day that the Indiana professional licensing agency's offices are closed during regular business hours. The date the applica-

tion is filed shall be calculated in the manner provided for in IC 4-21.5-3-1(f). Applicants will be notified of their eligibility to sit for the exam.

(b) All fees are nonrefundable and nontransferable. The following is a schedule of fees adopted by the board:

(1) The fee for the examination for CPA and AP licensure is the payment of the applicant's cost of purchasing the examination, payable to the examination service.

~~(1)~~ **(2)** Transfer of grades, ~~forty~~ **seventy-five** dollars ~~($40).~~ **($75).**

~~(2)~~ **(3)** CPA certificate by reciprocity, ~~fifty~~ **seventy-five** dollars ~~($50).~~ **($75).**

~~(3)~~ **(4)** Triennial certificate of registration for CPAs, PAs, and APs, ~~forty-five~~ **seventy-five** dollars ~~($45).~~ **($75).**

~~(4)~~ **(5)** For restoration of an expired triennial certificate of registration for CPAs, PAs, and APs, fifty dollars ($50), plus all unpaid renewal fees.

~~(5)~~ **(6)** Triennial permit to practice for firms, ~~twenty~~ **thirty** dollars ~~($20).~~ **($30).**

~~(6)~~ **(7)** For restoration of an expired triennial permit to practice for firms, fifty dollars ($50), plus all unpaid renewal fees.

(8) Verification of certificate of registration for CPA, PA, or AP to another state, twenty-five dollars ($25).

(c) Notwithstanding subsection ~~(b)(3),~~ **(b)(4),** a fee for an individual initially registered in the:

(1) second year of a triennial registration period shall be ~~thirty~~ **fifty** dollars ~~($30);~~ **($50);** and

(2) third year of the triennial registration period shall be ~~fifteen~~ **twenty-five** dollars ~~($15).~~ **($25).**

(d) Failure of an applicant to pay the initial registration fee will cause the application to be terminated one (1) year after the board's action granting registration.

(e) Should an applicant pay the initial registration fee after the first renewal deadline for all licensees following the applicant's approval for licensure, the applicant must pay the renewal fee in addition to the initial registration fee in order to become licensed. *(Indiana Board of Accountancy; Rule 69-1, 10; filed Jun 30, 1978, 9:54 a.m.: 1 IR 396; filed Feb 15, 1980, 3:05 p.m.: 3 IR 639; filed Aug 18, 1983, 3:20 p.m.: 6 IR 1928; filed May 1, 1984, 12:50 p.m.: 7 IR 1540; filed Mar 20, 1985, 3:25 p.m.: 8 IR 1033; filed Aug 28, 1986, 3:20 p.m.: 10 IR 65; filed Aug 6, 1990, 4:30 p.m.: 13 IR 2135; filed Jun 1, 1994, 5:00 p.m.: 17 IR 2345; errata filed Jul 28, 1994, 4:00 p.m.: 17 IR 2891; filed Jul 6, 1995, 12:00 p.m.: 18 IR 2784; filed Jun 14, 1996, 3:00 p.m.: 19 IR 3110; filed Feb 21, 2000, 7:06 a.m.: 23 IR 1654; readopted filed Jun 22, 2001, 8:57 a.m.: 24 IR 3824; filed Apr 4, 2002, 9:28 a.m.: 25 IR 2520; filed Jul 7, 2003, 3:45 p.m.: 26 IR 3654)*

SECTION 2. 872 IAC 1-4 IS ADDED TO READ AS FOLLOWS:

Rule 4. Nonlicensee Firm Owners

872 IAC 1-4-1 General requirements

Authority: IC 25-2.1-2-15
Affected: IC 25-2.1-5-4; IC 25-2.1-6-6

Sec. 1. (a) This section establishes the requirements for nonlicensee owners of CPA or PA firms under IC 25-2.1-5-4. This section does not apply to firms of accounting practitioners under IC 25-2.1-6-6.

(b) An active individual participant under IC 25-2.1-5-4(c)(2) is an individual who is actively engaged in the firm or affiliated entities in providing services to the firm's clients as his or her principal occupation.

(c) The firm's owners must comply with the AICPA Code of Professional Conduct (applicable to CPA firms only) or the NSA Rules of Professional Conduct (applicable to PA firms only) as adopted by the board in 872 IAC 1-2-1. *(Indiana Board of Accountancy; 872 IAC 1-4-1; filed Jul 7, 2003, 3:45 p.m.: 26 IR 3655)*

LSA Document #02-301(F)
Notice of Intent Published: 26 IR 418
Proposed Rule Published: March 1, 2003; 26 IR 2126
Hearing Held: March 28, 2003
Approved by Attorney General: June 23, 2003
Approved by Governor: June 27, 2003
Filed with Secretary of State: July 7, 2003, 3:45 p.m.
Incorporated Documents Filed with Secretary of State: None

Notice of Recall

TITLE 872 INDIANA BOARD OF ACCOUNTANCY

LSA Document #02-213

Under IC 4-22-2-40, LSA Document #02-213, printed at 26 IR 2465, is recalled.

Notice of Withdrawal

TITLE 405 OFFICE OF THE SECRETARY OF FAMILY AND SOCIAL SERVICES

LSA Document #03-75

Under IC 4-22-2-41, LSA Document #03-75, printed at 26 IR 2393, is withdrawn.

TITLE 50 DEPARTMENT OF LOCAL GOVERNMENT FINANCE

LSA Document #03-178(E)

DIGEST

Temporarily adds provisions establishing provisional property tax billing procedures for a county in which the 2002 general reassessment is not completed by the statutory completion date under IC 6-1.1, and implements noncode provisions and other changes in HEA 1219. Authority: House Enrolled Act 1219. Effective June 23, 2003.

SECTION 1. **For purposes of this rule** *[document]***, "department" refers to the department of local government finance.**

SECTION 2. **The definitions in HEA 1219 apply throughout this rule** *[document]***.**

SECTION 3. **A county treasurer may issue provisional statements to the taxpayers in the county if the auditor and treasurer of the county submit a petition to the department stating the following:**

(1) The county council, by resolution has approved the issuance of provisional statements and the expenditure of funds necessary to issue provisional statements in the percentage(s) and number of billings requested by the treasurer. A copy of the resolution must be forwarded to the department within ten (10) days of adoption.

(2) The treasurer has determined, after consultation and demonstration, that the county software system is capable of issuing provisional bills in the county in the percentage(s) and number of billings requested.

(3) Property taxes billed on a provisional statement are due June 16, 2003.

(4) The treasurer may request that the taxes billed on a provisional statement be due on a date other than June 16, 2003. The treasurer may also request two (2) installment dates. If the treasurer seeks approval of these alternatives, the treasurer must:

(A) submit a request that the department approve the alternate statement due date or dates; and

(B) provide a statement of the reasons for two (2) installment dates or the date requested.

(5) If the auditor requests to bill different classes of property at a percentage greater than fifty percent (50%) of the net taxpayer liability payable in 2002, but not exceeding seventy percent (70%), the county auditor shall:

(A) state the justification for the request to bill at a higher percentage of tax liability;

(B) submit a statement, signed by the treasurer and auditor, consenting to the billing at the higher percentage(s); and

(C) submit a statement certifying that the county treasurer has tested the county's billing software system and that, after testing, the county treasurer certifies that the county and its system are capable of accurately billing and calculating reconciliation statements to taxpayers based on different levels of tax liability and in the manner requested for different classifications of property.

SECTION 4. **A county may utilize its reassessment fund under IC 6-1.1-4-28.5 to fund the computation and distribution of provisional statements.**

SECTION 5. **A county treasurer shall issue provisional statements for the dates and in the percentages approved by the department in accordance with the requirements of HEA 1219.**

SECTION 6. **(a) If a provisional tax statement is used, notice of the provisional statement shall be published one (1) time in the form appended to this rule** *[document]***.**

(b) The notice shall be published in the manner described in IC 6-1.1-22-4(b).

SECTION 7. **If the county treasurer determines to issue provisional statements with respect to real property taking into account new construction of improvements placed on the real property after March 1, 2001, and before March 2, 2002, the county treasurer shall:**

(1) submit in the treasurer's petition a request to bill new construction;

(2) state the method by which the assessor has identified new construction;

(3) state the method by which the assessor has determined the true tax value of the new construction;

(4) state the percentage by which the treasurer intends to bill new construction;

(5) submit a statement, signed by the treasurer, auditor, and county assessor, consenting to the billing of new construction; and

(6) submit a statement certifying that the county treasurer has tested the county's billing software system and that, after testing, the county treasurer certifies that the county and its system are capable of accurately billing and calculating reconciliation statements on new construction.

SECTION 8. **A taxpayer may not appeal a provisional statement issued by a county treasurer under IC 6-1.1-15. However, if a taxpayer demonstrates that the tax liability owing as a result of a provisional statement is substantially less than that billed, the county auditor and treasurer may permit the taxpayer to pay a lesser amount than that provided in the provisional statement. A taxpayer must submit in writing to the county assessor's office the reason the taxpayer is entitled to the lesser amount. The assessor must receive this petition within fifteen (15) days of the**

taxpayer receiving their provisional statement. A correction in the provisional statement and in the amount owed may be appropriate in the following circumstances:

(1) If the taxpayer demonstrates through objective evidence that the taxpayer did not own the property as of March 1, 2002. In such an event, the taxpayer must also provide the name and billing address of the person to whom the property was conveyed.

(2) If the taxpayer demonstrates by submitting a disaster petition under IC 6-1.1-4-11 that the property upon which the provisional statement is based was substantially destroyed before March 1, 2002.

(3) If the taxpayer can show there was a mathematical error in computing the taxes or penalties on the statement.

(4) If the taxpayer can show there was an error in carrying delinquent taxes forward from the prior year's tax statement.

(5) If the taxpayer demonstrates through objective evidence that his property has experienced a substantial reduction in value between March 1, 2001, and March 1, 2002, that will surely decrease by more than fifty percent (50%) the taxpayer's ultimate tax liability after reassessment. For purposes of this section, the assessed value of property shall be determined after any deduction allowed under IC 6-1.1-12.1 for tangible personal property in an economic revitalization area.

Upon showing that a correction is appropriate based on one (1) of the circumstances described in section seven of this rule *[this SECTION]***, the assessor may request that the treasurer and auditor issue an amended provisional statement.**

SECTION 9. **A county treasurer that issues a provisional statement is required to provide the taxpayers in that county a reconciliation statement after receipt of the 2002 abstract from the county auditor. The statement must include the taxpayer's actual net tax liability under IC 6-1.1.**

(1) If the taxpayer must make an additional payment, the due date for that payment will be thirty (30) days after the date of the reconciling statement.

(2) If the actual net tax liability is less than the amount of liability billed and paid under the provisional statement(s), a taxpayer may file a claim for refund under IC 6-1.1-26.

(3) A taxpayer may appeal a reconciling statement under IC 6-1.1-15.

SECTION 10. **SECTIONS 1 through 9 of this document expire on the earliest of the following:**

(1) The expiration date of the rule *[document]* **under IC 4-22-2-37.1; or**

(2) December 31, 2004.

LSA Document #03-178(E)
Filed with Secretary of State: June 23, 2003, 4:07 p.m.

TITLE 170 INDIANA UTILITY REGULATORY COMMISSION

LSA Document #03-192(E)

DIGEST

Temporarily amends 170 IAC 7-1.2-10 concerning telephone utilities extension of facilities by removing the requirements for new real estate developments. Authority: IC 4-22-2-37.1. Effective August 8, 2003.

SECTION 1. (170 IAC 7-1.2-10) (a) Each LEC shall include in its tariffs filed with the commission a statement of its standard extension policy setting forth the terms and conditions under which its facilities will be extended to provide service to customer applicants located within the LEC's certificated service territory. The LEC's policies for service extensions shall conform to construction charges for extension of facilities required to provide local service and will not apply to facilities located on public rights-of-way except where:

(1) unusual costs, as defined in tariffs or otherwise determined by the commission, are involved in the establishment of service;

(2) the installation is for a temporary or semipermanent purpose; or

(3) the facilities cannot be used for other general telephone purposes if service to the customer applicant is discontinued.

(b) Provided the type of facilities and method of installation are the type normally used by the LEC to provide the requested service, construction charges for facilities to be located on private rights-of-way in order to satisfy an customer applicant's request for local service shall not apply to the following:

(1) The first one-tenth (0.1) of a mile for business service.

(2) The first two-tenths (0.2) of a mile for residential service.

If a customer applicant requests a type of facility or method of installation that differs from the norm, the LEC shall charge the customer applicant for the difference in cost between the two (2) types of construction. The customer applicant shall also be responsible for providing necessary private rights-of-way if construction is required in areas where the right of eminent domain does not exist. The provision of any facilities beyond the first one-tenth (0.1) of a mile for business service and two-tenths (0.2) of a mile for residential service shall be charged to the customer applicant at cost.

(c) Requirements for new real estate developments are as follows:

(1) If a developer requests the installation of telephone facilities for a new real estate development, the developer shall have the property:

(A) cleared of trees, tree stumps, paving, and other obstructions necessary for installation of the telephone facilities;
(B) staked to show property lines and final grade; and
(C) graded to within six (6) inches of final grade;
all at no charge to the LEC. ~~The LEC shall also have the right to require a deposit from the developer to cover the full cost of constructing the requested facilities in accordance with applicable rules, regulations, and tariffs approved by the commission. The LEC shall refund the deposit to the developer on a pro rata basis as customers connect to the newly extended facilities. Such refunds shall be paid to the developer on a quarterly basis or at longer intervals if the developer and the LEC so agree. If refunds are returned quarterly, no interest shall be paid. If refunds are returned annually, the refundable portion of the deposit shall bear interest at the rate of six percent (6%) per annum from the date the first customer is connected to the newly extended facilities.~~
~~(2) Any amount that is still owed to the LEC under this subsection or subsection (a) or (b) may be withheld when the deposit is returned to the developer.~~
~~(3) Any portion of the deposit that has not been refunded five (5) years from the date that the LEC is first ready to render service from the extension may be retained by the LEC as liquidated damages.~~
~~(4) When customers request pole attachments to avoid new construction costs, the LEC may charge the customer all expenses and rental charges associated with the attachments.~~
~~(5) Except as provided in filed tariffs, the ownership of all facilities constructed, as herein provided, shall be vested in the LEC.~~
~~(6) Except as provided in this subsection, no portion of the expense assessed against the customer shall be subject to later refund.~~

(d) Nothing in this rule shall be construed as prohibiting any LEC from establishing an extension policy more favorable to customers than that contained herein as long as no discrimination is practiced between customers under the same or substantially the same circumstances and conditions.

LSA Document #03-192(E)
Filed with Secretary of State: July 9, 2003, 2:15 p.m.

TITLE 312 NATURAL RESOURCES COMMISSION

LSA Document #03-176(E)

DIGEST

Temporarily modifies 312 IAC 5-7-14 that governs the operation of watercraft on the Tippecanoe River in White County and Carroll County, including Lake Shafer and Lake Freeman. A ten miles per hour speed limit is established on the portion of Lake Shafer and the Tippecanoe River where dredging operations are scheduled to take place within the next 12 months. Effective July 1, 2003.

SECTION 1. **A person must not operate a watercraft in excess of ten (10) miles an hour on Lake Shafer or the Tippecanoe River in Liberty Township, White County, at the following locations within Township 28 North, Range 3 West:**
(1) The north half (½) of the northwest *[sic., quarter]* **(¼) and the north half (½) of the northeast quarter (¼) of Section 21.**
(2) The south half (½) of the southwest quarter (¼) and the south half (½) of the southeast quarter (¼) of Section 16.
(3) The southwest quarter (¼) of Section 15.

SECTION 2. **The restrictions set forth in SECTION 1 of this document are in addition to those set forth at 312 IAC 5-7-14.**

SECTION 3. **SECTIONS 1 and 2 of this document expire June 30, 2004.**

LSA Document #03-176(E)
Filed with Secretary of State: June 18, 2003, 12:30 p.m.

TITLE 312 NATURAL RESOURCES COMMISSION

LSA Document #03-177(E)

DIGEST

Temporarily amends 312 IAC 9 to govern noncommercial hunts at Brown County State Park, Chain O'Lakes State Park, Charlestown State Park, Clifty Falls State Park, Fort Harrison State Park, Harmonie State Park, Indiana Dunes State Park, Lincoln State Park, McCormick's Creek State Park, Ouabache State Park, Pokagon State Park, Potato Creek State Park, Shades State Park, Shakamak State Park, Spring Mill State Park, Summit Lake State Park, Tippecanoe River State Park, Turkey Run State Park, Versailles State Park, Whitewater Memorial State Park, and Twin Swamps Nature Preserve. Under IC 4-22-2-37.1, IC 14-22-2-6, IC 14-10-2-5, and IC 14-22-6-13 (applicable to state parks), the director of the department of natural resources adopts the emergency rule set forth in this document. The emergency rule is adopted with the awareness the regulation of wild animals in Indiana is the responsibility of the department of natural resources, and with a heightened awareness of that responsibility (as well as a responsibility for the welfare of flora and other fauna), within Indiana state parks and dedicated nature preserves. More particularly, based upon the opinion of professional biologists, the director has determined: (A) white-tailed deer have caused, and will continue to cause, obvious and measurable damage to the ecological balance

within these properties; and (B) the ecological balance within these properties will not be maintained unless action is taken to control their populations. Examples of damages caused by excessive deer populations include reduction of rare plant species and sampling data that show, more generally, vegetation species disturbance in areas accessible to deer browsing. Effective July 1, 2003.

SECTION 1. **(a) Notwithstanding 312 IAC 9-2-11, 312 IAC 8-2, and any other provision governing hunting a wild animal within a state park, individuals qualified under this SECTION may hunt white-tailed deer at the following sites and within the following schedules:**

(1) Brown County State Park from 7:30 a.m. until 4 p.m., EST on November 17 through November 18, 2003, and December 1 through December 2, 2003.

(2) Chain O'Lakes State Park from 7:30 a.m. until 4 p.m., EST on November 17 through November 18, 2003, and December 1 through December 2, 2003.

(3) Charlestown State Park from 7:30 a.m. until 4 p.m., EST on November 17 through November 18, 2003, and December 1 through December 2, 2003.

(4) Clifty Falls State Park from 7:30 a.m. until 4 p.m., EST on November 17 through November 18, 2003, and December 1 through December 2, 2003.

(5) Fort Harrison State Park from 7:30 a.m. until 4 p.m., EST on November 17 through November 18, 2003, and December 1 through December 2, 2003.

(6) Harmonie State Park from 6:30 a.m. until 3 p.m., CST on November 17 through November 18, 2003, and December 1 through December 2, 2003.

(7) Indiana Dunes State Park from 6:30 a.m. until 3 p.m., CST on November 17 through November 18, 2003, and December 1 through December 2, 2003.

(8) Lincoln State Park from 7:30 a.m. until 4 p.m., EST on November 17 through November 18, 2003, and December 1 through December 2, 2003.

(9) McCormick's Creek State Park from 7:30 a.m. until 4 p.m., EST on November 17 through November 18, 2003, and December 1 through December 2, 2003.

(10) Ouabache State Park from 7:30 a.m. until 4 p.m., EST on November 17 through November 18, 2003, and December 2 through December 3, 2002 *[sic., 2003]***.**

(11) Pokagon State Park from 7:30 a.m. until 4 p.m., EST on November 17 through November 18, 2003, and December 1 through December 2, 2003.

(12) Potato Creek State Park from 7:30 a.m. until 4 p.m., EST on November 17 through November 18, 2003, and December 1 through December 2, 2003.

(13) Shades State Park from 7:30 a.m. until 4 p.m., EST on November 17 through November 18, 2003, and December 1 through December 2, 2003.

(14) Shakamak State Park from 7:30 a.m. until 4 p.m., EST on November 17 through November 18, 2003, and December 1 through December 2, 2003.

(15) Spring Mill State Park from 7:30 a.m. until 4 p.m., EST on November 17 through November 18, 2003, and December 1 through December 2, 2003.

(16) Summit Lake State Park from 7:30 a.m. until 4 p.m., EST on November 17 through November 18, 2003, and December 1 through December 2, 2003.

(17) Tippecanoe River State Park from 7:30 a.m. until 4 p.m., EST on November 17 through November 18, 2003, and December 1 through December 2, 2003.

(18) Turkey Run State Park from 7:30 a.m. until 4 p.m., EST on November 17 through November 18, 2003, and December 1 through December 2, 2003.

(19) Versailles State Park from 7:30 a.m. until 4 p.m., EST on November 17 through November 18, 2003, and December 1 through December 2, 2003.

(20) Whitewater Memorial State Park from 7:30 a.m. until 4 p.m., EST on November 17 through November 18, 2003, and December 1 through December 2, 2003.

(b) Except as provided in subsection (r) for Clifty Falls State Park and Fort Harrison State Park, a deer may be lawfully taken under this SECTION only by the use of a firearm that may be lawfully used to hunt deer in Indiana.

(c) In order to apply for a license under this SECTION, an individual must satisfy both of the following requirements:

(1) Possess at least one (1) valid resident license issued under 312 IAC 9-3-3, 312 IAC 9-3-4, or IC 14-22-12-7 to take deer.

(2) Be at least eighteen (18) years old by September 30, 2003.

(d) The maximum number of individuals for each site each day who may be issued a license is as set forth in this subsection:

(1) For Brown County State Park, six hundred (600) individuals.

(2) For Chain O'Lakes State Park, one hundred ten (110) individuals.

(3) Charlestown State Park, eighty (80) individuals.

(4) For Clifty Falls State Park, one hundred thirty (130) individuals.

(5) For Fort Harrison State Park, two hundred (200) individuals.

(6) For Harmonie State Park, one hundred seventy (170) individuals.

(7) For Indiana Dunes State Park, ninety-five (95) individuals.

(8) For Lincoln State Park, eighty (80) individuals.

(9) For McCormick's Creek State Park, eighty (80) individuals.

(10) For Ouabache State Park, fifty (50) individuals.

(11) For Pokagon State Park, sixty (60) individuals.

(12) For Potato Creek State Park, one hundred sixty (160) individuals.

(13) For Shades State Park, one hundred fifty-five (155) individuals.
(14) For Shakamak State Park, sixty (60) individuals.
(15) For Spring Mill State Park, sixty (60) individuals.
(16) Summit Lake State Park, eighty (80) individuals.
(17) For Tippecanoe River State Park, one hundred thirty (130) individuals.
(18) For Turkey Run State Park, one hundred (100) individuals.
(19) For Versailles State Park, two hundred ninety-five (295) individuals.
(20) For Whitewater Memorial State Park, eighty-five (85) individuals.

(e) For each state park other than Clifty Falls State Park and Fort Harrison State Park, the department will determine the participants for the hunt by first selecting individuals who have completed a course of instruction in hunter safety under IC 14-22-35. If more than the maximum number of individuals who have completed this course apply for a license under this SECTION, the department will select the participants for that state park by a drawing from those individuals who have completed the course. If fewer than the maximum number of individuals who have completed this course apply for a license, the department shall supplement the participation list with applicants who have not completed a course of instruction in hunter safety. If supplementing the participation list with applicants who have not completed a course of instruction results in more applications than the maximum number of individuals who may be issued a license, the department will select the supplemental participants by a drawing from those individuals who have not completed the course.

(f) An application for a license under this SECTION must be completed on a department form as described in this subsection:
(1) The forms are available at all state parks and reservoirs, at the Customer Service Center in the Indiana Government Center-South, 402 West Washington Street, Room W160, Indianapolis, Indiana 46204, and on the Internet through the department's home page.
(2) In order to qualify an applicant for participation, a completed form (including a photocopy of a license issued to the applicant as identified in subsection (c)(1)) must be actually received by 4 p.m., EST (4 p.m., CDT), on September 30, 2003, at the Department of Natural Resources, Division of State Parks and Reservoirs, 402 West Washington Street, Room W298, Indianapolis, Indiana 46204.

(g) An individual may file no more than three (3) separate applications for three (3) individual applicants, as long as each application is accompanied by a deer license described in subsection (c)(1). Up to three (3) applications may be submitted as a unit so that all or none of the applicants will be selected to participate in the hunt. The submission by an individual of more than one (1) application per period disqualifies the individual (and any other individual submitting as a unit with the individual) from participating in the drawing. For the purposes of this subsection, one (1) "period" is November 17 through November 18, and the other "period" is December 1 through December 2, 2003.

(h) Any drawing required by this SECTION will be conducted on a random basis. Written notice will be mailed by the department to successful applicants.

(i) Each individual issued a license under this SECTION will be randomly assigned to specific management units with designated parking assignments. Each license holder must comply with the requirements set forth in the assignment.

(j) The form of the license under this SECTION shall be as determined by the department. Each participant in the hunt must possess and display evidence of the license as specified by the department.

(k) Notwithstanding 312 IAC 9-1-15, a participant (except for a participant at Clifty Falls State Park and Fort Harrison State Park) must expose outer garments with hunter orange, which include both of the following:
(1) A hat or cap.
(2) A vest, coat, jacket, or coveralls.

(l) During the hunt, an individual must not take more than:
(1) Three (3) total deer.
(2) Included among the total deer taken, there must not be more than one (1) antlered deer.

(m) A deer taken under this SECTION does not apply to any bag limit for taking deer established by 312 IAC 9.

(n) All deer must be delivered to a designated check station within the state park.

(o) An individual must not enter a state park described in this SECTION during the following periods:
(1) from 8 p.m., EST (7 p.m., CST) on Sunday, November 16 through 8 a.m., EST (7 a.m., CST) on Wednesday, November 19, 2003; or
(2) from 8 p.m., EST (7 p.m., CST) on Sunday, November 30 through 8 a.m., EST (7 a.m., CST) on Wednesday, December 3, 2003;
unless the individual satisfies both subsection (p) and (q).

(p) An individual shall enter a state park only at a site designated by the department.

(q) In order to enter a state park, an individual must be

one (1) of the following:

(1) An individual granted a license under this SECTION.

(2) A representative of the media.

(3) An employee of the department.

(4) Another individual with credentials supplied by the department.

(r) This subsection provides additional requirements that must be satisfied by a participant in the hunts at Clifty Falls State Park and Fort Harrison State Park:

(1) Except as otherwise provided in subdivision (2), an applicant must have successfully completed the International Bowhunter Education Program before participating in a hunt at Clifty Falls State Park and Fort Harrison State Park. A copy of documents showing completion shall be included with the application.

(2) If the maximum number under subsection (d)(2) is not filled with applicants who have successfully completed the International Bowhunter Education Program, a supplemental drawing shall be held among applicants who hold a valid Hunter Education Card to fill the remaining positions.

(3) An individual who participates in the hunt must not discharge bow and arrows except from a tree stand.

SECTION 2. **(a) Notwithstanding any other provision governing hunting a wild animal within a nature preserve dedicated under IC 14-31-1, individuals qualified under this SECTION may by firearms only hunt white-tailed deer at Twin Swamps Nature Preserve in Posey County from 6:30 a.m. until 3 p.m., CST on November 17 through November 18, 2003, and December 1 through December 2, 2003.**

(b) In order to apply for a license under this SECTION, an individual must satisfy both of the following requirements:

(1) Possess at least one (1) valid resident license issued under 312 IAC 9-3-3, 312 IAC 9-3-4, or IC 14-22-12-7 to take deer.

(2) Be at least eighteen (18) years old by September 30, 2003.

(c) No more than thirty (30) individuals may be issued a license to take deer at Twin Swamps Nature Preserve for each day.

(d) The department will determine the participants for the hunt by first selecting individuals who have completed a course of instruction in hunter safety under IC 14-22-35. If more than the maximum number of individuals who have completed this course apply for a license under this SECTION, the department will select the participants for that nature preserve by a drawing from those individuals who have completed the course. If fewer than the maximum number of individuals who have completed this course apply for a license, the department shall supplement the participation list with applicants who have not completed a course of instruction in hunter safety. If supplementing the participation list with applicants who have not completed a course of instruction results in more applications than the maximum number of individuals who may be issued a license, the department will select the supplemental participants by a drawing from those individuals who have not completed the course.

(e) An application for a license under this SECTION must be completed on a department form as described in this subsection:

(1) The forms are available at all state parks and reservoirs, at Hovey Lake Fish and Wildlife Area, at the Customer Service Center in the Indiana Government Center-South, 402 West Washington Street, Room W160, Indianapolis, Indiana 46204, and on the Internet through the department's home page. Forms may also be available at other staffed DNR property offices.

(2) In order to qualify an applicant for participation, a completed form (including a photocopy of a license issued to the applicant as identified in subsection (b)(1)) must be actually received by 4:00 p.m., EST (3:00 p.m., CST), on September 30, 2003, at the Department of Natural Resources, Division of State Parks and Reservoirs, 402 West Washington Street, Room W298, Indianapolis, Indiana 46204.

(f) An individual may file no more than three (3) separate applications for three (3) individual applicants, as long as each application is accompanied by a deer license described in subsection (b)(1). Up to three (3) applications may be submitted as a unit so all or none of the applicants will be selected to participate in the hunt. The submission by an individual of more than one (1) application per period disqualifies the individual (and any other individual submitting as a unit with the individual) from participating in the drawing. For the purposes of this subsection, one (1) "period" is November 17 through November 18, and the other "period" is December 1 through December 2, 2003.

(g) Any drawing required by this SECTION will be conducted on a random basis. Written notice will be mailed by the department to successful applicants.

(h) The form of the license under this SECTION shall be as determined by the department. Each participant in the hunt must possess and display evidence of the license as specified by the department.

(i) Notwithstanding 312 IAC 9-1-15, a participant must expose outer garments with hunter orange that include both of the following:

(1) A hat or cap.

(2) A vest, coat, jacket, or coveralls.

(j) During the hunt, an individual must not take more than:

(1) Three (3) total deer.

(2) Included among the total deer taken, there must not be more than one (1) antlered deer.

(k) A deer taken under this SECTION does not apply to any bag limit for taking deer established by 312 IAC 9.

(l) All deer must be delivered to a designated check station within the nature preserve.

(m) An individual must not enter Twin Swamps Nature Preserve during the following periods:

(1) from 8 p.m., EST (7 p.m., CST) on Sunday, November 16 through 8 a.m., EST (7 a.m., CST) on Wednesday, November 19, 2003; or

(2) from 8 p.m., EST (7 p.m., CST) on Sunday, November 30 through 8 a.m., EST (7 a.m., CST) on Wednesday, December 3, 2003;

unless the individual satisfies both subsection (n) and subsection (o).

(n) An individual shall enter Twin Swamps Nature Preserve only at a site designated by the department.

(o) In order to enter Twin Swamps Nature Preserve, an individual must be one (1) of the following:

(1) An individual granted a license under this SECTION.

(2) A representative of the media.

(3) An employee of the department.

(4) Another individual with credentials supplied by the department.

SECTION 3. **SECTIONS 1 and 2 of this document expire December 15, 2003.**

LSA Document #03-177(E)
Filed with Secretary of State: June 18, 2003, 12:33 p.m.

TITLE 405 OFFICE OF THE SECRETARY OF FAMILY AND SOCIAL SERVICES

LSA Document #03-181(E)

DIGEST

Temporarily amends 405 IAC 2-3-1.1 regarding the Medicaid penalty for transfers of assets for less than fair market value. Authority: IC 4-22-2-37.1(a)(20); IC 12-8-1-12(c). Effective July 1, 2003.

SECTION 1. (405 IAC 2-3-1.1) (a) The following definitions apply throughout this SECTION:

(1) "Assets" includes all income and resources of the applicant or recipient, and of the applicant's or recipient's spouse, including any income or resources which the applicant or recipient or the applicant's or recipient's spouse is entitled to receive but does not receive because of action:

(A) by the applicant or recipient or the applicant's or recipient's spouse;

(B) by a person, including, but not limited to, a court or administrative body, with legal authority to act in place of or on behalf of the applicant or recipient or the applicant's or recipient's spouse; or

(C) by a person, including, but not limited to, a court or administrative body, acting at the direction or upon the request of the applicant or recipient or the applicant's or recipient's spouse.

The term includes assets that an individual is entitled to receive but does not receive because of failure to take action, subject to subsection (i) *[sic., subsection (j)]*.

(2) "Individual" means an applicant or recipient of Medicaid.

(3) "Institutionalized individual" means an applicant or recipient who is:

(A) an inpatient in a nursing facility;

(B) an inpatient in a medical institution for whom payment is made based on a level of care provided in a nursing facility; or

(C) who is receiving home and community-based waiver services.

(4) "Net income" means the income produced by real property after deducting allowable expenses of ownership. Allowable and nonallowable expenses are as follows:

(A) The following are allowable expenses of ownership if the owner is responsible for the expenses:

(i) Property taxes.
(ii) Interest payments.
(iii) Repairs and maintenance.
(iv) Advertising expenses.
(v) Lawn care.
(vi) Property insurance.
(vii) Trash removal expenses.
(viii) Snow removal expenses.
(ix) Utilities.
(x) Any other expenses of ownership allowed by the Supplemental Security Income program.

(B) The following are not allowable expenses of ownership:

(i) Depreciation.
(ii) Payments on mortgage principal.
(iii) Personal expenses of the owner.
(iv) Mortgage insurance.
(v) Capital expenditures.

(5) "Noninstitutionalized individual" means an applicant or recipient receiving any of the services described in subsection (e).

(6) "Qualified long term care insurance policy" has the meaning in 760 IAC 2-20-30.

(7) "Uncompensated value" means the difference between the fair market value of the asset and the value of the consideration received by the applicant or recipient in return for transferring the asset.

(b) A transfer of assets includes any cash, liquid asset, or property that is transferred, sold, given away, or otherwise disposed of as follows:

(1) Transfer includes any total or partial divestiture of control or access, including, but not limited to, any of the following:

(A) Converting an asset from individual to joint ownership.

(B) Relinquishing or limiting the applicant's or recipient's right to liquidate or sell the asset.

(C) Disposing of a portion or a partial interest in the asset while retaining an interest.

(D) Transferring the right to receive income or a stream of income, including, but not limited to, income produced by real property.

(E) Renting or leasing real property.

(F) Waiving the right to receive a distribution from a decedent's estate, or failing to take action to receive a distribution that the individual is entitled to receive by law, subject to subsection (i) *[sic., subsection (j)]*.

(2) If an applicant or recipient relinquishes ownership or control over a portion of an asset, but retains ownership, control, or an interest in the remaining portion, the portion relinquished is considered transferred.

(3) A transfer of the applicant's or recipient's assets completed by the applicant's or recipient's power of attorney or legal guardian is considered a transfer by the applicant or recipient.

(4) For purposes of this SECTION, in the case of an asset held by an individual in common with another person or persons in a joint tenancy, tenancy in common, or similar arrangement, the asset, or the affected portion of the asset, shall be considered transferred by the applicant or recipient when any action is taken, either by the applicant or recipient or by any other person, that reduces or eliminates the applicant's or recipient's ownership or control of the asset.

(5) This SECTION applies without regard to the exclusion of the home described in 42 U.S.C. 1382b(a)(1).

(6) This SECTION applies without regard to the exclusion of income-producing property described in 405 IAC 2-3-15. The transfer of income-producing property is subject to penalty under subsections (h) and (l).

(c) If an applicant or recipient of Medicaid, or the spouse of an applicant or recipient, disposes of assets for less than fair market value on or after the look-back date specified in this subsection, the applicant or recipient is ineligible for medical assistance for services described in subsections (d) through (e), for a period beginning on the first day of the first month ~~during or~~ after which assets have been transferred for less than fair market value, and which does not occur in any other periods of ineligibility under this SECTION. **If the transfer took place prior to July 1, 2003, the penalty period begins in the month of the transfer.** The ineligibility period is equal to the number of months specified in subsection (f) *[sic., subsection (g)]*. The look-back date is determined as follows:

(1) In the case of transfers that do not involve a trust, the look-back date is determined as follows:

(A) For an institutionalized individual, the look-back date is thirty-six (36) months before the first date as of which the individual both:

(i) is an institutionalized individual; and

(ii) has applied for medical assistance.

(B) For a noninstitutionalized individual, the look-back date is thirty-six (36) months before the later of:

(i) the date on which the individual applies for medical assistance; or

(ii) the date on which the individual disposes of assets for less than fair market value.

(2) In the case of transfers which involve payments from a trust or portions of a trust that are treated as assets disposed of by an applicant or recipient under section 22(b)(3) or 22(c)(2) of this rule *[405 IAC 2-3-22(b)(3) or 405 IAC 2-3-22(c)(2)]*, the look-back date is determined as follows:

(A) For an institutionalized individual, the look-back date is sixty (60) months before the first date as of which the individual both:

(i) is an institutionalized individual; and

(ii) has applied for medical assistance.

(B) For a noninstitutionalized individual, the look-back date is sixty (60) months before the later of:

(i) the date on which the individual applies for medical assistance; or

(ii) the date on which the individual disposes of assets for less than fair market value.

(d) During the penalty period, an institutionalized individual is ineligible for medical assistance for the following services:

(1) Nursing facility services.

(2) A level of care in any institution equivalent to that of nursing facility services.

(3) Home or community-based waiver services.

(e) During the penalty period, a noninstitutionalized individual is ineligible for the following services:

(1) Home health care services.

(2) Home and community care services for functionally disabled elderly individuals.

(3) Personal care services as defined in 42 U.S.C. 1396a(a)(24).

(4) Any other long term care services, including, but not limited to, the services listed in subsection (d).

(f) If an individual is ineligible for medical assistance for services under this SECTION, expenses for those services are not allowable medical expenses in calculating an individual's nursing home liability for any month of Medicaid eligibility.

~~(f)~~ **(g)** The number of months of ineligibility shall be equal to the total, cumulative uncompensated value of all assets transferred by the individual, or the individual's spouse, on or after the look-back date specified in subsection (c), divided by the average monthly cost to a private patient of nursing facility services in the geographic area which includes the county where the individual resides at the time of application. As used in this subsection, "geographic area" means the region identified in Section 2640.10.35.20 of the Family and Social Services Administration Program Policy Manual for Cash Assistance, Food Stamps, and Health Coverage. **For transfers taking place on or after July 1, 2003, in determining the total, cumulative uncompensated value of assets transferred, transfers made in consecutive months are added together. The penalty period begins with the month following the first month that the total amount transferred exceeds the monthly private pay rate.**

~~(g)~~ **(h)** This subsection applies to the transfer of a stream of income, including, but not limited to, the transfer of the income generated by income-producing real property ~~The transfer of income-producing real property is a transfer of a stream of income if the transferor does not retain the right to receive the income generated by the property.~~ **or any other resource. When a transferred asset produces or is capable of producing income, the transfer of that asset is a transfer of income as well as a transfer of the underlying resource. The value of the income is added to the value of the underlying resource in determining the uncompensated value of the transfer.** The uncompensated value of income transferred is determined by calculating the greater of:

(1) the fair market value; or

(2) the actual amount;

of total net income that the property or other source of income is ~~expected to produce~~ **capable of producing** during the lifetime of the transferor, based on life expectancy tables published by the office, and subtracting the income, if any, that the transferor will receive from the property or other source of income after the transfer.

~~(h)~~ **(i)** When an individual accepts a rental payment that is less than the fair market rental value for income-producing property, the uncompensated value of the transfer is determined by:

(1) calculating the difference between the fair market rental value and the amount of rent accepted; and

(2) multiplying the difference by the person's life expectancy based on life expectancy tables published by the office.

~~(i)~~ **(j)** This subsection applies to a transfer of assets that results from failure to take action to receive assets to which one is entitled to receive by law. No penalty will be imposed if any of the following circumstances applies:

(1) The applicant or recipient, or the individual with legal authority to act on behalf of the applicant or recipient, is unaware of his or her right to receive assets, or becomes aware of the right to receive assets after the deadline for taking action has passed. If the office notifies the applicant or recipient of his or her right to receive assets prior to the deadline for taking action, the individual will be presumed to be aware of his or her right to receive assets unless subdivision (2) applies.

(2) A physician states that the applicant or recipient is not capable of taking action to receive the assets, and there is no guardian or other individual with the authority to act on the applicant's or recipient's behalf.

(3) The expenses of collecting the assets would exceed the value of the assets.

(4) In the case of a surviving spouse who fails to take a statutory share of a deceased spouse's estate, no penalty will be imposed if the deceased spouse has made other equivalent arrangements to provide for a spouse's needs. "Other equivalent arrangements" includes, but is not limited to, a trust established for the benefit of the surviving spouse.

~~(j)~~ **(k)** An applicant or recipient shall not be ineligible for medical assistance under this SECTION if any of the following apply:

(1) The assets transferred were a home, and title to the home was transferred to any of the following persons:

(A) The spouse of the applicant or recipient.

(B) A child of the applicant or recipient who:

(i) is under twenty-one (21) years of age; or

(ii) is blind or disabled as defined in 42 U.S.C. 1382c.

(C) A sibling of the applicant or recipient who has an equity interest in the home and who was residing in the applicant's or recipient's home for a period of at least one (1) year immediately before the date the applicant or recipient becomes an institutionalized individual.

(D) A son or daughter of the applicant or recipient, other than a child described in clause (B), who was residing in the applicant's or recipient's home for a period of at least two (2) years immediately before the date the applicant or recipient becomes an institutionalized individual, and who the office determines has provided care to the applicant or recipient which permitted the applicant or recipient to reside at home rather than in an institution or facility.

(2) The assets were transferred to the applicant's or recipient's spouse or to another for the sole benefit of the applicant's or recipient's spouse.

(3) The assets were transferred from the applicant's or recipient's spouse to another for the sole benefit of the applicant's or recipient's spouse.

(4) The assets were transferred to:

(A) the applicant's or recipient's child who is disabled or blind as defined in 42 U.S.C. 1382c; or

(B) to a trust, including a trust described in section 22(i) of this rule *[405 IAC 2-3-22(i)]*, established solely for the benefit of the applicant's or recipient's child who is disabled or blind as defined in 42 U.S.C. 1382c.

(5) The assets were transferred to a trust, including a trust

described in section 22(i) of this rule *[405 IAC 2-3-22(i)]*, established solely for the benefit of an individual under sixty-five (65) years of age who is disabled as defined in 42 U.S.C. 1382c.

(6) The assets transferred are disregarded for eligibility purposes through the use of a qualified long term care insurance policy pursuant to IC 12-15-39.6. If an asset is disregarded through the use of a qualified long term care insurance policy, that asset and any income generated by that asset may be transferred without penalty.

(7) A satisfactory showing is made to the office, in accordance with standards specified under 42 U.S.C. 1396p(c)(2)(C) by the Secretary of Health and Human Services, that:

(A) the applicant or recipient intended to dispose of the assets at fair market value or for other valuable consideration;

(B) the assets were transferred exclusively for a purpose other than to qualify for medical assistance; or

(C) all assets transferred for less than fair market value have been returned to the applicant or recipient.

(8) The office may waive the application of this SECTION in cases of undue hardship, but only to the extent required by standards specified under 42 U.S.C. 1396p(c)(2)(D) by the Secretary of Health and Human Services.

(l) For transfers of income-producing real property on and after July 1, 2003, six thousand dollars ($6,000) of the equity value can be transferred without penalty if the transferred property produces at least three hundred sixty dollars ($360) a year in income. This six thousand dollars ($6,000) exemption is a single, one-time exemption that applies to the total value of all income-producing real property transferred by the applicant during the applicant's lifetime. If the property does not produce at least three hundred sixty dollars ($360) per year in income, the entire equity is the uncompensated value.

~~(k)~~ **(m)** In the case of a transfer by the spouse of an applicant or recipient which results in a period of ineligibility for medical assistance, the office shall apportion the period of ineligibility, or any portion of that period, between the applicant or recipient and the applicant's or recipient's spouse, if the spouse otherwise becomes eligible for medical assistance, as specified in regulations promulgated under 42 U.S.C. 1396p(c)(4) by the Secretary of Health and Human Services.

SECTION 2. **This document expires September 29, 2003.**

LSA Document #03-181(E)
Filed with Secretary of State: July 1, 2003, 9:23 a.m.

TITLE 405 OFFICE OF THE SECRETARY OF FAMILY AND SOCIAL SERVICES

LSA Document #03-182(E)

DIGEST

Temporarily amends 405 IAC 2-8-1 to change the definition of "estate" for Medicaid estate recovery purposes. Temporarily amends 405 IAC 2-8-1.1 to change the estate recovery exemption for jointly owned real property. Makes numerous changes to 405 IAC 2-10 concerning liens against the real property of Medicaid recipients in order to conform to P.L.224-2003, SECTIONS 71 through 80. Temporarily adds a provision setting out a procedure for voiding a lien in order to conform to P.L.224-2003, SECTIONS 71 through 80. Temporarily adds a provision exempting property disregarded under the Indiana Long Term Care Insurance Program from lien placement and enforcement. Authority: IC 4-22-2-37.1(a)(20); IC 12-8-1-12(c). Effective July 1, 2003.

SECTION 1. (405 IAC 2-8-1) (a) Upon the death of a Medicaid recipient fifty-five (55) years of age or older, the office of Medicaid policy and planning (office) shall seek recovery from the recipient's estate for medical assistance paid on behalf of the recipient after the recipient became fifty-five (55) years of age or older. Recovery shall be made for benefits provided prior to October 1, 1993, only if the recipient was sixty-five (65) years of age or older at the time the benefits were provided.

(b) As used in this SECTION, "estate", with respect to a deceased recipient, shall include all of the following:

(1) All real and personal property and other assets included within the recipient's estate as defined for purposes of state probate law.

(2) Any interest in real property owned by the individual at the time of death that was conveyed to the individual's survivor through joint tenancy with right of survivorship, if the joint tenancy was created after June 30, 2002; and

(3) Any real or personal property conveyed through a nonprobate transfer. As used in this SECTION, "nonprobate transfer" means a valid transfer, effective at death, by a transferor who immediately before death had the power, acting alone, to prevent transfer of the property by revocation or withdrawal and:

(A) use the property for the benefit of the transferor; or

(B) apply the property to discharge claims against the transferor's probate estate.

The term does not include a transfer of a survivorship interest in a tenancy by the entireties real estate ~~transfer of a life insurance policy or annuity,~~ or payment of the death proceeds of a life insurance policy. ~~or annuity.~~

(c) If the recipient is survived by a spouse, recovery shall be made after the death of the surviving spouse. Only those assets

that are included in the recipient's estate as defined in subsection (b) are subject to recovery.

(d) If the recipient is survived by a child, no recovery shall be made while the child is either:
(1) under twenty-one (21) years of age; or
(2) blind or disabled as defined in 42 U.S.C. 1382c.

(e) A claim may not be enforced against the following assets:
(1) Personal effects, ornaments, or keepsakes of the deceased.
(2) Assets of an individual who purchases a long term care insurance policy that are disregarded pursuant to IC 12-15-39.6-10.
(3) Nonprobate assets that were determined exempt or unavailable for purposes of the decedent's Medicaid eligibility prior to May 1, 2002.
(4) Assets that the decedent transferred through a nonprobate transfer prior to May 1, 2002.

(f) The office may waive the application of this section in cases of undue hardship pursuant to section 2 of this rule *[405 IAC 2-8-2]*.

SECTION 2. (405 IAC 2-8-1.1) (a) This SECTION applies only to real property owned by the individual at the time of death that was conveyed to the individual's survivor through joint tenancy with right of survivorship.

(b) The office may enforce its claim against property described in subsection (a) only to the extent that the value of the recipient's combined total interest in all real property described in subsection (a) subject to the claim exceeds ~~one hundred twenty-five~~ **seventy-five** thousand dollars ~~($125,000).~~ **($75,000).**

(c) This SECTION expires January 1, 2008.

SECTION 3. (405 IAC 2-10-3) (a) When the office in accordance with 42 U.S.C. 1396p determines that a Medicaid recipient who resides in a medical institution cannot reasonably be expected to be discharged and return home, the office may attach a lien on the Medicaid recipient's real property subject to the provisions of this rule *[405 IAC 2-10]* and IC 12-15-8.5.

(b) The office may not obtain a lien on the recipient's home if any of the following people lawfully reside in the home of the institutionalized recipient:
(1) The recipient's spouse.
(2) The recipient's child who is less than twenty-one (21) years of age, blind, or disabled as defined in 42 U.S.C. 1382c.
(3) The recipient's sibling who:
(A) was residing in the recipient's home for a period of at least one (1) year immediately before the recipient's institutionalization; and
(B) has an ownership interest in the home.
(4) The recipient's parent.
~~(5) An individual, other than a paid caregiver, who:~~
~~(A) was continuously residing in the recipient's home for a period of at least two (2) years immediately prior to the date of the recipient's institutionalization; and~~
~~(B) establishes to the satisfaction of the office that the person provided care to the recipient enabling the recipient to reside in his or her home, delaying institutionalization.~~

SECTION 4. (405 IAC 2-10-7) (a) From the date on which the notice of lien is recorded in the office of the county recorder, the notice of lien:
(1) constitutes due notice of a lien against the recipient or recipient's estate for any amount then recoverable and any amounts that become recoverable under this article *[405 IAC 2]*; and
(2) gives a specific lien in favor of the office on the Medicaid recipient's interest in the real property.

(b) The lien continues from the date of filing until the lien:
(1) is satisfied;
(2) is released; or
(3) expires.
The lien automatically expires unless the office commences a foreclosure action not later than ~~nine (9) months~~ **two years** after the Medicaid recipient's death.

SECTION 5. (405 IAC 2-10-8) (a) The office may not enforce a lien on the recipient's home under this rule *[405 IAC 2-10]* if the following individuals are lawfully residing in the recipient's home and have resided there on a continuous basis since the recipient's date of admission to the medical institution:
(1) The recipient's child of any age who:
(A) resided in the recipient's home for at least twenty-four (24) months before the recipient was institutionalized; and
(B) establishes to the satisfaction of the office that he or she provided care to the recipient that enabled the recipient to reside in his or her home, delaying institutionalization.
(2) The recipient's sibling, who has resided in the recipient's home for a period of at least one (1) year immediately before the date of the recipient's admission to the medical institution.

(b) The office may not enforce a lien on the real property of the recipient under this rule *[405 IAC 2-10]* as long as the recipient is survived by any of the following:
(1) Recipient's spouse.
(2) Recipient's child who is less than twenty-one (21) years of age, blind, or disabled as defined in this rule *[405 IAC 2-10]*.
~~(3) The recipient's parent.~~

(c) If there is no condition present in subsection (a) or (b), the office, or its designee, may bring a proceeding in foreclosure on the lien or to make arbitration of the amount due on the lien as follows:

(1) If the real property or recipient's interest is sold during the lifetime of the recipient.
(2) Upon the death of the recipient.

SECTION 6. (405 IAC 2-10-9) (a) The office shall release a lien obtained under this rule *[405 IAC 2-10]* within ten (10) business days after the county office of family and children receives notice that the recipient is no longer institutionalized and is living in his or her home.

(b) A lien obtained under this rule *[405 IAC 2-10]* is subordinate to the ~~subsequent~~ security interest of a financial institution as defined in IC 12-15-8.5 that loans money to the recipient, provided that the recipient is able to establish to the satisfaction of the office that the funds were used for any of the following purposes:

(1) ~~The payment of taxes, insurance, maintenance, and repairs in order to preserve and maintain the recipient's real property.~~
~~(2)~~ Operating capital for the operation of the recipient's farm, the recipient's business, or the recipient's real property that is income-producing.
~~(3) The payment of medical, dental, or optical expenses incurred by:~~
~~(A) the recipient;~~
~~(B) the recipient's spouse;~~
~~(C) the recipient's dependent parent; or~~
~~(D) a child less than twenty-one (21) years of age or who is blind or disabled.~~
~~(4) The reasonable costs and expenses for the support, maintenance, comfort, and education of the recipient's spouse, a dependent parent, or a child who is less than twenty-one (21) years of age or who is blind or disabled.~~

(c) If the real property subject to the lien is sold, the office shall release its lien at the closing, and the lien shall attach to the net proceeds of the sale.

SECTION 7. **(a) A lien under 405 IAC 2-10 is void if both of the following occur:**

(1) The owner of property subject to a lien under this chapter or any person or corporation having an interest in the property, including a mortgagee or a lienholder, provides written notice to the office to file an action to foreclose the lien.

(2) The office fails to file an action to foreclose the lien in the county where the property is located not later than thirty (30) days after receiving the notice. However, this SECTION does not prevent the claim from being collected as other claims are collected by law.

(b) A person who gives notice under subsection (a)(1) by registered or certified mail to the office at the address given in the recorded statement and notice of intention to hold a lien may file an affidavit of service of the notice to file an action to foreclose the lien with the recorder of the county in which the property is located. The affidavit must state the following:

(1) The facts of the notice.
(2) That more than thirty (30) days have passed since the notice was received by the office.
(3) That no action for foreclosure of the lien is pending.
(4) That no unsatisfied judgment has been rendered on the lien.

(c) The recorder shall:
(1) record the affidavit of service in the miscellaneous record book of the recorder's office; and
(2) certify on the face of the record any lien that is fully released.

When the recorder records the affidavit and certifies the record under this subsection, the real estate described in the lien is released from the lien.

SECTION 8. **Real property that is disregarded for eligibility purposes in connection with the purchase and use of a qualified long term care insurance policy pursuant to IC 12-15-39.6-10 is exempt from lien placement and enforcement.**

SECTION 9. 405 IAC 2-10-10 IS TEMPORARILY REPEALED.

SECTION 10. **This document expires September 29, 2003.**

LSA Document #03-182(E)
Filed with Secretary of State: July 1, 2003, 9:25 a.m.

TITLE 405 OFFICE OF THE SECRETARY OF FAMILY AND SOCIAL SERVICES

LSA Document #03-61

Under IC 12-8-3-4.4, LSA Document #03-61, printed at 26 IR 3110, which amends 405 IAC 1-17-1 to modify the reimbursement methodology for state-owned intermediate care facilities for the mentally retarded (ICFs/MR), was adopted on July 7, 2003. The rule amends 405 IAC 1-17-1 to apply retrospective rate-setting principles with an annual cost-settlement. Amends 405 IAC 1-17-2 to delete the reference to market area limitation. Amends 405 IAC 1-17-3 to remove the central office financial reporting requirements. Amends 405 IAC 1-17-4 to remove the 10 percent reduction in current rate if there is a delay in filing of the annual financial report. Amends 405 IAC 1-17-5 to remove the nine month base rate reporting requirement. Amends 405 IAC 1-17-6 to change the rate effective date from the first day of the fourth month following the provider's reporting year end to the first day of the month following the provider's reporting year end. Amends 405 IAC 1-17-7 to remove the requirement to base forecasted data on a minimum eighty percent occupancy. Amends 405 IAC 1-17-9 to apply a retrospective payment system with annual settlement and to remove the market area limitation, private pay rate limitation, and requested rate limitation. The rule which was adopted on July 7, 2003, is the same version as the proposed rule which was published in the Indiana Register on June 1, 2003.

TITLE 470 DIVISION OF FAMILY AND CHILDREN

LSA Document #03-33

Under IC 12-8-3-4.4, LSA Document #03-33, printed at 26 IR 2680, adding 470 IAC 10.2 concerning implementation of a full family sanction and a partial income disregard for TANF recipients was adopted by the director of the Division of Family and Children on July 2, 2003. The rule adopted is the same version as the proposed rule that was published in the Indiana Register on May 1, 2003.

Change in Notice of Public Hearing

TITLE 329 SOLID WASTE MANAGEMENT BOARD

LSA Document #00-185

The Solid Waste Management Board (board) hereby gives notice that the date of the public hearing for consideration of final adoption of LSA Document #00-185 has been changed. The hearing will now be held on August 26, 2003. If the date of this hearing is changed, it will be noticed in the Change in Notice of Public Hearing section of the Indiana Register. The new Notice of Public Hearing appears below:

Notice of Public Hearing

Under IC 4-22-2-24, IC 13-14-8-6, and IC 13-14-9, notice is hereby given that on ***August 26, 2003*** *at 1:30 p.m., at the Indiana Government Center-South, 402 West Washington Street, Conference Center Rooms 4 and 5, Indianapolis, Indiana the Solid Waste Management Board will hold a public hearing on proposed amendments to rules concerning solid waste land disposal facilities at article 329 IAC 10.*

The purpose of this hearing is to receive comments from the public prior to final adoption of these rules by the board. All interested persons are invited and will be given reasonable opportunity to express their views concerning the proposed amendments. Oral statements will be heard, but for the accuracy of the record, all comments should be submitted in writing.

Additional information regarding this action may be obtained from Pam Koons, Rules, Planning and Outreach Section, Office of Land Quality, (317) 232-8899 or (800) 451-6027 (in Indiana).

Individuals requiring reasonable accommodations for participation in this event should contact the Indiana Department of Environmental Management, Americans with Disabilities Act coordinator at:

Attn: ADA Coordinator
Indiana Department of Environmental Management
100 North Senate Avenue
P.O. Box 6015
Indianapolis, Indiana 46206-6015

or call (317) 233-0855. (TDD): (317) 232-6565. Speech and hearing impaired callers may contact IDEM via the Indiana Relay Service at 1-800-743-3333. Please provide a minimum of 72 hours' notification.

Copies of these rules are now on file at the IDEM Office of Land Quality, 100 North Senate Avenue and Legislative Services Agency, One North Capitol, Suite 325, Indianapolis, Indiana and are open for public inspection.

Bruce H. Palin
Deputy Assistant Commissioner
Office of Land Quality

TITLE 329 SOLID WASTE MANAGEMENT BOARD

LSA Document #01-161

The Solid Waste Management Board (board) gives notice that the date of the public hearing for consideration of final adoption of #01-161(SWMB), printed at 26 IR 1962, has been changed. The hearing for final adoption concerning amendments to rules for underground storage tanks at 329 IAC 9, printed at 26 IR 1201, is renoticed for the board meeting of August 26, 2003. The hearing will be held at a regular meeting of the board on August 26, 2003, at 1:30 p.m. in the Indiana Government Center-South, 402 West Washington Street, Conference Center Rooms 4 and 5, Indianapolis, Indiana. If the date of this hearing is changed, it will be noticed in the Change of Notice of Public Hearing section of the Indiana Register. The new Notice of Public Hearing appears below:

Notice of Public Hearing

Under IC 4-22-2-24, IC 13-14-8-6, and IC 13-14-9, notice is hereby given that on ***August 26, 2003*** *at 1:30 p.m., in the Indiana Government Center-South, 402 West Washington Street, Conference Center Rooms 4 and 5, Indianapolis, Indiana the Solid Waste Management Board will hold a public hearing on amendments to rules for underground storage tanks at 329 IAC 9.*

The purpose of this hearing is to receive comments from the public prior to final adoption of these rules by the board. All interested persons are invited and will be given reasonable opportunity to express their views concerning the proposed amendments and new language. Oral statements will be heard, but for the accuracy of the record, all comments should be submitted in writing. Procedures to be followed in this hearing may be found in the April 1, 1996, Indiana Register, page 1710 (19 IR 1710).

Additional information regarding this action may be obtained from Lynn West, Rules, Planning, and Outreach Section, Office of Land Quality, (317) 232-3593 or (800) 451-6027, press 0, and ask for ext. 2-3593 (in Indiana). If the date of this hearing is changed, it will be noticed in the Change of Notice section of the Indiana Register.

Individuals requiring reasonable accommodations for participation in this event should contact the Indiana Department of Environmental Management, Americans with Disabilities Act coordinator at:

Attn: ADA Coordinator
Indiana Department of Environmental Management
100 North Senate Avenue
P.O. Box 6015
Indianapolis, Indiana 46206-6015

or call (317) 233-0855. TDD: (317) 232-6565. Speech and hearing impaired callers may also contact the agency via the Indiana Relay Service at 1-800-743-3333. Please provide a minimum of 72 hours' notification.

Copies of these rules are now on file with the Office of Land Quality, Indiana Government Center-North, 100 North Senate Avenue, Eleventh Floor West, Indianapolis, Indiana and are open for public inspection.

Bruce H Palin
Deputy Assistant Commissioner
Office of Land Quality

TITLE 329 SOLID WASTE MANAGEMENT BOARD

LSA Document #01-288

The Solid Waste Management Board (board) hereby gives notice that the date of the public hearing for consideration of final adoption of LSA Document #01-288, Removal of References to Special Waste and Industrial Waste, has been changed. The hearing will now be held on September 16, 2003. If the date of this hearing is changed, it will be noticed in the Change in Notice of Public Hearing section of the Indiana Register. The new Notice of Public Hearing appears below:

Notice of Public Hearing

Under IC 4-22-2-24, IC 13-14-8-6, and IC 13-14-9, notice is hereby given that on ***September 16, 2003*** *at 1:30 p.m., at the Indiana Government Center-South, 402 West Washington Street, Conference Center Room A, Indianapolis, Indiana the Solid Waste Management Board will hold a public hearing on proposed amendments removing references to special waste and industrial waste in 329 IAC 10, 329 IAC 11, 329 IAC 12, and 329 IAC 13.*

The purpose of this hearing is to receive comments from the public prior to final adoption of these rules by the board. All interested persons are invited and will be given reasonable opportunity to express their views concerning the proposed amendments. Oral statements will be heard, but for the accuracy of the record, all comments should be submitted in writing.

Additional information regarding this action may be obtained from Steve Mojonnier, Rules, Planning and Outreach Section, Office of Land Quality, (317) 233-1655 or (800) 451-6027 (in Indiana).

Individuals requiring reasonable accommodations for participation in this event should contact the Indiana Department of Environmental Management, Americans with Disabilities Act coordinator at:

Attn: ADA Coordinator
Indiana Department of Environmental Management
100 North Senate Avenue
P.O. Box 6015
Indianapolis, Indiana 46206-6015

or call (317) 233-0855. (TDD): (317) 232-6565. Speech and hearing impaired callers may contact IDEM via the Indiana Relay Service at 1-800-743-3333. Please provide a minimum of 72 hours' notification.

Copies of these rules are now on file at the IDEM Office of Land Quality, 100 North Senate Avenue and Legislative Services Agency, One North Capitol, Suite 325, Indianapolis, Indiana and are open for public inspection.

Bruce H. Palin
Deputy Assistant Commissioner
Office of Land Quality

TITLE 329 SOLID WASTE MANAGEMENT BOARD

LSA Document #02-235

The Solid Waste Management Board (board) hereby gives notice that the date of the public hearing for consideration of final adoption of LSA Document #02-235, commonly known as the 2002 Hazardous Waste Annual Update, has been changed. The hearing will now be held on August 26, 2003. If the date of this hearing is changed, it will be noticed in the Change in Notice of Public Hearing section of the Indiana Register. The new Notice of Public Hearing appears below:

Notice of Public Hearing

Under IC 4-22-2-24, IC 13-14-8-6, and IC 13-14-9, notice is hereby given that on ***August 26, 2003*** *at 1:30 p.m., at the Indiana Government Center-South, 402 West Washington Street, Conference Center Rooms 4 and 5, Indianapolis, Indiana the Solid Waste Management Board will hold a public hearing on proposed amendments to 329 IAC 3.1.*

The purpose of this hearing is to receive comments from the public prior to final adoption of these rules by the board. All interested persons are invited and will be given reasonable opportunity to express their views concerning the proposed amendments. Oral statements will be heard, but for the accuracy of the record, all comments should be submitted in writing.

Additional information regarding this action may be obtained from Steve Mojonnier, Rules, Planning and Outreach Section, Office of Land Quality, (317) 233-1655 or (800) 451-6027 (in Indiana).

Individuals requiring reasonable accommodations for participation in this event should contact the Indiana Department of Environmental Management, Americans with Disabilities Act coordinator at:

Attn: ADA Coordinator
Indiana Department of Environmental Management
100 North Senate Avenue
P.O. Box 6015
Indianapolis, Indiana 46206-6015

or call (317) 233-0855. (TDD): (317) 232-6565. Speech and

hearing impaired callers may contact IDEM via the Indiana Relay Service at 1-800-743-3333. Please provide a minimum of 72 hours' notification.

Copies of these rules are now on file at the IDEM Office of Land Quality, 100 North Senate Avenue, and Legislative Services Agency, One North Capitol, Suite 325, Indianapolis, Indiana and are open for public inspection.

Bruce H. Palin
Deputy Assistant Commissioner
Office of Land Quality

TITLE 357 INDIANA PESTICIDE REVIEW BOARD

LSA Document #02-332

The Indiana Pesticide Review Board gives notice that the date of the public hearing for LSA Document #02-332, printed at 26 IR 3109, has been changed. The changed Notice of Public Hearing appears below:

Notice of Public Hearing

Under IC 4-22-2-24, notice is hereby given that on ***September 9, 2003*** *at 10:00 a.m., at the Office of the Indiana State Chemist, Purdue University, 175 South University Street, Room A151, West Lafayette, Indiana the Pesticide Review Board will hold a public hearing on a proposed rule to establish certification and licensing requirements for all applicators that use any pesticide as part of a mosquito abatement operation conducted on publicly accessible areas and to establish registration requirements for technicians using pesticides under the supervision of the certified and licensed applicators. Copies of this rule are now on file at the Office of the Indiana State Chemist, Purdue University, 175 South University Street, West Lafayette and Legislative Services Agency, One North Capitol, Suite 325, Indianapolis, Indiana and are open for public inspection.*

David E. Scott
Secretary
Indiana Pesticide Review Board

TITLE 10 OFFICE OF ATTORNEY GENERAL FOR THE STATE

LSA Document #03-202

Under IC 4-22-2-23, the Office of Attorney General for the State intends to adopt a rule concerning the following:

OVERVIEW: The rules will add 10 IAC 5 concerning the Tobacco Master Settlement Agreement Protection Act. The rules will relate to the requirements of a tobacco product manufacturer to make required escrow deposits in installments during the calendar year in which sales covered by the deposits are made or to produce information sufficient to enable the attorney general to determine the adequacy of the amount of an installment deposit. The rules will also relate to the obligation of the attorney general annually to publish a directory of all brand families of cigarettes approved for sale in Indiana. Public comments are invited and may be directed to the Office of the Attorney General, Attention: Adam Warnke, Indiana Government Center-South, 302 West Washington Street, Fifth Floor, Indianapolis, IN 46204 or by electronic mail to awarnke@atg.state.in.us. Statutory authority: IC 4-6-9-8; IC 24-3-5.4-20.

TITLE 52 INDIANA BOARD OF TAX REVIEW

LSA Document #03-179

Under IC 4-22-2-23, the Indiana Board of Tax Review intends to adopt a rule concerning the following:

OVERVIEW: Under IC 6-1.5-6-1 and IC 6-1.5-6-2, the Indiana Board of Tax Review intends to adopt rules to govern the processing of petitions, and the practice and procedures, for proceedings before the Indiana Board of Tax Review. The proposed rules will address the matters identified in IC 6-1.5-6-2, which include hearing procedures, small claims, mediation, and arbitration. The Indiana Board of Tax Review invites written suggestions, facts, arguments, or views in these matters. Questions or comments may be directed to Annette Biesecker, Chairman, Indiana Board of Tax Review, at 232-3753.

TITLE 68 INDIANA GAMING COMMISSION

LSA Document #03-204

Under IC 4-22-2-23, the Indiana Gaming Commission intends to adopt a rule concerning the following:

OVERVIEW: Adds a new rule regarding the commission's administration of a Voluntary Exclusion Program in the state of Indiana as specified in Public Law 143-2003. The program will allow an individual to voluntarily request to have his or her name placed on a confidential exclusion list. Voluntarily excluded individuals will agree to refrain from entering facilities under the jurisdiction of the commission. The rule will outline the procedures an individual must follow for placement on the list and the commission's responsibilities in maintaining the list and administering the program. The rule will outline the rights and duties of riverboat licensees and operating agents under the jurisdiction of the commission, including that they shall have access to the list for purposes of enforcement and may not cash checks for, issue credit to, or send direct marketing to persons on the list. The rule will also delineate a process through which individuals can request to be removed from the list. Public comments are invited. Questions concerning the rule may be directed to the following telephone number: (317) 233-0046 or e-mailed to jchelf@igc.state.in.us. Statutory authority: IC 4-33-4-1; IC 4-33-4-2; IC 4-33-4-3; IC 4-33-4-5.

TITLE 170 INDIANA UTILITY REGULATORY COMMISSION

LSA Document #03-193

Under IC 4-22-2-23, the Indiana Utility Regulatory Commission intends to adopt a rule concerning the following:

OVERVIEW: Amends 170 IAC 7-1.1-19 to provide for the use of an electronic "Letter of Agency" in authorizing a change in telephone carriers. Public comments are invited. Questions or comments concerning the proposed rule may be addressed to the following telephone number: (317) 232-2092. Statutory authority: IC 8-1-1-3.

TITLE 170 INDIANA UTILITY REGULATORY COMMISSION

LSA Document #03-194

Under IC 4-22-2-23, the Indiana Utility Regulatory Commission intends to adopt a rule concerning the following:

OVERVIEW: Amends 170 IAC 7-1.2-10(c) regarding extension of telephone facilities for new real estate developments. Effective 30 days after filing with the secretary of state. Questions or comments concerning the proposed rule may be addressed to the following telephone number: (317) 232-0158. Statutory authority: IC 8-1-1-3.

TITLE 312 NATURAL RESOURCES COMMISSION

LSA Document #03-203

Under IC 4-22-2-23, the Natural Resources Commission intends to adopt a rule concerning the following:

OVERVIEW: Amends 312 IAC 11-3-1(e) and 312 IAC 11-4-3 to allow bulkhead seawalls or previously authorized seawalls on public freshwater lakes to be refaced with glacial stone, under a general license, regardless of the number of times the existing bulkhead or a lawful seawall has previously been refaced. Questions concerning the proposed rule amendments may be directed to the following telephone number: (317) 233-3322 or e-mail address: slucas@dnr.state.in.us Statutory authority: IC 14-20-2-4; IC 14-26-2-23.

TITLE 315 OFFICE OF ENVIRONMENTAL ADJUDICATION

LSA Document #03-183

Under IC 4-22-2-23, the Office of Environmental Adjudication intends to adopt a rule concerning the following:

OVERVIEW: Amends the rules of procedure for the Office of Environmental Adjudication, 315 IAC 1 et seq. In addition corrects errata remaining in the rule. Statutory authority: IC 4-21.5-7-7 to supplement and clarify the requirements of IC 4-21.5.

TITLE 405 OFFICE OF THE SECRETARY OF FAMILY AND SOCIAL SERVICES

LSA Document #03-184

Under IC 4-22-2-23, the Office of the Secretary of Family and Social Services intends to adopt a rule concerning the following:

OVERVIEW: Amends 405 IAC 5-20 to add coverage and reimbursement limitations for psychiatric residential treatment services (PRTF) for children under twenty-one (21) years of age. Adds provisions setting forth the reimbursement criteria for PRTF services. Statutory authority: IC 12-8-6-5; IC 12-15-1-10; IC 12-15-21-2; IC 12-15-21-3.

TITLE 405 OFFICE OF THE SECRETARY OF FAMILY AND SOCIAL SERVICES

LSA Document #03-205

Under IC 4-22-2-23, the Office of the Secretary of Family and Social Services intends to adopt a rule concerning the following:

OVERVIEW: Amends 405 IAC 2-3-1.1 to specify that a Medicaid penalty period for the transfer of assets for less than fair market value will begin in the month after which assets have been transferred for less than fair market value. Specifies that, if an individual is ineligible for medical assistance due to a transfer penalty, expenses for nursing home services incurred during the penalty period are not allowable medical expenses in calculating an individual's nursing home liability for any month of Medicaid eligibility. Specifies that in determining the total, cumulative uncompensated value of assets transferred, transfers made in consecutive months are added together. Specifies that the transfer of an asset that produces or is capable of producing income is a transfer of income as well as a transfer of the underlying resource and the values will be added together to determine the uncompensated value of the transfer. Specifies that for transfers of income-producing real property, $6,000 of the equity value can be transferred without penalty if the transferred property produces at least $360 a year in income. Specifies that if the equity value is less than $6,000, the equity value can be transferred without penalty if the transferred property produces annual income of at least 6% of the equity. Specifies that, in order to establish that a transfer was made exclusively for purposes other than qualifying for medical assistance, the applicant or recipient must submit sufficient evidence to show that the transfer was made exclusively for reasons not related to Medicaid eligibility, estate recovery, or lien. Statutory authority: IC 12-8-6-5; IC 12-15-1-10; IC 12-15-21-2.

TITLE 405 OFFICE OF THE SECRETARY OF FAMILY AND SOCIAL SERVICES

LSA Document #03-206

Under IC 4-22-2-23, the Office of the Secretary of Family and Social Services intends to adopt a rule concerning the following:

OVERVIEW: Amends 405 IAC 5-24-7 to revise copayment structure for drugs reimbursed by Medicaid. Specifies that all covered drugs will be subject to a $3 copayment. Statutory authority: IC 12-8-6-5; IC 12-15-1-10; IC 12-15-21-2.

TITLE 405 OFFICE OF THE SECRETARY OF FAMILY AND SOCIAL SERVICES

LSA Document #03-207

Under IC 4-22-2-23, the Office of the Secretary of Family

and Social Services intends to adopt a rule concerning the following:

OVERVIEW: Amends 405 IAC 5-19-3 to modify the reimbursement methodology for durable medical equipment (DME). Statutory authority: IC 12-8-6-5; IC 12-15-1-10; IC 12-15-21-2.

TITLE 460 DIVISION OF DISABILITY, AGING, AND REHABILITATIVE SERVICES

LSA Document #03-180

Under IC 4-22-2-23, the Division of Disability, Aging, and Rehabilitative Services intends to adopt a rule concerning the following:

OVERVIEW: Amends 460 IAC 3.5 to revise the definitions of adult day services and the reimbursement rates for adult day services paid by the Division of Disability, Aging, and Rehabilitative Services to approved providers. The update may include a mechanism for calculating rates. Adult day services are provided to eligible individuals with a developmental disability. Statutory authority: IC 12-8-8-4; IC 12-9-2-3.

TITLE 511 INDIANA STATE BOARD OF EDUCATION

LSA Document #03-185

Under IC 4-22-2-23, the Indiana State Board of Education intends to adopt a rule concerning the following:

OVERVIEW: Amends 511 IAC 1-3-1 to add definitions for unexcused absence, aggregate days of unexcused absence, and truancy rate. Statutory authority: IC 20-1-1-6.

TITLE 655 BOARD OF FIREFIGHTING PERSONNEL STANDARDS AND EDUCATION

LSA Document #03-186

Under IC 4-22-2-23, the Board of Firefighting Personnel Standards and Education intends to adopt a rule concerning the following:

OVERVIEW: The proposed amendments and additions to 655 IAC 1-2.1, 655 IAC 1-3, and 655 IAC 1-4 are for the purpose of amending certification programs, amending certifications, updating certain National Fire Protection Association standards, amending the mandatory training program and the mandatory training requirements, and making conforming section changes. Statutory authority: IC 22-12-7-7; IC 22-14-2-7.

TITLE 836 INDIANA EMERGENCY MEDICAL SERVICES COMMISSION

LSA Document #03-188

Under IC 4-22-2-23, the Indiana Emergency Medical Services Commission intends to adopt a rule concerning the following:

OVERVIEW: Amends 836 IAC 1, 836 IAC 2, 836 IAC 3, and 836 IAC 4 to make substantive and technical revisions, to make clarifications, and to make corrections to the requirements and provisions applicable to emergency medical service personnel, transport and nontransport providers, supervising hospitals, air ambulances (both rotorcraft and fixed wing), and other emergecy medical service vehicles (both transport and nontransport). Questions or comments on the adoption may be directed by mail to the Indiana Emergency Medical Services Commission, Indiana Government Center-South, 302 West Washington Street, Room E208, Indianapolis, Indiana 46204 or by electronic mail to rstump@sema.state.in.us. Statutory authority: IC 16-31-2-7; IC 16-31-3-14; IC 16-31-3-14.5; IC 16-31-3-20.

TITLE 840 INDIANA STATE BOARD OF HEALTH FACILITY ADMINISTRATORS

LSA Document #03-189

Under IC 4-22-2-23, the Indiana State Board of Health Facility Administrators intends to adopt a rule concerning the following:

OVERVIEW: Amends 840 IAC 1-1-6 concerning the examination for licensure to practice as a health facility administrator. Effective 30 days after filing with the secretary of state. Public comments are invited and may be directed to Indiana State Board of Health Facility Administrators, Indiana Government Center-South, 402 West Washington Street, Room W066, Indianapolis, Indiana 46204 or by electronic mail to tthompson@hpb.state.in.us. Statutory authority: IC 25-19-1-3; IC 25-19-1-4; IC 25-19-1-8.

TITLE 840 INDIANA STATE BOARD OF HEALTH FACILITY ADMINISTRATORS

LSA Document #03-190

Under IC 4-22-2-23, the Indiana State Board of Health Facility Administrators intends to adopt a rule concerning the following:

OVERVIEW: Amends 840 IAC 1-2-1 concerning continuing education for renewal of licensure to practice as a health facility administrator. Effective 30 days after filing with the secretary of state. Public comments are invited and may be directed to Indiana State Board of Health Facility Administrators, Indiana Government Center-South, 402 West Washington Street, Room W066, Indianapolis, Indiana 46204 or by electronic mail to tthompson@hpb.state.in.us. Statutory authority: IC 25-19-1-4; IC 25-19-1-8.

TITLE 856 INDIANA BOARD OF PHARMACY

LSA Document #03-191

Under IC 4-22-2-23, the Indiana Board of Pharmacy intends to adopt a rule concerning the following:

OVERVIEW: Amends 856 IAC 1-27-1 concerning the fee for certification as a pharmacy technician. Effective 30 days after filing with the secretary of state. Public comments are invited and may be directed to the Indiana Board of Pharmacy, ATTENTION: Director, Indiana Government Center-South, 402 West Washington Street, Room W066, Indianapolis, Indiana 46204 or by electronic mail to jbolin@hpb.state.in.us. Statutory authority: IC 25-1-8-2; IC 25-26-13-4.

TITLE 865 STATE BOARD OF REGISTRATION FOR LAND SURVEYORS

LSA Document #03-187

Under IC 4-22-2-23, the State Board of Registration for Land Surveyors intends to adopt a rule concerning the following:

OVERVIEW: Amends 865 IAC 1-13 and 865 IAC 1-14 to revise the continuing education requirements to develop mechanisms to allow for courses sponsored by providers that are approved in another state to qualify for Indiana continuing education credit. Questions or comments concerning the proposed rules may be directed to: Indiana Professional Licensing Agency, Attn.: Staff Counsel, 302 West Washington Street, Room E034, Indianapolis, IN 46204-2700 or mdavis@pla.state.in.us. Statutory authority: IC 25-21.5-2-14; IC 25-2.1-8-7.

TITLE 876 INDIANA REAL ESTATE COMMISSION

LSA Document #03-196

Under IC 4-22-2-23, the Indiana Real Estate Commission intends to adopt a rule concerning the following:

OVERVIEW: This rule makes changes regarding the practice of Indiana licensed trainee appraisers. Amends 876 IAC 3-6-9 to exempt employees of governmental entities in the course of the governmental entities' activities from the requirements that a certified or licensed appraiser may not be the supervising appraiser for more than two trainees and that the supervising appraiser shall accompany the Indiana licensed trainee appraiser and inspect the subject and comparable properties on the first 50 assignments performed by the trainee and during the first year the trainee holds an active license, all assignments located more than 50 miles from the supervising appraiser's office. Questions or comments concerning the proposed rules may be directed to: Indiana Professional Licensing Agency, ATTENTION: Staff Counsel, Indiana Government Center-South, 302 West Washington Street, Room E034, Indianapolis, IN 46204-2700 or via e-mail at mdavis@pla.state.in.us. Statutory authority: IC 25-34.1-3-8.

TITLE 35 BOARD OF TRUSTEES OF THE PUBLIC EMPLOYEES' RETIREMENT FUND

Proposed Rule
LSA Document #03-131

DIGEST

Adds 35 IAC 11 concerning the pickup of additional member contributions to a member's annuity savings account. Effective 30 days after filing with the secretary of state.

35 IAC 11

SECTION 1. 35 IAC 11 IS ADDED TO READ AS FOLLOWS:

ARTICLE 11. ADDITIONAL CONTRIBUTIONS

Rule 1. Elective Payroll Deductions for Additional Contributions

35 IAC 11-1-1 Payroll deduction for additional contributions

Authority: IC 5-10.3-3-8
Affected: IC 5-10.2-3-2

Sec. 1. (a) The purpose of this rule is to provide a pickup of member contributions by participating employers under Section 414(h)(2) of the Internal Revenue Code of 1986 for additional employee contributions made to the member's annuity savings account under IC 5-10.2-3-2(c) and IC 5-10.2-3-2(d). Employers may elect to participate in the pickup of additional employee contributions by a resolution adopting the provisions of this rule.

(b) A member in active covered employment (with an electing employer) who elects to make contributions to the member's annuity savings account in addition to the contributions required under IC 5-10.2-3-2(b) may do so through a binding, irrevocable payroll deduction authorization.

(c) A member in active covered employment, having executed a binding, irrevocable payroll deduction authorization with respect to any such additional contributions, is not entitled to any option of choosing to receive the contributed amounts directly instead of having them paid by the employer to the board of trustees of the public employees' retirement fund (board). Such contributions shall be remitted to the public employees' retirement fund in the same manner as all other contributions and shall be credited to the member's annuity savings account. The salary the employer will use to calculate such contributions will be the same as the salary the employer reports to the board for purposes of determining a member's mandatory contribution and benefit calculation. Such contributions, although designated as employee contributions, will be paid by the employer in lieu of contributions by the employee. The contributions so assumed shall be treated as tax-deferred employer pickup contributions pursuant to Section 414(h)(2) of the Internal Revenue Code, subject to a favorable letter ruling by the Internal Revenue Service.

(d) A member in active covered employment may elect to pay all or part of any additional contribution through payroll deduction. This election is available for two (2) years, beginning on September 1 following the plan year in which the employee completes five (5) years of creditable service, and ending on August 31 of the second calendar year following the opening of the election period. The amounts to be deducted and the duration of the deduction shall be specified on the authorization form prescribed by the board, and the amounts and duration shall be irrevocable and binding once made. Prepayment of amounts covered by the authorization is not permitted. However, nothing in this rule shall prevent a member from paying any amounts not covered by the authorization with after-tax dollars, up to the statutory maximum. The investment of the additional contributions shall be made in the same manner and percentage as the investment of the member's mandatory contributions.

(e) If a member terminates and then returns to covered employment with a different employer, when the member has five (5) or more years of creditable service credited or recredited under Indiana statutes, the member shall be entitled to execute a new binding irrevocable payroll deduction authorization within a two (2) year election period, beginning on September 1 following the plan year in which the employee completes or is recredited with five (5) years of creditable service and ending on August 31 of the second calendar year following the opening of the election period. If a member terminates and then returns to covered employment with the same employer, the member's binding irrevocable payroll deduction authorization, if any, shall be immediately effective upon rehire.

(f) No payroll deduction shall begin unless and until the active member executes the payroll deduction authorization on a form prescribed by the board, which must be received within the election period defined in subsection (d). The board will send the form to the treasurer or other disbursing officer of the employer. After receiving the binding, irrevocable payroll deduction authorization, the treasurer or other disbursing officer of each employer shall add such contributions to the contributions deducted from the member's regular compensation each pay day. The employer shall treat these deductions as picked up contributions.

(g) All such payroll deductions, including the amounts and the duration specified, shall be binding and irrevocable upon the member's execution of the prescribed form. A

member may execute and submit the payroll deduction authorization with the election period defined in subsection (d), effective as of the next possible payroll date within the election period. However, such deductions will cease only upon any of the following events:

(1) The member's death.

(2) The termination of the member's employment.

Distribution of the additional contributions shall be made in the same manner as distributions from the member's annuity savings account. In no event shall the member receive a return of the payroll deductions made under this rule except pursuant to the normal disbursement procedures of IC 5-10.2.

(h) Members with at least five (5) years of creditable service as of June 30, 2003, may elect to make additional contributions to their annuity savings accounts through a payroll deduction pursuant to this provision between September 1, 2003, and August 31, 2005. *(Board of Trustees of the Public Employees' Retirement Fund; 35 IAC 11-1-1)*

Notice of Public Hearing

Under IC 4-22-2-24, notice is hereby given that on August 27, 2003 at 2:00 p.m., at the Board of Trustees of the Public Employees' Retirement Fund, 143 West Market Street, Fifth Floor, Indianapolis, Indiana the Board of Trustees of the Public Employees' Retirement Fund will hold a public hearing on proposed administrative rules regarding elective payroll deductions for additional contributions to members' annuity savings accounts. Copies of these rules are now on file at the Board of Trustees of the Public Employees' Retirement Fund, Harrison Building, 143 West Market Street, Fifth Floor and Legislative Services Agency, One North Capitol, Suite 325, Indianapolis, Indiana and are open for public inspection.

Craig Hartzer
Executive Director
Board of Trustees of the Public Employees' Retirement Fund

TITLE 250 LAW ENFORCEMENT TRAINING BOARD

Proposed Rule
LSA Document #02-339

DIGEST

Adds 250 IAC 2 to replace 250 IAC 1, which expired under IC 4-22-2.5, effective January 1, 2003. This comprehensive series of new administrative rules regarding the training of law enforcement officers deals with, among other matters: general provisions; definitions; basic training mandated for law enforcement officers; minimum standards regarding acceptance of persons for training; minimum curriculum, attendance, equipment, and facility requirements; police chief executive training; prebasic training course; inservice training; training status report; reserve police officers; minimum qualifications for instructors; and Indiana Law Enforcement Academy police officers. Effective 30 days after filing with the secretary of state.

250 IAC 2

SECTION 1. 250 IAC 2 IS ADDED TO READ AS FOLLOWS:

ARTICLE 2. GENERAL PROVISIONS

Rule 1. Definitions

250 IAC 2-1-1 Applicability
Authority: IC 5-2-1-9
Affected: IC 5-2-1-11; IC 5-2-1-12; IC 36-8-3-20

Sec. 1. The definitions in this rule apply throughout this article. *(Law Enforcement Training Board; 250 IAC 2-1-1)*

250 IAC 2-1-2 "Annual training status report" defined
Authority: IC 5-2-1-9
Affected: IC 5-2-1-11; IC 36-8-3-20

Sec. 2. "Annual training status report" means the report that the chief executive officer of every department or agency in Indiana must submit, to the executive director of the board, detailing the training received by all of that department's law enforcement officers and reserve police officers during the previous calendar year. *(Law Enforcement Training Board; 250 IAC 2-1-2)*

250 IAC 2-1-3 "Board" defined
Authority: IC 5-2-1-9
Affected: IC 5-2-1-3

Sec. 3. "Board" means the law enforcement training board created by IC 5-2-1-3 to establish, present, and manage basic and inservice training programs for Indiana law enforcement officers. *(Law Enforcement Training Board; 250 IAC 2-1-3)*

250 IAC 2-1-4 "Chief executive officer" defined
Authority: IC 5-2-1-9
Affected: IC 5-2-1

Sec. 4. "Chief executive officer" means the head of a law enforcement department or agency, such as a town marshal, chief, sheriff, or superintendent. *(Law Enforcement Training Board; 250 IAC 2-1-4)*

250 IAC 2-1-5 "Critical session" defined
Authority: IC 5-2-1-9
Affected: IC 5-2-1-9

Sec. 5. "Critical session" means any class during which a written or practical examination is administered or any session that requires total class participation as opposed to individual activity. *(Law Enforcement Training Board; 250 IAC 2-1-5)*

250 IAC 2-1-6 "Designee" defined
Authority: IC 5-2-1-9
Affected: IC 5-2-1

Sec. 6. "Designee" means any person designated by the board, through its executive director, to perform specified administrative actions for the board. *(Law Enforcement Training Board; 250 IAC 2-1-6)*

250 IAC 2-1-7 "Duty status" defined
Authority: IC 5-2-1-9
Affected: IC 5-2-1-11

Sec. 7. "Duty status" means that an individual is on the department or agency payroll and that any injury or illness that occurs to the individual while at the academy will be covered by the employing department or agency under worker's compensation. The term also applies to any unpaid reserve police officer, special deputy, or special police officer assigned by a department to attend training presented by the board; it shall be the responsibility of the officer's department, not the board, to pay for expenses that result from any injury or illness incurred by a reserve police officer, special deputy, or special police officer during assigned training. *(Law Enforcement Training Board; 250 IAC 2-1-7)*

250 IAC 2-1-8 "Inservice training" defined
Authority: IC 5-2-1-9
Affected: IC 5-2-1-11

Sec. 8. "Inservice training" means training received by a law enforcement officer or reserve police officer after the calendar year in which the officer successfully completes the basic training mandated for that officer. *(Law Enforcement Training Board; 250 IAC 2-1-8)*

250 IAC 2-1-9 "Instructor" defined
Authority: IC 5-2-1-9
Affected: IC 5-2-1-12

Sec. 9. "Instructor" means any person certified or approved by the board to provide prebasic, basic, or inservice instruction to Indiana law enforcement officers and support personnel. *(Law Enforcement Training Board; 250 IAC 2-1-9)*

250 IAC 2-1-10 "Law enforcement officer" defined
Authority: IC 5-2-1-9
Affected: IC 5-2-1-2; IC 5-2-1-11

Sec. 10. "Law enforcement officer" means any person hired by and on the payroll of the state or one (1) of its political subdivisions, whether part-time or full-time, to enforce all or some of the penal laws of the state and who has the power to effect arrests of persons who violate those laws. *(Law Enforcement Training Board; 250 IAC 2-1-10)*

250 IAC 2-1-11 "Learning objective" defined
Authority: IC 5-2-1-9
Affected: IC 5-2-1-11

Sec. 11. "Learning objective" means a precise statement that describes what the learner must know and be able to do following successful completion of a training program. *(Law Enforcement Training Board; 250 IAC 2-1-11)*

250 IAC 2-1-12 "Prebasic course" defined
Authority: IC 5-2-1-9
Affected: IC 36-8-3-20

Sec. 12. "Prebasic course" means any course developed or certified by the board under IC 5-2-1-9(f). *(Law Enforcement Training Board; 250 IAC 2-1-12)*

250 IAC 2-1-13 "Reserve police officer" defined
Authority: IC 5-2-1-9
Affected: IC 36-8-3-7; IC 36-8-3-20; IC 36-8-10-6; IC 36-8-10-10.6

Sec. 13. "Reserve police officer" means any member of a police reserve unit created under IC 36-8-3-20, whether called reserve police officer, reserve officer, or by another name. Not included in this definition are the following:

(1) Additional deputies or assistants appointed by a sheriff in an emergency under IC 36-8-10-6.

(2) Special deputies or legal deputies appointed by a sheriff under IC 36-8-10-10.6.

(3) Special police officers, who are not regular police officers, who are appointed by a municipal safety board under IC 36-8-3-7 to do special duty within the city.

(Law Enforcement Training Board; 250 IAC 2-1-13)

250 IAC 2-1-14 "Safety hazard" defined
Authority: IC 5-2-1-9
Affected: IC 5-2-1-9

Sec. 14. "Safety hazard" means a risk of injury or death that is greater than the risk of injury or death that an experienced instructor might expect during a routine training exercise. *(Law Enforcement Training Board; 250 IAC 2-1-14)*

Rule 2. Basic Training Mandated for Law Enforcement Officers Appointed on or after July 6, 1972

250 IAC 2-2-1 Mandatory basic training; waiver
Authority: IC 5-2-1-9
Affected: IC 5-2-1-11

Sec. 1. All law enforcement officers appointed by the state

or any of its political subdivisions on or after July 6, 1972, whether the appointment is on a probationary, permanent, or other than probationary or permanent basis, shall, within one (1) year of the date of the officer's first or original appointment, whether on a full-time or part-time basis, successfully complete the appropriate minimum basic training course prescribed by the board and described in 250 IAC 2-4. Provided, however, that any such officer who has had previous law enforcement experience, including basic law enforcement training meeting or exceeding the standards enumerated in 250 IAC 2-4, may, upon proof of such previous experience and training and upon recommendation by the executive director and approval by the board, obtain a waiver of the training mandated herein or be allowed to test out on any or all phases of the basic course; however, this waiver provision is not applicable to persons certified by the board solely upon successful completion of the town marshal basic training program prescribed in 250 IAC 2-4. *(Law Enforcement Training Board; 250 IAC 2-2-1)*

250 IAC 2-2-2 Location of training course
Authority: IC 5-2-1-9
Affected: IC 5-2-1-9

Sec. 2. The minimum basic training course shall be taken at the Indiana law enforcement academy operated by the board at Plainfield or at any board-approved school or academy utilizing board-approved instructors, curriculum, attendance requirements, equipment, and facilities. Attendance at schools other than the Indiana law enforcement academy shall, except in exceptional cases recognized by the board, be limited to officers and recruits of the agency conducting the school. *(Law Enforcement Training Board; 250 IAC 2-2-2)*

250 IAC 2-2-3 Failure to timely complete course
Authority: IC 5-2-1-9
Affected: IC 5-2-1-9

Sec. 3. Any law enforcement officer described in section 1 of this rule who fails to successfully complete the required basic training course within one (1) year after the officer's first or original appointment (on or after July 6, 1972) shall not be empowered or authorized to enforce the laws or ordinances of the state or any political subdivision thereof as part of the duties of a law enforcement officer. *(Law Enforcement Training Board; 250 IAC 2-2-3)*

250 IAC 2-2-4 Passing score; failure as grounds for discharge; reexaminations
Authority: IC 5-2-1-9
Affected: IC 5-2-1-9

Sec. 4. The executive director of the board shall establish and shall apply uniformly to all persons attending board-approved basic training schools a minimum passing score of seventy-five percent (75%) on all written examinations and a passing score on all practical examinations administered on a percentage or pass/fail basis. Failure to attain a passing score on all written and practical examinations administered during the basic training course shall constitute a failure of the course. A person failing to achieve a passing score may apply to the executive director, or his designee, to retake any examination or examinations previously failed, but a request for a retake of an examination by a person already employed as a law enforcement officer will not be accepted unless endorsed by the chief executive officer of the department or agency employing the officer. Failure to achieve a passing score for the second time shall constitute disqualification unless, in the discretion of the board, a third and final opportunity should be allowed. *(Law Enforcement Training Board; 250 IAC 2-2-4)*

Rule 3. Minimum Standards Regarding Acceptance of Persons for Training

250 IAC 2-3-1 Citizenship requirement; age requirement
Authority: IC 5-2-1-9
Affected: IC 5-2-1-9

Sec. 1. The applicant must be a citizen of the United States and must have reached his or her twenty-first birthday as of the date that the basic training ends. *(Law Enforcement Training Board; 250 IAC 2-3-1)*

250 IAC 2-3-2 Strength, agility, vision, and hearing; safety hazard
Authority: IC 5-2-1-9
Affected: IC 5-2-1-9

Sec. 2. The applicant shall possess the strength, agility, vision, and hearing necessary to complete all requirements of the appropriate board-approved basic training program. The applicant shall have no physical or mental impairment that creates a safety hazard for self, other students, or training staff while participating in basic training. *(Law Enforcement Training Board; 250 IAC 2-3-2)*

250 IAC 2-3-3 Academic qualifications
Authority: IC 5-2-1-9
Affected: IC 5-2-1-9

Sec. 3. The applicant shall, at a minimum, be a high school graduate as evidenced by a diploma issued by a state accredited high school. An equivalency diploma issued by an accredited high school or proof of an earned degree issued by an accredited college or university is also acceptable. *(Law Enforcement Training Board; 250 IAC 2-3-3)*

250 IAC 2-3-4 Valid driver's license
Authority: IC 5-2-1-9
Affected: IC 5-2-1-9

Sec. 4. The applicant shall possess a valid driver's license from the state of residence. *(Law Enforcement Training Board; 250 IAC 2-3-4)*

250 IAC 2-3-5 Reputation and character of applicant; investigation; written record

Authority: IC 5-2-1-9
Affected: IC 5-2-1-9

Sec. 5. The applicant shall be of good reputation and character as determined by a police department character and background investigation on the applicant, and the results of that investigation shall be retained in written form by the investigating department for inspection by the board, its executive director, or an authorized representative. *(Law Enforcement Training Board; 250 IAC 2-3-5)*

250 IAC 2-3-6 Criminal record of applicant; fingerprinting

Authority: IC 5-2-1-9
Affected: IC 5-2-1-9

Sec. 6. The applicant shall not have been convicted of any felony or any other crime or series of crimes which would indicate to a reasonable person that the applicant is potentially dangerous, violent, or has a propensity to break the law. The applicant shall be fingerprinted and a search made of local, state, and national fingerprint files to disclose any criminal record. The fingerprint cards and any identification records shall be retained for inspection by the board, its executive director, or an authorized representative. *(Law Enforcement Training Board; 250 IAC 2-3-6)*

250 IAC 2-3-7 Reading comprehension and writing ability

Authority: IC 5-2-1-9
Affected: IC 5-2-1-9

Sec. 7. The applicant shall be given an examination to determine reading and writing ability prior to acceptance for law enforcement training. Validation of the examination and determination of a minimum acceptable score that will predict successful completion of the training shall be the responsibility of the chief executive officer of the department or agency conducting the training. *(Law Enforcement Training Board; 250 IAC 2-3-7)*

250 IAC 2-3-8 Military discharge; effect on qualification of applicant

Authority: IC 5-2-1-9
Affected: IC 5-2-1-9

Sec. 8. A dishonorable discharge from military service shall disqualify the applicant, and a discharge other than honorable may be grounds for rejection in accordance with other standards in this rule. *(Law Enforcement Training Board; 250 IAC 2-3-8)*

250 IAC 2-3-9 Physical examination; report to board; time limit

Authority: IC 5-2-1-9
Affected: IC 5-2-1-9

Sec. 9. A physician with an unlimited license to practice medicine shall determine that the applicant is physically, emotionally, and mentally fit to participate in law enforcement basic training and is not an active carrier of a communicable disease that is likely to infect other students and staff in an academy environment. The department head or designee making application for basic training for the applicant or, if the applicant is a tuition student, the department head or designee recommending acceptance of the applicant for basic training must swear or attest the applicant passed the physical examination and that a record of the examination is on file at the department for review by an authorized representative of the board. The examination shall have been administered to the applicant within six (6) months prior to acceptance for training. The board, through its executive director, may also require a physical examination by a physician of the board's choice and may reject the applicant if the applicant does not meet the physical requirements of this section. *(Law Enforcement Training Board; 250 IAC 2-3-9)*

250 IAC 2-3-10 Trainees not yet hired by a law enforcement agency

Authority: IC 5-2-1-9
Affected: IC 5-2-1-12; IC 5-2-1-15

Sec. 10. Preservice tuition trainees who have been investigated and recommended for enrollment in a board-approved basic training course, but have not yet been hired by any law enforcement agency, must meet all of the requirements in this rule before being accepted for law enforcement basic training. In addition, each preservice tuition trainee must do the following:

(1) Obtain a permit from the state that authorizes the trainee to carry a handgun back and forth between home and the Indiana law enforcement academy. The permit must remain valid throughout the period of time that the preservice tuition trainee is attending basic law enforcement training.

(2) Provide proof of full coverage automobile insurance and health and accident insurance, the proof to be accompanied by endorsements stating no exclusions are present that would prohibit payment because the insured is participating in law enforcement basic training. All such insurance must remain valid throughout the period of time that the preservice tuition trainee is attending basic law enforcement training.

(Law Enforcement Training Board; 250 IAC 2-3-10)

Rule 4. Minimum Curriculum, Attendance, Equipment, and Facility Requirements

250 IAC 2-4-1 Minimum basic training course; town marshal basic training program

Authority: IC 5-2-1-9
Affected: IC 5-2-1-11

Sec. 1. Requirements for the minimum basic training course necessary to satisfy the mandate contained in 250 IAC 2-2 shall be as follows:

(1) For all jurisdictions except towns having no more than one (1) town marshal and two (2) deputies, whether employed on a part-time or full-time basis, shall consist of not less than four hundred eighty (480) hours of classroom and practical training, and the subject matter covered shall be approved by the board prior to the beginning date of each basic training course.

(2) The town marshal basic training program shall consist of not less than three hundred twenty (320) hours in residence at the Indiana law enforcement academy to which may be added home study assignments. The subject matter covered shall be approved by the board prior to the beginning date of each town marshal basic training program.

(3) Persons successfully completing the town marshal program are eligible for employment as a law enforcement officer only in towns employing the town marshal system and having no more than one (1) marshal and two (2) deputies.

(4) Town marshal program graduates who are subsequently hired by a department that is not authorized to enroll officers in the town marshal basic training program shall, within one (1) year of their new appointment date, successfully complete the four hundred eighty (480) hour minimum basic training course described in this section. Town marshal program graduates who fail to successfully complete the minimum basic training course within one (1) year of their new appointment date shall not perform any of the duties of a law enforcement officer or exercise the power of arrest until they have successfully completed the basic training program described in this section.

(5) The minimum hours and subject matter prescribed in subdivisions (1) and (2) may be increased by the board. *(Law Enforcement Training Board; 250 IAC 2-4-1)*

250 IAC 2-4-2 Approval of learning objectives, lecture outlines, examinations, and other instructional material

Authority: IC 5-2-1-9
Affected: IC 5-2-1-11

Sec. 2. Copies of learning objectives, lecture outlines, examinations, and other course material used to satisfy the basic training requirements in section 1 of this rule shall, upon written request by the executive director, be provided to the board prior to the starting date or during the term of any basic training course. Failure to provide the learning objectives, lecture outlines, examinations, and other course material following a written request by the executive director shall be grounds for refusal by the board to approve the basic course. *(Law Enforcement Training Board; 250 IAC 2-4-2)*

250 IAC 2-4-3 Attendance requirements

Authority: IC 5-2-1-9
Affected: IC 5-2-1-12

Sec. 3. All persons accepted for minimum basic law enforcement training under 250 IAC 2-3 shall attend all sessions of the board-approved basic course, in duty status, unless excused for reasons of illness, injury, or other matters of great urgency. Any person who, while participating in basic training, suffers an injury or illness that results in an absence from any class may be required by the board, through its executive director, to submit to an examination by a physician before that person is allowed to continue in the training program. Absence from any critical session of the basic course, whether such absence is excused or not, may disqualify a student for certification in the discretion of the executive director. *(Law Enforcement Training Board; 250 IAC 2-4-3)*

250 IAC 2-4-4 Equipment and training facilities; inspection and approval

Authority: IC 5-2-1-9
Affected: IC 5-2-1-12

Sec. 4. Equipment and training facilities, including classrooms, used by towns, cities, counties, or agencies or departments of the state to conduct the law enforcement training required by this article shall be subject to the inspection and approval of the board through its executive director or a designee. *(Law Enforcement Training Board; 250 IAC 2-4-4)*

Rule 5. Police Chief Executive Training

250 IAC 2-5-1 Police chief executive training program

Authority: IC 5-2-1-9
Affected: IC 5-2-1-9

Sec. 1. Every person appointed as a police chief of any city or any town having a metropolitan police force must, within six (6) months of initially taking office, successfully complete the police chief executive training program mandated by IC 5-2-1-9 unless:

(1) a course is not offered within the six (6) month period immediately following the date that the police chief initially takes office; or

(2) space in the program is not available at a time that will allow the police chief to complete the program within six (6) months of the date the police chief initially takes office. *(Law Enforcement Training Board; 250 IAC 2-5-1)*

250 IAC 2-5-2 Delay in completion of course

Authority: IC 5-2-1-9
Affected: IC 5-2-1-9

Sec. 2. If either of the occurrences in section 1 of this rule prevents successful completion of the course within the six

(6) month period after the police chief initially takes office, the police chief must successfully complete the next available executive training program that is presented by the board. *(Law Enforcement Training Board; 250 IAC 2-5-2)*

250 IAC 2-5-3 Others may attend
Authority: IC 5-2-1-9
Affected: IC 5-2-1-9

Sec. 3. When a police chief executive training program is not filled by persons mandated to attend, deputy chiefs, management level personnel, and town marshals will be accepted to fill the class. Any person who successfully completes the program while serving in a capacity other than chief of police will be considered to have complied with the mandate should the person subsequently be appointed as a chief of police. *(Law Enforcement Training Board; 250 IAC 2-5-3)*

250 IAC 2-5-4 Police chief program curriculum
Authority: IC 5-2-1-9
Affected: IC 5-2-1-9

Sec. 4. The police chief executive training program will consist of not less than forty (40) hours of instruction, participation, and examination and shall include, but not be limited to, the following subject areas:
(1) Liability.
(2) Media relations.
(3) Accounting and administration.
(4) Discipline.
(5) Department policy making.
(6) Firearms policies and other lawful use of force.
(7) Department programs.
(8) Emergency vehicle operation.
(9) Cultural diversity.
(Law Enforcement Training Board; 250 IAC 2-5-4)

250 IAC 2-5-5 Board to prescribe course tuition
Authority: IC 5-2-1-9
Affected: IC 5-2-1-15

Sec. 5. Costs for meals, lodging, and course materials will be prescribed by the board through its executive director. *(Law Enforcement Training Board; 250 IAC 2-5-5)*

250 IAC 2-5-6 Course completion
Authority: IC 5-2-1-9
Affected: IC 5-2-1-9

Sec. 6. Successful completion of the program requires satisfactory completion of a written essay examination at the conclusion of the program. *(Law Enforcement Training Board; 250 IAC 2-5-6)*

250 IAC 2-5-7 Consequence of failure to complete course
Authority: IC 5-2-1-9
Affected: IC 5-2-1-9

Sec. 7. Any police chief who fails to successfully complete the executive training program as prescribed in this rule may not continue to serve as police chief until the program is successfully completed. *(Law Enforcement Training Board; 250 IAC 2-5-7)*

Rule 6. Prebasic Training Course

250 IAC 2-6-1 Prebasic training course
Authority: IC 5-2-1-9
Affected: IC 5-2-1-15

Sec. 1. (a) Every law enforcement officer and every reserve police officer appointed after June 30, 1993, who has not successfully completed basic training as prescribed in 250 IAC 2-3 must successfully complete the prebasic training course prescribed in this section before that officer can make an arrest, conduct a search or seizure of persons or property, or carry a firearm as part of the duties of a law enforcement officer or reserve police officer.

(b) The prebasic course:
(1) shall consist of forty (40) hours of instruction;
(2) must include the subjects of arrest, search and seizure, use of force, and firearms qualification; and
(3) must be offered periodically at regional sites throughout the state.

(c) Course materials, instructors, and sites for the prebasic course are to be provided by the board.

(d) In addition, the board may certify prebasic courses that may be conducted by other public or private entities, including colleges and universities. *(Law Enforcement Training Board; 250 IAC 2-6-1)*

250 IAC 2-6-2 Successful completion permits temporary exercise of police powers
Authority: IC 5-2-1-9
Affected: IC 5-2-1-9

Sec. 2. Successful completion of the prebasic course authorizes a law enforcement officer to:
(1) make arrests;
(2) conduct searches and seizures of persons and property; and
(3) carry a firearm;
for one (1) year after the date the law enforcement officer is appointed. *(Law Enforcement Training Board; 250 IAC 2-6-2)*

Rule 7. Inservice Training

250 IAC 2-7-1 Mandatory inservice training
Authority: IC 5-2-1-9
Affected: IC 5-2-1-9

Sec. 1. Any person who has successfully completed basic training and has been appointed to a law enforcement

department or agency as a law enforcement officer, whether on a part-time or full-time basis, is not eligible for continued employment unless the officer successfully completes the minimum required inservice training each year. Subject matter for this training must meet the following requirements:

(1) The subject must be included within the minimum basic training curriculum approved by the board or must be approved by the board based upon a need expressed by the law enforcement agency or department employing the officer.

(2) The subject must be presented under one (1) of the following conditions:

(A) By a law enforcement training board-certified instructor.

(B) At a law enforcement training board-certified school or academy.

(C) At a school or academy in another state that has been certified by that state's equivalent to the board, at the federal level, or at an accredited college, university, or vocational school when the subject is determined by the board to be law enforcement related.

(D) By an agency or entity, public or private, that has received written approval by the board, through its executive director, to provide inservice training for Indiana law enforcement officers and has agreed to comply and does comply with the board's rules and guidelines for presenting, evaluating, and reporting the training.

(Law Enforcement Training Board; 250 IAC 2-7-1)

250 IAC 2-7-2 Training credit for college or university courses

Authority: IC 5-2-1-9
Affected: IC 5-2-1-9

Sec. 2. One (1) college credit hour earned with a grade of C or higher at an accredited college or university in subject matter addressing a need expressed by the law enforcement agency, or as approved by the executive director, may substitute for four (4) hours of inservice training, but college credit hours may not be substituted for more than one-half (½) of the total hours of required inservice training. *(Law Enforcement Training Board; 250 IAC 2-7-2)*

250 IAC 2-7-3 Training credit earned through distance education

Authority: IC 5-2-1-9
Affected: IC 5-2-1-9

Sec. 3. (a) Training that is presented through video or interactive video, computer-assisted instruction, correspondence, or in some other manner that is viewed as nontraditional by the board shall be considered distance education and must be approved by the board through its executive director.

(b) The board shall establish terms and conditions to regulate the providers and recipients of distance education and may develop and publish the forms it deems necessary for this purpose.

(c) Additionally, the board shall determine the number of hours that it will recognize for each distance education program, using average pretest completion time, viewing or interacting time, and post-test completion time in making its decision. *(Law Enforcement Training Board; 250 IAC 2-7-3)*

250 IAC 2-7-4 Failure to complete inservice training; waiver

Authority: IC 5-2-1-9
Affected: IC 5-2-1-9

Sec. 4. (a) When a law enforcement officer fails to successfully complete the required hours of inservice training in a calendar year, the board, through its executive director, may make inquiry to determine if the failure was caused by an emergency situation, the unavailability of courses, or for some other reason.

(b) If the inquiry reveals that the failure was caused by an emergency situation or the unavailability of courses, the board, through its executive director, may waive the officer's training requirement for the year by making an appropriate entry in the officer's master training file. However, as a condition of the waiver, the board may require the officer to make up the training-hour deficit during the next calendar year.

(c) If the inquiry reveals that the failure was not caused by an emergency situation or the unavailability of courses, the board, through its executive director, shall make an appropriate entry in the officer's master training file. In addition, the board shall notify the officer of the results of its inquiry and send copies of the correspondence to the chief executive officer of the officer's department and the prosecuting attorney of the county in which the officer works.

(d) An officer who fails to complete the required hours of inservice training in a calendar year, for some reason other than the existence of an emergency situation or the unavailability of courses, shall not be eligible for continued employment.

(e) To regain eligibility for employment, an officer in noncompliance must make up the training-hour deficit and submit proof of the training received to the chief executive officer of the employing department, who shall immediately forward it to the board.

(f) If the board finds that the training received meets the

requirements established for mandatory inservice training, the officer shall be considered to be in compliance with the training mandate as of the date the officer completed the last hour of training required by the mandate.

(g) An appropriate entry shall then be made in the officer's master training file, and the board, through its executive director, shall report the compliance date to the following:

(1) The officer.

(2) The chief executive officer of the officer's department.

(3) The prosecuting attorney of the county in which the officer works.

(Law Enforcement Training Board; 250 IAC 2-7-4)

250 IAC 2-7-5 Grievance procedures

Authority: IC 5-2-1-9
Affected: IC 4-21.5-5-1

Sec. 5. Any person who feels aggrieved by an action associated with the mandatory inservice training requirement or with the issuance or revocation of diplomas, certificates, or other indicia of compliance with this rule may request, in writing, a hearing before the executive director of the board. If the person still feels aggrieved following a hearing before the executive director, the person may request, in writing, a hearing before the board. Any person who still feels aggrieved after hearings before both the executive director and the board may file a petition for judicial review under IC 4-21.5-5-1. *(Law Enforcement Training Board; 250 IAC 2-7-5)*

Rule 8. Training Status Report

250 IAC 2-8-1 Annual report

Authority: IC 5-2-1-9
Affected: IC 5-2-1-1

Sec. 1. Each law enforcement officer in Indiana shall be responsible for the following:

(1) Successfully completing the inservice training required by 250 IAC 2-7-1 annually.

(2) Reporting successful completion of the training to the chief executive officer of the department or agency employing the officer.

(Law Enforcement Training Board; 250 IAC 2-8-1)

250 IAC 2-8-2 Responsibility for submitting report

Authority: IC 5-2-1-9
Affected: IC 5-2-1-1

Sec. 2. The chief executive officer of every law enforcement department or agency in Indiana shall be responsible for submitting an annual report to the executive director of the board detailing the basic and inservice training status of every officer on the payroll of the department or agency. A similar report must be submitted for each reserve police officer. *(Law Enforcement Training Board; 250 IAC 2-8-2)*

250 IAC 2-8-3 Report to cover previous calendar year; submission and delinquent dates

Authority: IC 5-2-1-9
Affected: IC 5-2-1-1

Sec. 3. The annual training status report required by this rule shall be submitted either electronically or on paper between January 1 and March 31 of each year and shall include all training received by every law enforcement officer and reserve police officer of the department during the previous calendar year. *(Law Enforcement Training Board; 250 IAC 2-8-3)*

250 IAC 2-8-4 Format of report

Authority: IC 5-2-1-9
Affected: IC 5-2-1-1

Sec. 4. The board, through its executive director, shall develop the content of the annual training report required by this rule in a format that will permit departments to submit the required data either electronically or on paper. *(Law Enforcement Training Board; 250 IAC 2-8-4)*

250 IAC 2-8-5 Cover letter and opinion required if inservice training not completed

Authority: IC 5-2-1-9
Affected: IC 5-2-1-1

Sec. 5. When a law enforcement officer or reserve police officer fails to comply with a training mandate, the chief executive officer of the department or agency shall call the deficiency to the attention of the executive director through a cover letter attached to the department's annual training status report. The chief executive officer shall also state his opinion as to the reason the officer failed to complete the required training. *(Law Enforcement Training Board; 250 IAC 2-8-5)*

Rule 9. Reserve Police Officers

250 IAC 2-9-1 Reserve police officer training

Authority: IC 5-2-1-9
Affected: IC 36-8-3-20

Sec. 1. (a) All reserve police officers defined in IC 36-8-3-20 appointed after June 30, 1993, whether called reserve police officers or by another title, shall successfully complete the prebasic training course prescribed by the board before the reserve police officer may:

(1) exercise any power of arrest;

(2) conduct any search or seizure of a person or property; or

(3) carry a firearm.

(b) The chief executive officer of a department may not adopt the prescribed prebasic training course as the only

curriculum for satisfying the department training requirement prescribed in IC 36-8-3-20.

(c) In addition to the department training program required by IC 36-8-3-20, each reserve police officer is encouraged to do the following:

(1) Complete a board-approved reserve police officer academy program within one (1) year of the date of appointment as a reserve police officer.

(2) Complete, each year thereafter, the same amount of inservice training that paid law enforcement officers are mandated to complete.

(d) Reserve police officers who voluntarily and successfully complete a reserve police officer academy program certified by the board shall be eligible for consideration for a waiver of basic training by the board should the reserve police officer academy program graduate subsequently accept employment with a department that participates in the town marshal basic training program. However, as a condition of the waiver, the board may require the reserve police officer academy program graduate, hired by a small town department, to test out on all or any part of the town marshal basic training program. Further, persons who are granted a waiver of training through this process are limited to service in a department having no more than one (1) marshal and two (2) deputy marshals. *(Law Enforcement Training Board; 250 IAC 2-9-1)*

250 IAC 2-9-2 Reserve police officer academy certification

Authority: IC 5-2-1-9
Affected: IC 5-2-1-9

Sec. 2. (a) A department acting alone, or two (2) or more departments acting together, may develop a reserve police officer academy and apply to the board for certification of the academy. An academy certified by the board as a reserve police officer academy must use board-certified instructors and a board-approved curriculum.

(b) Equipment and training facilities, including classrooms used by towns, cities, counties, or agencies or departments of the state to conduct a reserve police officer academy, shall be subject to inspection and approval by the board through its executive director or a designee.

(c) The minimum curriculum, attendance requirements, learning objectives, lecture outlines, examinations, and other instructional materials used for reserve police officer training in the reserve police officer academy are subject to inspection and approval by the board, through its executive director or a designee, prior to the beginning date of each reserve police officer class. Additionally, the board, through its executive director or a designee, may visit any reserve police officer academy at any time a class is in session to ensure compliance with the board's requirement for curriculum, attendance, learning objectives, lecture outlines, examinations, and other instructional materials and may suspend or revoke, immediately, the certification of any reserve police officer academy operating in violation of this rule.

(d) As a guideline for departments considering establishing a reserve police officer academy, or seeking certification for an academy already in existence, the board will, uniformly, require that the curriculum, attendance requirements, learning objectives, lecture outlines, examinations, and other instructional materials meet the standards of 250 IAC 2-4. *(Law Enforcement Training Board; 250 IAC 2-9-2)*

Rule 10. Minimum Qualifications for Instructors

250 IAC 2-10-1 Certification of instructors

Authority: IC 5-2-1-9
Affected: IC 5-2-1-12

Sec. 1. The board, through its executive director, shall certify instructors it deems qualified to teach in prebasic, basic, inservice, and instructor training courses. *(Law Enforcement Training Board; 250 IAC 2-10-1)*

250 IAC 2-10-2 Instructor qualifications

Authority: IC 5-2-1-9
Affected: IC 5-2-1-12

Sec. 2. Instructors will be certified on the basis of minimal qualifications in the areas of education, training, and experience as follows:

(1) Requirements for primary instructors shall be as follows:

(A) Any of the following:

(i) A minimum of three (3) years of law enforcement experience.

(ii) Be a member of the adjunct faculty or faculty of an accredited vocational school, college, or university.

(iii) Be a physician or attorney licensed to practice in Indiana or a contiguous state.

(B) At a minimum, be a high school graduate or have an equivalency diploma issued by an accredited high school.

(C) Educational and experience requirements may be waived by the board, through its executive director, when a special or emergency training need exists.

(D) Persons certified as primary instructors are considered by the board to possess the level of instructor skills needed to provide prebasic, distance education, and inservice training for law enforcement officers and others in the criminal justice system.

(2) Requirements for psychomotor skills instructors shall be as follows:

(A) At a minimum, be a high school graduate or have

an equivalency diploma issued by an accredited high school.

(B) Either have:

(i) a minimum of three (3) years of law enforcement experience; or

(ii) three (3) years of experience working in an area that is directly related to the psychomotor skill that the person will be teaching.

(C) Educational and experience requirements may be waived by the board, through its executive director, when a special or emergency need exists.

(D) Persons certified as psychomotor skills instructors are considered by the board to possess the level of instructor skills needed to teach a specific psychomotor skill to law enforcement officers and others in the criminal justice system. The specific areas in which a psychomotor skills instructor has documented advanced knowledge and skills will appear on the certificate issued by the board, through its executive director, such as psychomotor skills instructor (emergency vehicle operation) or psychomotor skills instructor (firearms-handgun).

(3) Requirements for academy staff instructors shall be as follows:

(A) A minimum of an associate's degree or more than sixty (60) hours of credit toward a bachelor's degree from a state accredited vocational school, college, or university.

(B) A minimum of five (5) years of law enforcement experience.

(C) Educational and experience requirements may be waived by the board, through its executive director, when it is felt that the individual will fill a special void that exists in an academy staff.

(D) Persons certified as academy staff instructors are deemed by the board to have the level of skills necessary to instruct or assist with instruction, in any topic presented in the academy's course curriculum, but only after having been provided research time to prepare a lesson plan or after having been provided with a predeveloped lesson plan and time to review that plan.

(4) Requirements for master instructors shall be as follows:

(A) A minimum of a bachelor's degree from an accredited college or university or a combined background of experience and education that the board, through its executive director, recognizes as equivalent to a bachelor's degree.

(B) A minimum of seven (7) years of law enforcement experience or law enforcement related experience. Two (2) years or more of this experience must have been spent as an instructor in an educational or training environment.

(C) Persons certified as master instructors must be skilled at the following:

(i) Conducting research.

(ii) Writing learning objectives.

(iii) Preparing lesson plans.

(iv) Developing practical exercises.

(v) Using training aids.

(vi) Evaluating the results of training programs.

(vii) Maintaining training records.

(viii) Using technology effectively.

Master instructors, by virtue of their certification, are qualified to act as the principal instructor in a board-approved instructor course.

(5) Requirements for provisional instructors shall be as follows:

(A) The degree of education, training, and experience needed to qualify for provisional instructor certification shall be determined by the board through its executive director.

(B) Provisional instructor certification is a temporary certification and may be issued by the board, through its executive director, in any subject area, for any period of time from one (1) day to one (1) year.

(C) The board retains the same rights of review and revocation for provisional certification that it does for any other type of instructor certification.

(Law Enforcement Training Board; 250 IAC 2-10-2)

250 IAC 2-10-3 Revocation of certification

Authority: IC 5-2-1-9
Affected: IC 5-2-1-12

Sec. 3. Instructor certification may be revoked by the board whenever an instructor is deemed to be unqualified to continue teaching. *(Law Enforcement Training Board; 250 IAC 2-10-3)*

250 IAC 2-10-4 Review of certification

Authority: IC 5-2-1-9
Affected: IC 5-2-1-12

Sec. 4. Review of instructor certification may be initiated by the board, or through its executive director, at any time and may be done even though there are no external requests or complaints. Information gained through the review may be used to:

(1) revoke an instructor's certification;

(2) require an instructor to complete or repeat all or any part of a board-approved instructor training course; or

(3) deny renewal of an instructor's certification.

(Law Enforcement Training Board; 250 IAC 2-10-4)

250 IAC 2-10-5 Completion of instructor training course

Authority: IC 5-2-1-9
Affected: IC 5-2-1-12

Sec. 5. All applicants for instructor certification or recertification, other than provisional instructors, are required to complete an instructor training course ap-

proved by the board unless the board, through its executive director, determines that the applicant already possesses education and experience that equate with the knowledge and skills taught in a board-approved instructor training course. *(Law Enforcement Training Board; 250 IAC 2-10-5)*

250 IAC 2-10-6 Term of certification
Authority: IC 5-2-1-9
Affected: IC 5-2-1-12

Sec. 6. (a) All instructor certifications, except provisional certifications, shall be valid for three (3) years from the date of certification unless revoked earlier by the board.

(b) Provisional instructor certifications shall expire one (1) year from the date they are issued unless an earlier expiration date is specified.

(c) The board may, at its discretion, through its executive director, shorten or extend an instructor certification period for up to eighteen (18) months when adding to or deleting from the instructor's areas of certification. *(Law Enforcement Training Board; 250 IAC 2-10-6)*

Rule 11. Indiana Law Enforcement Academy Police Officers

250 IAC 2-11-1 Police functions and restrictions
Authority: IC 5-2-1-9
Affected: IC 5-2-1-9; IC 5-2-1-11

Sec. 1. As a criminal justice agency of the state, with all the duties and privileges of a police agency, the law enforcement training board establishes the following to govern its police functions:

(1) Police powers shall be granted for the following reasons:

(A) Attendance of special academies or schools accepting only sworn police officers.

(B) Field assignment to an outside police agency for purposes of evaluation, research, or consultation in which police officer/violator contact is a practical possibility.

(C) Peacekeeping, investigations, and security on property owned or operated by the board.

(2) The executive director shall specify those members of the Indiana law enforcement academy staff who will serve as police officers and those who will serve as civilian employees of the agency.

(3) Those persons who are designated to serve as police officers shall meet the following requirements:

(A) Be administered an appropriate oath of office by the executive director.

(B) Serve at the pleasure of the executive director and may be commissioned or decommissioned as police officers without cause or prejudice and without affecting their status as civilian employees of the board if such action is in the best interest of the operation of the academy.

(C) Comply with the mandated basic training requirements established by the board.

(4) Police officers appointed by this authority shall serve under the direction of the board's executive director who is authorized and directed to establish such operating procedures deemed necessary to regulate the activities of those officers. Any violation of any operating procedure shall be a violation of this rule.

(5) In addition to their primary duties as staff instructors, police officers of the Indiana law enforcement academy shall have all necessary law enforcement powers, including all common law and statutory powers, privileges, and immunities of sheriffs except those specifically forbidden through agency operating procedures established by the executive director.

(6) Exercise of these police powers shall be restricted to property owned or operated by the board unless otherwise authorized by its executive director or the board-in quorum.

(7) Police officers of the Indiana law enforcement academy are specifically directed to:

(A) preserve the peace, maintain order, and prevent the unlawful use of force or violence or other unlawful conduct on property owned or operated by the board;

(B) protect all persons and property located on property owned or operated by the board from injury, harm, or damage;

(C) assist the executive director in the enforcement of the rules of the board and the Indiana law enforcement academy; and

(D) enforce the state motor vehicle laws and motor vehicle rules established by the board on property owned or operated by the board.

(Law Enforcement Training Board; 250 IAC 2-11-1)

Notice of Public Hearing

Under IC 4-22-2-24, notice is hereby given that on September 9, 2003 at 1:00 p.m., at the Indiana Law Enforcement Academy, 5402 Sugar Grove Road, Plainfield, Indiana the Law Enforcement Training Board will hold a public hearing on proposed rules concerning the training of police officers in the state of Indiana. Copies of these rules are now on file at the Indiana Law Enforcement Academy, 5402 Sugar Grove Road, Plainfield, Indiana and Legislative Services Agency, One North Capitol, Suite 325, Indianapolis, Indiana and are open for public inspection.

Scott C. Mellinger
Executive Director
Law Enforcement Training Board

TITLE 327 WATER POLLUTION CONTROL BOARD

Proposed Rule
LSA Document #01-51

DIGEST

Amends 327 IAC 5-4-3 and adds 327 IAC 15-15. Under the Clean Water Act, CAFOs are point sources subject to the National Pollutant Discharge Elimination System (NPDES) permit process. This requirement is found in federal regulations at 40 CFR 122.23(a). The term "CAFO" is defined in 40 CFR 122. This language has been adopted in Indiana and is found in the Indiana Administrative Code at 327 IAC 5-4-3 concerning special NPDES programs. Based on a decision from the United States District Court for the Southern District of Indiana, the Indiana Department of Environmental Management (IDEM) is required to select one of three options for pursuing NPDES permits for CAFOs in Indiana. IDEM believes that development of a general permit rule is the most time and resource effective means to comply with this court order. Further, amendments to the federal rules have occurred that require IDEM to update its rules. IDEM has a separate program to regulate confined feeding operations (CFOs). This program is required under IC 13-18-10. However, the requirements of that program do not, in all instances, meet the requirements for a NPDES permit under federal law. IDEM believes the most effective way to address the issue of federal NPDES requirements of the Clean Water Act is in a separate rulemaking that considers all the alternatives available for compliance with the federal requirements. IDEM has amended rule language at 327 IAC 5-4-3 and drafted new rule language for a NPDES general permit for CAFOs at 327 IAC 15-15. Effective 30 days after filing with the secretary of state.

HISTORY

First Notice of Comment Period: March 1, 2001, Indiana Register (24 IR 1976).

Second Notice of Comment Period and Notice of First Hearing: February 1, 2003 (26 IR 1737).

First Hearing: April 9, 2003.

Change in Hearing Notice: May 1, 2003.

First Hearing: May 8, 2003.

REQUEST FOR PUBLIC COMMENTS

This proposed (preliminarily adopted) rule is substantially different from the draft rule published on February 1, 2003, at 26 IR 1737. The Indiana Department of Environmental Management (IDEM) is requesting comment of the entire proposed (preliminarily adopted) rule.

The proposed rule contains numerous changes from the draft that make the proposed rule so substantively different from the draft rule that public comment on the entire proposed rule is advisable. This notice requests the submission of comments on the entire proposed rule, including suggestion for specific amendments. These comments and the department's responses thereto will be presented to the board for its consideration at final adoption under IC 13-14-9-6. Mailed comments should be addressed to:

#01-51 (Development of amendments to rule concerning concentrated animal feeding operations)
Marjorie Samuel
Rules, Outreach, and Planning Section
Office of Land Quality
Indiana Department of Environmental Management
P.O. Box 6015
Indianapolis, IN 46206-6015

Hand-delivered comments will be accepted by the receptionist on duty at the west desk on the 11th floor of the Indiana Government Center-North. Comments may also be submitted by facsimile to (317) 232-3403, Monday through Friday between 8:15 a.m. and 4:45 p.m. Please confirm the timely receipt of faxed comments by calling Marjorie Samuel at (317) 232-7995.

COMMENT PERIOD DEADLINE

Comments must be postmarked, hand-delivered, or faxed by August 22, 2203.

SUMMARY/RESPONSE TO COMMENTS FROM THE SECOND COMMENT PERIOD

The Indiana Department of Environmental Management (IDEM) requested public comment from February 1, 2003, through March 3, 2003, on IDEM's draft rule language. IDEM received comments from the following parties:

Hoosier Environmental Council, (HEC)
Chad G. Frahm, Indiana Farm Bureau, (IFB)
Terry Fleck, Indiana Pork Advocacy Coalition, (INPAC)
Sierra Club, (SC)

Following is a summary of the comments received and IDEM's responses thereto:

Comment: We do not support general permits for confined feeding operations. General permits do not allow for public notice and comment on this issue that has attracted so much public attention and controversy over a period of years. (HEC)

Response: IDEM believes that compliance with the general permit rule will ensure appropriate water quality protection. The general permit rule provides for a determination that an individual permit be required and the public may request that the department process an individual permit.

Comment: Confined feeding operations should be subject to individual permits. The state has numerous waterbodies that are affected by E. coli contamination, nitrogen and phosphorous. Manure storage and land application of manure have the potential to contribute to these water quality problems. They should be regulated in a manner similar to other point source dischargers. (HEC)

Response: The standards that a CAFO must follow do not significantly differ under a general permit from that which would be required under an individual permit. The major difference between general permit and individual permits would be the type and amount of public participation and the necessity for site-specific conditions for a given operation to address unique problems. The general permit rule retains the authority of the department to require individual permits in situations in which broad public interest exists and/or there are unique issues to address that would not be satisfactorily dealt with through compliance with the general permit rule.

Comment: For waters that are already impaired, the provision of a general permit would allow new sources to exacerbate that impairment with no specific effluent limits. This is not consistent with the state's anti-degradation provisions. (HEC)(SC)

Response: The specific effluent limit for a CAFO is zero. CAFOs are not allowed to discharge.

Comment: IAC 5-4-3 (b) 3 We do not understand why the proposed rule contains an exemption for aquatic animals. They also have the potential to exacerbate water pollution in waters that are already impaired, in contrast with State anti-degradation provisions. (HEC)

Response: Aquatic animal operations are not exempt from permitting. Aquatic animals are regulated under 327 IAC 5-4-5. The federal regulations for aquatic animal operations have not been amended, therefore no changes are being suggested in this rulemaking.

Comment: (4) Land application provisions of the rule should not be limited to land under the control of the confined feeding owner or operator. (HEC)

Response: IDEM agrees and has amended the rule language to clarify that the owner or operator who land applies on land not under his control must meet specific setback requirements in cases where the owner or operator of the CAFO does not have control over the use of other conservation practices such as a filter strip.

Comment: (7) Should say "man made conveyance". (HEC)

Response: The language in the definition is, verbatim, federal language.

Comment: (8)(13)(11) Should say "Pollutants are discharged directly to waters of the state." The provision that this provision only applies to waters "that originate outside of and"... ignores the fact that many waters of the state originate on private property. These headwater streams should have equal protection. (HEC)

Response: The language in the definition is, verbatim, federal language.

Comment: 327 IAC 15-15-5(b)(5) - (b)(8) Notice of Intent Letter Requirements. IFB recommends that requirements under (b)(5) through (b)(8) be deleted. This information was not in the previous draft rule and is not required under the federal NPDES statute or rule. (IFB)

Response: IDEM has substantially amended the section on Notice of Intent requirements. The language as it is currently drafted, reflects the requirements found in the amended federal rules.

Comment: 327 IAC 15-15-5(b)(9) Receiving Stream Information. Because CAFOs are not allowed to discharge under an NPDES permit like other industries, there are no streams that will be receiving any discharge from a CAFO. IFB recommends that this requirement be changed to "Location of nearest potential receiving stream." (IFB)

Response: IDEM has amended this language based on discussions with interested parties and EPA and has removed this specific requirement. The amended federal rules no longer require such information for NOIs from CAFOs.

Comment: 327 IAC 15-15-8 "Specific Permit Conditions". IFB strongly urges IDEM to produce citations from federal statute or federal rule that requires each of the conditions in section 8. IFB recommends that conditions (1) through (6) and Condition (8) be deleted and only Condition (7) be required. If IDEM chooses not to delete these conditions, IFB submits the following comments in regard to each condition listed under this section.

a. Condition (1) is too broad and must be better defined. Does IDEM intend for the phrase "potential for discharge" to be identical to the federal definition in the new EPA CAFO/NPDES rule? Also, IFB recommends that the phrase "waters of the state" be changed to "waters of the United States."

b. Condition (2) should also allow for maximum flexibility as new standards are developed instead of specifically stating the FOTG 590 Standard.

c. For Condition (3), IFB recommends the length of time to keep such records should be no more than three (3) years.

d. In Condition (4), are the "self-inspection reports" the same as the self-monitoring records?

e. Conditions (5) and (6) have many faults and IFB recommends that the entire subsection be deleted. IFB requests that specific federal statute or rule citations be provided if any part of this condition is required by federal law or regulation. The ambiguous phrase "good housekeeping practices" in Condition (6) is not defined, vague and not relevant to the regulation of discharges from a point source.

f. Condition (8). If the department's intent is to make this information along with the state MMP be equivalent to a Nutrient Management Plan as required by the new federal CAFO rule, then that should be stated in this rule. (IFB)

Response: IDEM has made a number of changes to the section dealing with specific permit conditions. Many of the deletions requested in this comment have already occurred. IDEM is open to a discussion as to what type of standards should be allowed, keeping in mind the need for flexibility. However, each affected party must understand what is required of him or her, therefore it is important that the rule contain specific standards that allow people to understand the regulatory expectations of the program.

Comment: We support the elimination of a dual permitting structure for CAFOs brought on by the Save the Valley decision. We will continue to support legislative and administrative efforts to reduce this burden on Indiana's livestock industry. (IFB)

Response: IDEM agrees that a streamlined system would be beneficial for the regulated community as well as the agency. However, IDEM continues to support the need for construction approval, as required under existing state law (as of April 10, 2003) and current Water Board CFO regulations.

Comment: INPAC notes that given extremely compressed time frame for the general permit rule by virtue of the federal court order, some, if not many, of these issues may need to be re-addressed as we receive guidance from the federal Environmental Protection Agency (EPA). We continue to believe it necessary to fully review the new EPA rule, including EPA guidance, prior to adopting this state rule. (INPAC)

Response: IDEM is aware of the very short time-frame within which action must occur. However, IDEM remains committed to crafting a rule that will be approvable by EPA and will comport with federal law. IDEM continues to work closely with EPA during this rulemaking process and will not propose a final rule without continued discussions with EPA and all interested parties.

Comment: We also believe that this general permit rule must not exceed the requirements released by EPA without adequate notice and full review and discussion by the Environmental Quality Service Council (EQSC). If IDEM believes there is cause to impose regulations more stringent than the federal rule, they should identify these proposals, provide justification to the environmental circumstance warranting the change and explain how the federal law is inadequate. There should also be a written notice to EQSC as to the financial impact and expected environmental benefit of the proposed restrictions that exceed the federal EPA rule. (INPAC)

Response: There are a number of similar proposals that apply to the rulemaking process in general that are currently being debated in the 2003 Indiana general assembly. Should any such changes to the process be signed into law, IDEM will comply with all requirements for providing information, fiscal or otherwise, to the EQSC or whatever is required under law. IDEM's current draft rule is only, other than minor provisions more stringent than federal law as it relates to a construction review. That particular requirement is a state law requirement under existing IC 13-18-10.

Comment: 327 IAC 5-4-3 Definitions. We believe under Section 3b(4) that land application area must contain a provision for land application agreements. Oftentimes, a pork operation will have an agreement with an owner which is not construed to be owned, rented or leased. Under Section 3b(6), manure storage area, we believe

composting piles to mean manure composting piles and not mortality composting piles. This may be further clarified in federal EPA guidance, however its listing in the manure storage area would signify this is what is intended. Section 3b(8)(i) and (ii) refer to waters of the state. To keep within the federal rule guidelines, this should say waters of the US, if indeed there is any distinction between US and state waters. (INPAC)

Response: Regarding the access agreement, the definition has been changed to include access agreements. In the definition of "manure storage area", the reference to composting is a reference to manure composting, not mortality composting. Indiana is authorized to issue permits to sources who discharge to waters of the state. Because there is, indeed, a difference between the definition of "waters of the US" and "waters" as defined for state environmental law, limiting the reference to waters of the United States incorrectly characterizes and limits the waters into which a NPDES discharge in the state may occur.

Comment: 15-15-2 Definitions. In Section 2(1) we are concerned about the confusion that will be created by using a reference to the manure management plan (MMP) under 327 IAC 16. As we do not fully know what EPA will require to meet their Nutrient Management Plan (NMP) standard, this reference should be citing the federal NMP and not the state MMP. The exception would be the placement of a statement that MMP meets the federal standard of the NMP. If the MMP does not or will not, this subsection should be stricken. Under this general NPDES permit rule, the operator should be forced to do two management plans, one to satisfy IDEM (the MMP) and the other to satisfy EPA (the NMP). We should not have duplicative requirements. (INPAC)

Response: IDEM agrees that confusion over the 2 terms could occur. To clarify the requirements, language has been added at 15-15-4(b) providing that compliance with sections 9 and 10 of the rule constitutes compliance with the requirements related to a NMP and use of BMPs, as required under the amended effluent guidelines found at 40 CFR 412.

Comment: We are also concerned about the wholesale adoption of the FOTG 590 Standard on phosphorus and other technical effects without further review and definition of what is required by EPA in their December 15th rule. As new EPA standards are developed, it would be wise to build in flexibility rather than be tied to one set named standard. (INPAC)

Response: The reference to the 590 standard was included at the request of EPA. Language has been added to build in flexibility to allow a demonstration that an alternative method will satisfy the intent of the 590 standards and be as environmentally protective. IDEM also intends to work with U.S. EPA and others as the rule progresses to address concerns by EPA staff that the Indiana NRCS 590 Standards need revision to include more ascertainable measures of success.

Comment: Applicability. In Section 3(dc) there is a reference made to the land application standards of 327 IAC 16-10. The cross-referencing to 327 IAC 16-10 does not fit with the NPDES general rule format. If the intent is to have land application standards applicable to NPDES general permit holders. they should be included in the general permit rule. This will eliminate confusion between the two very different processes (federal and state). These references to the state CFO rule should be stricken throughout this entire document. If the information in the state CFO rule is relevant to federal CAFOs to be consistent, the information should be placed in this rule. (INPAC)

Response: It is a standard practice to cross-reference rule citations, rather than rewriting existing rules into newly amended rules. Given the expedited time-frame of this rulemaking, it was determined that cross-referencing was an expeditious way to assure that all of the requirements are listed in the rule. However, in order to clarify for all interested parties what the expectations of the rules are, IDEM agrees that removing cross references and writing out specific requirements is preferable. IDEM will continue to work to remove as many cross references as possible and will work to craft a 'stand alone' version of the rule as we work toward final adoption.

Comment: Notice of Intent Letter Requirements. In Section 5(b)(1) this should read owner OR operator to be consistent with the federal EPA rule. Section 5(b)(9) receiving Stream, makes no sense, is not part of the federal EPA rule and should be stricken. These are zero discharge operations, so we can't understand how this is relevant. We find no reference in the EPA rule where they want to know the nearest locations of waters and to include this point just allows the information to be taken out of context. Section 5(b)(10) CFO reference number is again confusing in a federal NPDES program. We would propose you strike this language, As you know, one of our key concerns over the federal NPDES program is the dual state and federal permitting system this creates. Use of the CFO number implies a dual authority scenario again and should be eliminated. Regarding Section 5(d), while we understand the federal intent is to provide the public notice we do not know if the applied reference meets the requirements put forth in CFR Section 124.10. Any referenced notice should comply with this standard and not be more stringent than the standard as well. With reference to Section 5(e)(2) there is no reference we can find to a monthly publication in the federal EPA rule. Notification through a public notice and to the interested public should suffice. Until this is further explained, we would see the "monthly publication" going beyond federal intent and therefore unnecessary. We would also encourage the newspaper publication requirement e restated to read the public notice. (INPAC)

Response: Reference to the receiving stream information has been deleted. Although 40 CFR 122.28 lists receiving stream information as a requirement for a NPDES application, the amended federal CAFO rule specifically has removed it as a requirement. The requirement for a CFO identification number for CFOs that currently have an approval number should not be a hardship and will allow staff to keep accurate records to assure that there is, in fact, no undue duplication between the CFO and CAFO programs. IDEM has removed the language that may have required publication by an applicant in a newspaper of the intent of a facility to be covered by the NPDES permit. The monthly publication that IDEM uses to provide notice of NOIs received is consistent with IDEM's policy on all other NPDES general permits. 40 CFR 122.28(b) provides that anyone must have the ability to petition the commissioner, at any time, to require an individual permit for a source that intends to be, or is covered by a NPDES general permit. It would be difficult for someone to petition if he or she was not aware that a notice of intent had been submitted. IDEM's publication is intended to provide information to the interested public.

Comment: 15-15-6 Notice of Intent Submittal Deadline. Due to the exposure of CAFOs to citizen legal actions, we would suggest additional language under Section 6. Utilizing language regarding the permit application shield for the air program (327 IAC 2-7-3), we would suggest the addition of language which would say, "If a CAFO submits a timely and complete notice of intent application for an individual NPDES permit or application for renewal, any failure of that CAFO to have an NPDES permit is not a violation of this rule." (INPAC)

Response: No application shield exists under the Clean Water Act, as it does under the Clean Air Act. Including such a shield would render the state program less stringent than federal law. Although the suggested language would protect the applicant from state enforcement, it would not protect the applicant from citizen suits under the Clean Water Act. The general permit rule notes that coverage under NPDES

occurs 30 days after the department receives the NOI unless notified that there is a problem with the NOI.

Comment: 15-15-7 General Conditions. Section 7(b) should be modified in accordance with our earlier comments regarding the confusion surrounding dual authority by dual references to the state CFO rule. We would recommend you include the language regarding performance standards in 327 IAC 16-3-1 and eliminate additional references to 327 IAC 16 and the requisite MMP. Again, this will serve to streamline the dual permitting problem by allowing for similar outcomes without duplicative paperwork and confusing authority. (INPAC)

Response: IDEM agrees and will work to remove the cross-references to the CFO program and spell out specific requirements within the rules in the version of the rule that is presented for final adoption.

Comment: 15-15-8 Specific Permit Conditions. We would propose subsection (1) be deleted altogether. Again the reference to the MMP is irrelevant to the federal NMP unless it suffices to meet federal NMP requirements. It does not make sense to require CAFOs to keep dual state and federal permitting systems. No other entities that hold NPDES permits, including industries and municipalities are also required by statute to have a separate state permit. In subsection (2), please not our earlier comment regarding the use of the NRCS 590 standard. We would suggest IDEM modify this language. Regarding subsections (3) - (8), these must be reviewed to ensure they fully comply with federal EPA rules. Language that goes beyond the federal rule should be stricken. References to the state CFO rule, as in (7)(8)(D) and (G), should be stricken and replaced with federal EPA rule language. Any conditions beyond that, which may be further defined by EPA's guidance in 2003, should not be in this rule until EPA speaks. (INPAC)

Response: The specific permit conditions section has been substantially altered. The requirement to obtain construction approval provides the necessary safeguards before a new operation is constructed that the existing rule's construction standards will be met. The federal NPDES permit program is not a construction program but an operation program. States generally supplement the federal NPDES permit program for wastewater treatment plants and for facilities such as CAFOs with a state construction permit program. Flexibility has been built into the rule regarding the use of the NRCS 590 standard which would allow someone to demonstrate that an alternate method is as environmentally protective as the 590 standard. IDEM will continue to work with EPA to clarify provisions of the rule as we move through the process.

Comment: 15-15-9 Inspection and Enforcement. We have a concern with the confidentiality of on-farm records as noted in Section 9(a). In the federal EPA rule, the intent was for a CAFO annual report to be made available upon the public's request. The information from the annual report should suffice and confirm that the CAFO is appropriately controlling any discharge and is following its nutrient management plan. To go beyond this intent and copy "any" records, which now become part of the public record, goes beyond federal intent. (INPAC)

Response: The language mirrors language for NPDES permits found at 40 CFR 122.41(i). It is a federal requirement.

Comment: 15-15-11 Duration and Renewal of Coverage. Section 13(c) implies a dual permit system. In accordance with our previous comments regarding dual permitting, we would propose you delete the last two sentences in subsection (c). (INPAC)

Response: The last 2 sentences of the subsection have been removed.

Comment: Sec. 3(a) Apparently applies to a limited range of potential CAFO waste, but should also include eggs, eggshells, egg wash water, feathers, hair, carcasses, vomit, urine, waste food, and any material contaminated with manure etc. (SC)

Response: The rules apply to all animals in confinement, all manure, litter, and process wastewater generated by those animals or the production of those animals. The terms "manure" and "process wastewater" are defined to further clarify what is encompassed in the rule. The above listed materials would all be covered by the definition of process wastewater.

Comment: Sec. 3(b)3 defines CAFOs as large and medium based on numbers of animals of various types as stated in the federal regulations. These are far in excess of 327 IAC Article 15 definitions of CFOs under that rule. Does this revision of NPDES applicability indicate a potential revision of 327 IAC 16? Does this indicate that CAFOs smaller than medium will not be required to have NPDES permits? (SC)

Response: The CFO definition is the state statutory definition and is different than the federal definition. Any CFO that discharges into the water, regardless of size, may be required to apply for a NPDES permit.

Comment: Sec. 3(b)9B indicates that the NPDES permit is applicable to waste that is released to the waters of the state via a ditch or other manmade conveyance. What about overland runoff, animals with direct access to streams, and release to groundwater that flows into a stream? (SC)

Response: That definition has been removed from the rule because it was also removed from the federal rules under the most recent amendments. IDEM will not approve confinement operations that allow the animals direct access to waters of the state. Any discharge into waters of the state is prohibited under this rule. IDEM also added a prohibition against animals having direct contact with water in the General Conditions Section.

Comment: Sec. 3(b)10 - what are the criteria that will allow certification of "no potential to discharge"? How is it possible to arrive at this for material that runs off with rainwater from confinement areas and disposal sites? (SC)

Response: EPA has indicated that the "no potential to discharge" demonstration will have to meet a very high standard. If all manure pits are covered and the operation engages in no land application of manure, the demonstration may be met. IDEM will continue to work with EPA to determine what criteria would be necessary for an applicant to meet this very difficult standard.

Comment: Sec. 3(c)2 exempts a facility from applying for a permit or compliance with the state has inspected the facility. At the current capacity to even inspect complaints, much less current CFO permits, how can the state possibly get to these facilities? Many months will pass with many of them failing to meet standards. (SC)

Response: The requirement that a small AFO operation cannot be designated as a CAFO without a site visit is from the federal rules. The reality is that if there is a violation at a smaller operation which is discovered either as a part of routine inspection or due to a reported problem, an inspector will be sent to the site to assess the situation. AFOs that are subject to the state CFO approval problem are required by law to report any discharges to waters of the state, which is the very thing that could require them to be designated as CAFOs. Failure to report any such discharges would result in additional violations for the facility.

Comment: Sec. 3(d) exempts the large facilities but not the medium CAFOs. What is the reasoning behind this exemption of the largest facilities, which may potentially have the greatest problems? *(SC)*

Response: The exemption language in subsection (d) is new language under the federal rule. The "no potential to discharge" exemption is a very difficult standard for any CAFO to meet. The requirement for demonstrating no potential to discharge has not been extended to small and medium AFOs since the specific criteria that

must be met prior to an AFO becoming a CAFO is the existence of a discharge. Whereas large AFOs are defined as CAFOs based on the number of animals alone, small and medium AFOs only become CAFOs after meeting specific discharge-related criteria. Note that the commissioner can require a NPDES permit from any facility that demonstrates that there is no potential to discharge should there be a change in circumstances at the facility that would change the potential to discharge status.

Comment: Sec. 10(d) does not allow for citizen input or comment on permits. In addition, both the original CFO permit application and the NPDES permits should be available to responsible individuals for review and comment as required under the Clean Water Act. (SC)

Response: The no potential to discharge request must be public noticed. Although there is no provision for public comment on the request, the general public will know when such a request is submitted and can provide information that may refute the basis for such a request. Any decision on the no potential to discharge request is, as with any agency final decision, appealable under IC 4-21.5. Any individual NPDES permit issued will go out for public notice and comment, as required under the Clean Water Act.

Comment: Sec. 12 allows discharges to waters of the state if they do not exceed the limits for 40 CFR 412. This reverses the Indiana CFO rule of "zero discharge". It also violates the intent of the TMDL concept, which does not allow new discharges with out assessing the current stream waste loads and the capacity of the stream to accept additional contaminants. (SC)

Response: The discharge limit allowed under the 412 guidelines is still "zero discharge". The 412 requirements apply to large CAFOs, which must be designed to contain all process generated waste waters plus the runoff from a 25-year, 24-hour rainfall event. Any overflow as the result of a larger rainfall event is considered agricultural storm-water, which is exempt under the Clean Water Act. Any discharge is required to meet state water quality standards.

Comment: Sec. 3(d) does make the NPDES permit apply to the waste disposal site, but allows contamination if the application meets IAC 16 guidelines. This runs counter to the intent of Article 16 for "zero discharge". Additionally, Article 16 does not adequately specify land application criteria. In addition to relatively poor specifications for nutrient loading calculations, it does not address phosphorus, nor provide the best available practices as recommended in such guidance as NRCS Conservation Practices Standards 590 and 633, or other relevant guidance. Because failure to correctly manage the waste can lead to serious, long-term damage, allowing such a "loose" requirement invites noncompliance with potential fraud in preparing waste management plans coupled with the need to prove willful noncompli-ance before the agency can prosecute, will cause severe damage with no remedy or punishment. (SC)

Response: The practices for land application contained in the referenced Article 16 rules represent the best management practices required to be applied under the new federal rules. IDEM has worked closely with EPA during the development of those rules as well as these CAFO rules to ensure that the practices required in the rule meet federal requirements. All permitted CAFOs will be required to test for phosphorus, pursuant to NRCS standard 590, under these rules.

Comment: Prior to issuance of a State Operating or NPDES permit, the public must be afforded the opportunity to comment on the proposed permit. A Public Notice or Notice of Intent should be issued, the proposed permit should be forwarded to entities that have requested to be on a mailing list, and copies of the proposed permit must be provided to adjacent and neighboring landowners (those within 2 miles of the site). The comment period must be for a period of at least 30 days. (SC)

Response: This issue is currently the subject of pending legislation in SB 533. The outcome of that legislation will effect what type of notice and comment period will be provided.

Comment: No General Permit (one-size-fits-all) should be issued to large CAFOs (more than 5,000 Animal Units*, for example) to any operation that has had a water quality violation within the past 5 years, nor to any operation under contract with an agribusiness "integrator". The large operations, violators, and contract operations must obtain a site-specific individual permit. (SC)

Response: IDEM believes that the NPDES general permit for CAFOs is the most efficient method of regulation for existing CAFOs that have not had a discharge given the fact that each operation must engage in best management practices and develop plans for both the production and land application areas of the operation. Individual permits would not, as a general matter, provide additional environmen-tal protection for established CAFOs that have had not had a discharge in the majority of cases. Individual permits will still be required in instances where there are water quality violations and other appropriate situations.. This allows IDEM to focus its resources on those opera-tions that are problematic.

Comment: Any permit issued (whether GP or individual) must prohibit discharge of animal wastes to waters of the state. Any discharge of wastewater to waters of the state, including groundwater, shall constitute a violation of the no-discharge permit. This should apply to all components of a CAFO: growing or confinement buildings, cesspits, and land application areas. (SC)

Response: The general permit as well as any individual permit issued does prohibit the discharge of animal wastes to waters of the state.

Comment: 4.a. Each CAFO must prepare and implement a Compre-hensive Nutrient Management Plan (detailing how the operation will land apply animal feces and urine). This CNMP must be made available to the public during the Public Notice and Comment Period, and should be considered an essential component of the permit. The CNMP, in short, becomes a permit condition. (SC)

Response: The combination of the manure management plan and the additional requirements of this rule constitute the basic requirements covered by a Nutrient Management Plan (NMP) required in the federal regulation. Facilities may develop a Comprehensive Nutrient Manage-ment Plan (CNMP) but are not required to do so as long as the other requirements of the rule are met. All permittees under this rule are required to submit an annual report that summarizes much of the information required in the plans. The plans must be kept on-site and used in the daily operation of the facility.

Comment: 4.b. There must be a prohibition against land application of wastes on frozen or snow-covered ground and during, prior to forecasted, or immediately after, rain events. (Also see #7 below). (SC)

Response: The prohibition against applying on frozen ground has been added to the rule. Article 16 rules, which apply to permittees under this rule as well, prohibit land application on saturated ground.

Comment: 5. The conditions of any permit issued must be sufficient to protect water quality and water resources. Since General Permits are a one-size-fits-all permit, the permit conditions must be scrutinized to ensure that ground and surface waters will not be negatively affected. (SC)

Response: This general permit rule requires that each permittee engage in best management practices each day of operation of the facility. Soil and manure testing is required as well as setbacks for land application. Specific manure management practices are built into the rule as well. All of these requirements are meant to assure that each facility subject to the rule will engage in practices that protect the environment every day. In cases where the general permit requirements are not sufficient to address a specific environmental problem, the

commissioner has the authority to issue an individual permit.

Comment: 6. Cesspits (a.k.a. "lagoons") must be constructed or lined in such a fashion that leakage does not occur. NOTE: While this seems to be self-explanatory and reasonable, many states permit cesspits to leak at prescribed rates. The cesspit should not leak or spill over under ANY circumstances. (SC)

Response: The design requirements for new earthen manure storage structures do allow for a seepage rate not to exceed 1/16th of an inch per day. Such new structures must also be certified by a professional registered engineer. The commissioner can also require monitoring systems, liners, or other protective measures if determined necessary to protect the environment. All new systems must be designed to hold the run-off from a twenty-five year, twenty-four hour storm and must have an emergency spillway that directs manure and wastes to secondary containment, a manure storage structure or a vegetative management system such as a filter strip. All systems must be designed to minimize leaks and seepage and prevent spills. Any discharge from such systems to state waters remains a violation.

Comment: 7. Animal wastes must be applied as fertilizer at optimal agronomic rates. This entails annual soil tests and the crop to be grown — the rate of application must be based on the needs of the soils for a specific crop. For example: legumes (alfalfa, soybeans, peanuts) don't require nitrogen, so any plan to apply manures to these crops would not meet the "fertilizer test". NOTE: There is no agronomic rate for trace metals (such as lead or chromium), consequently these should NEVER be land applied. (SC)

Response: Permittees are required to apply at agronomic rates and determine plant uptake in developing such rates. Soil and manure testing is required in this rule. Because the requirement to apply at the phosphorus rate is being phased into this rule it is believed that the level of trace metals that will be land applied will be very minimal.

Comment: 8. Any stormwater runoff of manure components from a land application area shall be indisputable evidence that the no-discharge permit condition has been violated. To ascertain this, upstream and downstream monitoring is required. (SC)

Response: As long as a permittee applies manure in conformity with the requirements of this rule and has a facility that is designed to handle the stormwater run-off from a twenty-five year, twenty-four hour storm, additional run-off from the facility will be considered agricultural stormwater, which is exempt from regulation under the Clean Water Act. Therefore, any stormwater run-off may not be indisputable evidence that the permit has been violated.

Comment: 9. Any GP or individual permit issued to a CAFO must require 1) upstream and downstream monitoring and 2) monitoring points where stormwater exits the land application area. (SC)

Response: The existing rules and this proposed general permit rule are a 'zero discharge' rule. In order to verify that no discharge exists, the rule requires documentation that the best management practices are being followed and that any discharge be reported. It is neither practical or necessary to attempt to monitor directly any runoff from this type of an operation. The state and federal rules rely on best management practices instead of discharge monitoring to protect the waters of the state.

Comment: 10 Cesspits should be of sufficient volume to store feces and urine generated by the CAFO and to hold a rain event of ANY duration (i.e., 24-hour/25-year, 24-hour/100-year, or a rainfall event lasting several days). The cesspits should be constructed in such a fashion that no runoff waters enter the pits — only direct rainfall should enter the pits. Consequently, even if there is a rainfall of 12 inches, the cesspit should only rise by 12 inches. (SC)

Response: Lagoons must be designed to contain a twenty-five year, twenty-four hour rainfall event. Further, the facility must be designed to contain the stormwater run-off from such a rainfall event as well. The run-off can be diverted to the lagoon or other stormwater retention devices. Lagoons must also contain depth markers that provide an estimate of capacity. Most new CFOs have lagoons described as above but there are existing operations that drain storm water from open lots into a lagoon. The open lot could have manure that is carried by the storm water into the lagoon. It is this type of operations that must be able to manage the specific rain event.

Comment: 11. No CAFO should be issued a permit or allowed to be constructed in a watershed of an impaired water body, a state or national outstanding resource waters, or in a watershed where the stream or river is in danger of not meeting "fishable/swimmable" standards. (SC)

Response: CAFOs subject to this rule must not discharge to waters of the state. If they comply with the rule, they will not contribute to water quality problems at any impaired waterbodies.

Comment: 12. The permit must require posting of a financial assurance instrument sufficient to properly enact closure of all cesspits associated with the CAFO. (SC)

Response: Financial assurance is not required under federal rules and has not been found to be necessary to ensure proper closeout of lagoons and facilities. The closure of such lagoons is not a significant cost and the state has not experienced a problem with such closures not occurring.

Comment: 13. The issuing agency must conduct random, unannounced inspections of the CAFO. (SC)

Response: IDEM currently conducts close to a 1000 inspections of CFOs and CAFOs annually and will continue to inspect as resources allow. Inspections are conducted randomly. Inspectors often contact a facility when they are in route to do an inspection to assure that someone will be there to discuss any specific bio-security provisions that must be followed to prevent the spread of any diseases.

Comment: 14. The issuing agency will respond to complaints of permit violations within 24 hours. (SC)

Response: IDEM currently responds to complaints for any facility subject to environmental rules as rapidly as practical. Typically, the agency does respond to complaints concerning spills in less than twenty-four (24) hours. Based on the nature of non-emergency complaints the response may be longer than twenty-four (24).

Comment: 15. The permit fee and the funds generated shall be sufficient to cover the costs of the issuing agency in administering the program, including comments 12 and 13 above. (SC)

Response: Fees are established by the General Assembly and are therefore not a rulemaking issue.

SUMMARY/RESPONSE TO COMMENTS RECEIVED AT THE FIRST PUBLIC HEARING

On May 8, 2003, the Water Pollution Control Board (board) conducted the first public hearing/board meeting concerning the development of amendments to the rules for the nonpoint source pollutant discharge elimination system general permits for confined animal feeding operations in 327 IAC 5-4-3 and 327 IAC 15-15. Comments were made by the following parties:

Rae Schnapp, Hoosier Environmental Council, (HEC)
Cal Jackson, Creighton Brothers, (CBR)
Paul Brennan, Indiana Poultry Association, Inc, (ISPA)
Donita Rodibaugh, Indiana Commission for Agriculture and Rural Development, (ICARD)
Barbara Sha Cox, (BSC)
Chad Frahm, Indiana Farm Bureau, (IFB)
Rick Ward, R & R Ward Farms, Inc., (RRW)
Ken Rulon, Rulon Enterprises, (RE)

John Ulmer, Sierra Club, (SC-U)
Terry Fleck, Indiana Pork Advocacy Coalition, (INPAC)
Glenn Pratt, Sierra Club, (SC-P)
Kim Winger, (KWIN)

Following is a summary of the comments received and IDEM's responses thereto:

Comment: Our main concerns have to do with the public-notice aspects in the emergency rule. We think it's very important for adjoining property owners and local people to have notice that a confined feeding operation is applying to be regulated under the General Permit Rule, because those people would have information as to whether or not the operation qualifies for general permit coverage. (HEC)

Response: IDEM continues to work with all interested parties to attempt to develop a consensus on the issue of proper notification for Notices of Intent for existing CAFOs. IDEM agrees that neighbors of facilities may have information regarding particular facilities that the agency would, otherwise, not be aware of.

Comment: Specific criteria needs to be incorporated into the rule to make it clear under what circumstances a facility is eligible for a general permit. Such criteria should include that the notice of intent is complete and accurate, that the facility has not had a discharge within the past five years, and that any discharge from the facility is not likely to impact a sensitive area. (HEC)

Response: IDEM agrees that the notice of intent must be complete and accurate. Language will be added to the rule to reflect that requirement, which can also be found in federal law at 40 CFR 122.28(b). IDEM also agrees that the rule would benefit from having some specific criteria for determining eligibility for a general permit. We will work with interested persons to attempt to develop a consensus.

Comment: The operator should have to certify that they are following the manure management plan. (HEC)

Response: IDEM believes that the manure management plan required in the existing CFO rule is not specifically needed in the CAFO general permit rule. The operational requirements that apply to a CAFO constitute the content of a manure management plan and are therefore directly enforceable by rule.

Comment: We support the NPDES General Permit Rule approach as it allows multiple sites owned by the same company to have the same permit with the same set of regulatory criteria are in support of the NPDES General Permit Rule. (CBR)

Response: IDEM agrees that the general permit approach will simplify the regulatory process for those individuals with several facilities in the state.

Comment: The general permit will have Indiana's standards on it, and anybody that would have a general permit would be required to fulfill these standards and is committed to doing so. We cannot afford in Indiana to have additional permitting, have individual permits for each of our operations would chase business from our state. I'm not talking about operations that leave because of their poor environmental histories. The board is encouraged to review the rule and make a decision, of course, very thoughtfully, but to recognize the value and impact that having a general NPDES permit would have versus not having that permit and losing that option. (ISPA)

Response: IDEM agrees that the option to obtain a general NPDES permit is a good one for facilities with a good environmental record in the state.

Comment: The main point is that we do agree with the development of a general permit system for an NPDES permit. What is best for the State of Indiana is a climate that fosters profitable lifestyle sectors, and an opportunity for growth. ICARD is asking that you carry out your responsibility of passing sound rules that will protect the environment and also do what is best for the State of Indiana. (ICARD)

Response: IDEM agrees and will continue to work with ICARD and all interested parties to craft a rule that is environmentally protective and provides certainty to the regulated community as to what standards apply to it.

Comment: We are concerned with the impact mega farms could have the surface and ground water, especially our drinking water wells. We are also concerned with the proposal that the sites not receive construction approvals as there are multiple examples of improper construction with the oversight that is currently occurring. We do support some of this from the Indiana Clean Water Coalition. (BSC)

Response: IDEM is committed to developing rules that protect Indiana's environment. IDEM believes it is important that construction requirements be part of the program. Facilities need to be constructed to prevent leakage into drinking water sources. Further, under these proposed rules, discharges, except in very limited circumstances, are prohibited.

Comment: When government regulation is necessary to protect people and property in Indiana, the Indiana Farm Bureau supports rules that are clear, concise, and easily understandable. The Farm Bureau supports the adoption of a CAFO NPDES General Permit Rule by the Water Board today. Emergency adoption now, and eventual final adoption, is necessary to allow IDEM the flexibility needed in properly administering a new federal rule and abiding by Judge Barker's orders from the Save the Valley case. This will also relieve IDEM from being required to issue individual NPDES permits for all federally defined CAFO's. A true general permit for CAFO's for individuals proposing to construct and/or operate CAFO's certified to IDEM of their intent to comply with a general NPDES permit is necessary. (IFB)

Response: IDEM agrees that the general permit approach will allow implementation of the new federal standards in Indiana in a timely way and will allow IDEM to meet the federal court order to issue NPDES permits to all federally defined CAFOs in Indiana.

Comment: The Farm Bureau opposes redundancy in state and federal operating permits for confined operations. Because Indiana has a state regulatory framework for confined feeding operations, certain CAFO's that are also federally defined will have to comply with dual state and federal requirements. The Farm Bureau appreciates the inclusion of language in Section 7 of the rule, 327 IAC 15-15-6, that eliminates this redundancy. (IFB)

Response: IDEM will continue to work to assure that there are not redundancies within the state permitting programs.

Comment: The Farm Bureau supports CAFO construction oversight according to state approved standards. The general permit notice of intent should include a commitment to construct the facility according to state approved construction and performance criteria. The Farm Bureau believes that the construction standards for federally defined CAFO's should be identical to the current criteria for state CFO's. (IFB)

Response: IC 13-18-10 provides for IDEM oversight of construction under the state CFO program. IDEM believes that construction oversight for both CFOs and CAFOs is an important aspect of an environmentally protective program.

Comment: The Farm Bureau believes neighbor and adjoining landowner notification of proposed confined feeding operations is necessary. The rule before you today does allow for notification through the CFO approval process. The general permit notice of intent should also describe how neighbors and adjoining landowners of a facility have been notified of the intent to construct and operate a CAFO. Notification to special interest groups, lobbyists and other activists who are not members of the local geographical community in

which a CFO or CAFO is constructed and operated should not be required. (IFB)

Response: IDEM continues to work with all interested parties to determine what level of public notice is appropriate.

Comment: The Farm Bureau believes that the current IDEM interpretation of potentially affected parties goes beyond what is required per the Administrative Orders and Procedures Act notification process. This broad interpretation of Indiana Code 4-21.5-3-5, and the manner in which IDEM notifies parties, needs to be addressed. (IFB)

Response: IDEM agrees that the level of public notice is an issue that must be further discussed with all interested parties prior to finalizing this rule.

Comment: We agree with others that there are frivolous objections and appeals being brought that do not allege permit violations or water quality violations, causing costly delays in time and attorneys fees for the farmer and IDEM to defend. We would like to tighten up the ability to appeal and object to permits that focus on the permit itself and actual water quality issues and not odor or air or land issues, because those are not something that either IDEM or the Water Board has authority over. The purpose of many of the appeals is to prevent the economic development of Indiana's agriculture industry. The Farm Bureau believes this issue needs to be addressed for all confined feeding operations in the state, not just the largest. (IFB)

Response: IDEM is not aware of a large volume of frivolous objections to its permitting decisions related to CAFOs. The rule specifies that IDEM's decisions are based on water quality issues. IDEM agrees that the rule may benefit from more specificity on this point and there may also be administrative changes to IDEM notification that may also assist in properly informing the public of their rights and limitations under the rule.

Comment: In general, as a swine producer, I support the NPDES permits. (RRW)

Response: IDEM agrees that the NPDES general permit rule is an effective vehicle for addressing the federal requirement for NPDES permits for CAFOs.

Comment: My concern is with the fee structure. Currently I pay $100 for five years to comply with state regulations concerning my operation. The new regulations asks for $400 per year over a five-year period. The increase is not only unfair, but it is a huge financial burden on family farms. I would ask that the Water Board consider adding language to the rule that clarifies the fee structure to match the legislative intent in House Bill 533 to $150 for five years. (RRW)

Response: Fees for NPDES permits are established by the legislature in statute. Currently there is a $50 application fee for both individual and general NPDES permits. There is also a $400 annual fee for individual NPDES permits. The statute does not specifically establish an annual fee for general NPDES permits for CAFOs.

Comment: Notification was asked for, for general NPDES permits. I believe that's unnecessary. I believe it is fine for those individuals who have had a discharge and need individual permits. I believe that to notify adjoining landowners can be a good thing, but for those of us that have never had a permit -- or a violation, never had a discharge, I feel it's an unnecessary regulatory burden. (RRW)

Response: IDEM will continue to work with all parties on the issue of public notification for NOIs for existing CAFOS.

Comment: We greatly appreciated the way IDEM has worked with the pork producers and the Farm Bureau to develop a general permit rule that, I believe, makes a lot of sense in a lot of different areas. (RE) (IFB)

Response: IDEM will continue to work with all interested parties on this rulemaking.

Comment: Farms have a zero tolerance for discharge of pollutants, and most farmers in Indiana kill themselves not to drop one drop of manure in the water, because our livelihoods are history. One of the concerns we have is the separation in the general permit rule. IDEM is proposing a construction permit. I would point out to this Board that all 18 major spills in the State of Indiana occurred on farms that had obtained construction permits. That's the reason the court said we have to have NPDES operating permits. You don't spill manure when you build a facility; you spill it when you use it. (RE)

Response: IDEM believes that requiring construction approval is an environmentally sound requirement that serves to prevent problems before they arise, leakage from improperly constructed manure storage systems can lead to contamination of groundwater which is extremely costly to remediate.

Comment: I'm concerned as a farmer from Central Indiana by this apparently lack of concern by public officials. The whole purpose of the legislation was to remove dual regulatory structure as well as to establish the fact that there's not a need for a separate construction permit. We have a zero tolerance for discharge. (RE)

Response: The preliminarily adopted general permit rule aims to remove any overlaps that may exist between the state CFO program and the federally required CAFO NPDES permit program.

Comment: Don't make us certify that we have a deviations from our manure management plans, made a mistake or had a problem. We have to submit the plan anyway; we're audited routinely, more than once a year at this rate. If there's any deviations from that, I have to get written documentation from third-party people that the manure was applied as I said I would apply it. Self-certification, in our minds, does nothing but establish an adversarial role with IDEM, which we really don't want to see. We need their help when there's a problem. Also, we do standard well water testing. Our wells go right underneath our hog manure pits. The standards that are in place do work. Also, contrary to some of the testimony you received today, we don't hire immigrants. I admire these dairy farms that are bringing immigrants to American and letting them live the American dream. Water pollution standards must be based on good policy. (RE)

Response: IDEM will continue to work to establish a fair, effective confined feeding regulatory program that should allow the industry to prosper and the water quality to be protected.

Comment: I spend a lot more time on paperwork now than five years ago. So, we don't see the need for a separate construction permit. Spills don't happen when you build it. (RE)

Response: IDEM continues to believe that the approval of construction is an important component of an environmentally sound regulatory program.

Comment: In terms of notification to obtain the NPDES permits for existing facilities, we don't see any benefit to that. Everybody knows we're already there. IDEM already has us on the GPS logs. It's public record. (RE)

Response: IDEM will continue to work with all interested parties on establishing an appropriate level of public notification in the permitting process.

Comment: A real concern is with confidentiality. Any information that we have to report to IDEM becomes public record, or so it seems, and we're very concerned about this as we go ahead into this process of rules and developing an ongoing track record of individuals' operations. We have a fertility management system that is actually very proprietary. (RE)

Response: The commentor is correct that information submitted to the agency becomes a public record upon submission, unless the person submitting the information also submits a claim of confidentiality in accordance with rules adopted by this board. Confidentiality rules are found at 327 IAC 12-1.

Comment: All 7500 members of the Sierra Club fully supports the papers that you received from the Indiana Clean Water Coalition. (SC-U)

Response: IDEM appreciates the participation of the Sierra Club, the Clean Water Coalition and all interested parties' participation in this rulemaking.

Comment: In general, we are supportive of a general NPDES permit for concentrated animal feeding operations. But would encourage the Board to enact the one-permit concept that functions very much like general NPDES permits function now. The general permits would state that livestock farms need to be built and operate under the zero discharge standard, and that they should operate under a general permit, as they're nonsite specific -- under the nonsite specific permit process. This would address the issue of removing the construction permit, but would allow the construction standard. It would continue with the performance standard that is already outlined in the current CFO rule. The threat of an individual permit provides adequate incentive for the operator to make the requested changes to construction. After all, they must certify under penalties of perjury that they have built the operation according to IDEM building and construction standards. Our suggestions are consistent with the general permit process. They would keep our farms focused on the performance standard and would allow, again, IDEM an opportunity to address a general or an individual designation on a case-by-case basis. The general NPDES permit process allows public noticing and public input.(INPAC)

Response: IDEM believes that construction approval is a necessary component of the rule. Our experience indicates that elimination of the construction approval requirement may result in a reduction in the effectiveness of current construction oversight and therefore increase impacts on water quality.

Comment: 327 IAC 15-15-10, subsection (3) calls for an annual report to the Department of Environmental Management by the 15th of February each year. This is a new report and one that is a deadline that could be missed. In an effort to not allow those reports to be easily missed, we believe it would be advisable for the agency to send a form to CAFO's of record by January 1st of each year with the form that is being requested and ask them to return that by the 15th of February. (INPAC)

Response: IDEM will continue to work on this issue and determine what would be the best way to assure compliance with the annual reporting requirements.

Comment: 15-15-12 and 15-15-13, address the need to add some language concerning appeal rights. These both talk about determinations by the agency, and set a time frame for gaining a permit at 30 days after the agency has made a determination, and we believe that that language should be augmented with an opportunity for appeal process and should be so noted in the rule. (INPAC)

Response: Any final agency action is appealable under IC 4-21.5 whether specifically noted in the rule or not. However, clarity on the appeal process can be provided in the rule.

Comment: We are concerned with inexperienced operators and operations that are not constructed properly. Also we are concerned about owners with farms in other states that have had many violations and are now considering farm operations in Indiana. We would like Indiana is look at requiring good character provisions in the rule. (KWIN)

Response: Currently, there is no provision in Indiana law that allows IDEM to review past violations or activities in other states as a precondition to receiving a NPDES permit. IDEM does have the authority to review the compliance record of an existing facility in determining whether to renew or revoke a permit.

Comment: To protect the people that are doing a good job and to try to promote credibility of the whole industry, I would strongly encourage you to add good character to the requirements. Word the rule changes based on other state regulations. (SC-P)

Response: Currently, there is no provision in Indiana law that allows IDEM to review past violations or activities in other states as a precondition to receiving a NPDES permit.

Comment: Would there have to be statutory authorization for the application of good character? My understanding, in talking to a non-IDEM attorney, is the answer would be no. But having it in the legislature gives you a much stronger base to work from. Where we have a track record of a few people who have caused the vast majority of the real problems. (SC-P)(HEC)

Response: Specific statutory authority exists allowing the agency to consider past convictions for violations of environmental laws only for solid and hazardous waste permits. No such authority has been granted to the agency by the legislature for any other type of permit over which the agency has authority.

327 IAC 5-4-3
327 IAC 15-15

SECTION 1. 327 IAC 5-4-3 IS AMENDED TO READ AS FOLLOWS:

327 IAC 5-4-3 Concentrated animal feeding operations

Authority: IC 13-14-8; IC 13-15-1-2; IC 13-15-2-1; IC 13-18-2; IC 13-18-3
Affected: IC 13-11-2; IC 13-13-5-1; IC 13-18-4

Sec. 3. (a) Concentrated animal feeding operations are point sources ~~subject to the~~ **that require** NPDES **permits for discharges or potential discharges. Once an operation is defined as a CAFO under this section, the NPDES requirements for CAFOs apply with respect to all animals in confinement at the operation and all manure, litter, and process wastewater generated by those animals or the production of those animals, regardless of the type of animal. Except as provided in subsection (d), all CAFO owners or operators must seek coverage under either an individual NPDES** permit ~~program.~~ **or a general NPDES permit under 327 IAC 15-15.**

(b) **The following** definitions **apply throughout this rule:**

(1) "Animal confinement area" means the areas of the facility where animals are housed. The term includes, but is not limited to, the following areas:

(A) Open lots.
(B) Housed lots.
(C) Feedlots.
(D) Confinement houses.
(E) Stall barns.
(F) Free stall barns.
(G) Milk rooms.
(H) Milking center.
(I) Cowyards.
(J) Barnyards.
(K) Medication pens.
(L) Walkers.
(M) Animal walkways.

(N) Stables.

~~(1)~~ **(2)** "Animal feeding operation" **or "AFO"** means **the following:**

(A) A lot or facility where the following conditions are met:

~~(A)~~ **(i)** Animals, other than aquatic animals, **that** have been, are, or will be stabled or confined and fed or maintained for a total of forty-five (45) days or more in any **twelve** (12) month period. ~~and~~

~~(B)~~ **(ii)** Crops, vegetation, forage growth, or post-harvest residues **that** are not sustained in the normal growing season over any portion of the lot or facility.

(B) Two (2) or more animal feeding operations under common ownership are considered, for the purposes of this article, ~~(327 IAC 5),~~ to be a single animal feeding operation if ~~they~~ **the operations** adjoin each other or if ~~they~~ **the operations** use a common area or system for the disposal of wastes.

(3) "CFO approval" means a valid approval issued by the commissioner under 327 IAC 16.

~~(2)~~ **(4)** "Concentrated animal feeding operation" **or "CAFO"** means an ~~animal feeding operation which meets the criteria set forth in clause (A) or (B) or which is designated~~ **AFO that is one (1) of the following:**

(A) A large CAFO.

(B) A medium CAFO.

(C) Designated as a CAFO by the commissioner under subsection (c).

~~(A) More than the numbers of animals specified in any of the following categories are confined:~~

~~(i) one thousand (1,000) slaughter and feeder cattle;~~

~~(ii) seven hundred (700) mature dairy cattle (whether milked or dry cows);~~

~~(iii) two thousand five hundred (2,500) swine each weighing over 25 kilograms (approximately 55 pounds);~~

~~(iv) five hundred (500) horses;~~

~~(v) ten thousand (10,000) sheep or lambs;~~

~~(vi) fifty-five thousand (55,000) turkeys;~~

~~(vii) one hundred thousand (100,000) laying hens or broilers (if the facility has continuous overflow watering);~~

~~(viii) thirty thousand (30,000) laying hens or broilers (if the facility has a liquid manure system);~~

~~(ix) five thousand (5,000) ducks; or~~

~~(x) one thousand (1,000) animal units; or~~

~~(B)(i) Either pollutants are discharged from the facility into waters of the state through a man-made ditch, flushing system, or other similar man-made device; or pollutants are discharged directly from the facility into waters of the state which originate outside of and pass over, across, or through the facility or otherwise come into direct contact with the animals confined in the operation; provided, however, that no animal feeding operation is a concentrated animal feeding operation as defined above if such animal feeding operation discharges only in the event of a twenty-five (25) year, twenty-four (24) hour storm event; and~~

~~(ii) More than the following numbers of animals are confined in any of the following categories:~~

~~(AA) three hundred (300) slaughter or feeder cattle;~~

~~(BB) two hundred (200) mature dairy cattle (whether milked or dry cows);~~

~~(CC) seven hundred fifty (750) swine, each weighing over 25 kilograms;~~

~~(DD) one hundred fifty (150) horses;~~

~~(EE) three thousand (3,000) sheep or lamb;~~

~~(FF) sixteen thousand five hundred (16,500) turkeys;~~

~~(GG) thirty thousand (30,000) laying hens or broilers (if the facility has continuous overflow watering);~~

~~(HH) nine thousand (9,000) laying hens or broilers (if the facility has a liquid manure handling system);~~

~~(II) one thousand five hundred (1,500) ducks; or~~

~~(JJ) three hundred (300) animal units.~~

~~(3) "Animal unit" means a unit of measurement for any animal feeding operation such that the total animal units is calculated by adding the following numbers: the number of slaughter and feeder cattle multiplied by 1.0, plus the number of mature dairy cattle multiplied by 1.4, plus the number of swine weighing over 25 kilograms (approximately 55 pounds) multiplied by 0.4, plus the number of sheep multiplied by 0.1, plus the number of horses multiplied by 2.0.~~

~~(4) "Man-made" means constructed by man and used for the purpose of transporting wastes.~~

Two (2) or more AFOs under common ownership that are considered to be a single AFO for the purposes of determining the number of animals at an operation, if they adjoin each other or if they use a common area or system for disposal of wastes.

(5) "Land application area" means land under the control of an AFO owner or operator, whether the land is owned, rented, leased, or subject to an access agreement, to which manure, litter, or process wastewater from the production area is or may be applied.

(6) "Large concentrated animal feeding operation" or "large CAFO" means an AFO that stables or confines as many as or more than the number specified in any of the following categories:

(A) Seven hundred (700) mature dairy cows, whether milked or dry.

(B) One thousand (1,000) veal calves.

(C) One thousand (1,000) cattle other than mature dairy cows or veal calves. Cattle includes, but is not limited to, heifers, steers, bulls, and cow/calf pairs.

(D) Two thousand five hundred (2,500) swine each weighing fifty-five (55) pounds or more.

(E) Ten thousand (10,000) swine each weighing less than fifty-five (55) pounds.

(F) Five hundred (500) horses.

(G) Ten thousand (10,000) sheep or lambs.

(H) Fifty-five thousand (55,000) turkeys.

(I) Thirty thousand (30,000) hens or broilers, if the AFO uses a liquid manure handling system.

(J) One hundred twenty-five thousand (125,000) chickens, other than laying hens, if the AFO uses other than a liquid manure handling system.

(K) Eighty-two thousand (82,000) laying hens, if the AFO uses other than a liquid manure handling system.

(L) Thirty thousand (30,000) ducks, if the AFO uses other than a liquid manure handling system for ducks.

(M) Five thousand (5,000) ducks, if the AFO uses a liquid manure handling system for ducks.

(7) "Liquid manure handling system for ducks" means any waste collection or storage system that involves the use of ponds for animal confinement and that collects waste generated by ducks or contaminated storm water from the production area.

(8) "Manure" means animal waste, bedding, compost, and raw materials or other materials commingled with manure or set aside for disposal.

(9) "Manure storage area" means any area where manure is kept. It includes, but is not limited to, the following areas:

(A) Lagoons.

(B) Run-off ponds.

(C) Storage sheds.

(D) Stockpiles.

(E) Under house or pit storages.

(F) Liquid impoundments.

(G) Static piles.

(H) Composting piles.

(10) "Medium concentrated animal feeding operation" or "medium CAFO" means the following:

(A) Any AFO that stables or confines the type and number of animals that fall within any of the following ranges and has been defined or designated as a CAFO:

(i) Two hundred (200) to six hundred ninety-nine (699) mature dairy cattle, whether milked or dry.

(ii) Three hundred (300) to nine hundred ninety-nine (999) veal calves.

(iii) Three hundred (300) to nine hundred ninety-nine (999) cattle other than mature dairy cows or veal calves. Cattle includes, but is not limited to, heifers, steers, bulls, and cow/calf pairs.

(iv) Seven hundred fifty (750) to two thousand four hundred ninety-nine (2,499) swine each weighing fifty-five (55) pounds or more.

(v) Three thousand (3,000) to nine thousand nine hundred ninety-nine (9,999) swine each weighing less than fifty-five (55) pounds.

(vi) One hundred fifty (150) to four hundred ninety-nine (499) horses.

(vii) Three thousand (3,000) to nine thousand nine hundred ninety-nine (9,999) sheep or lambs.

(viii) Sixteen thousand five hundred (16,500) to fifty-four thousand nine hundred ninety-nine (54,999) turkeys.

(ix) Nine thousand (9,000) to twenty-nine thousand nine hundred ninety-nine (29,999) laying hens or broilers, if the AFO uses a liquid manure handling system.

(x) Thirty-seven thousand five hundred (37,500) to one hundred twenty-four thousand nine hundred ninety-nine (124,999) chickens, other than laying hens, if the AFO uses other than a liquid manure handling system.

(xi) Twenty-five thousand (25,000) to eighty-one thousand nine hundred ninety-nine (81,999) laying hens, if the AFO uses other than a liquid manure handling system.

(xii) Ten thousand (10,000) to twenty-nine thousand nine hundred ninety-nine (29,999) ducks, if the AFO uses other than a liquid manure handling system for ducks.

(xiii) One thousand five hundred (1,500) to four thousand nine hundred ninety-nine (4,999) ducks, if the AFO uses a liquid manure handling system for ducks.

(B) One (1) of the following conditions are met:

(i) Pollutants are discharged into waters of the state through a manmade ditch, flushing system, or other similar manmade device.

(ii) Pollutants are discharged directly into waters of the state that originate outside of and pass over, across, or through the facility or otherwise come into direct contact with the animals confined in the operation.

(11) "No potential to discharge" means that there is no potential for any CAFO manure, litter, or process wastewater to be added to waters of the state under any circumstance or climatic condition.

(12) "Process wastewater" means the following:

(A) Water directly or indirectly used in the operation of the AFO for any or all of the following:

(i) Spillage or overflow from animal or poultry watering systems.

(ii) Washing, cleaning, or flushing pens, barns, manure pits, or other AFO facilities.

(iii) Direct contact swimming, washing, or spray cooling of animals.

(iv) Dust control.

(B) Process wastewater includes any water that comes into contact with or is a constituent of any raw materials, products, or byproducts, including manure, litter, feed, milk, eggs, or bedding.

(13) "Production area" means that part of an AFO that includes the following:

(A) The animal confinement areas.

(B) The manure storage areas.

(C) The raw materials storage areas.

(D) The waste containment areas.

(E) Egg washing or processing facility.

(F) Any area used in the storage, handling, treatment, or disposal of mortalities.

(14) "Raw materials storage area" includes, but is not limited to, the following:

(A) Feed silos.

(B) Silage bunkers.

(C) Bedding materials.

(15) "Small concentrated animal feeding operation" or "small CAFO" means an AFO that is designated as a CAFO and is not a medium CAFO.

(16) "Waste containment area" means an area designed to contain manure, litter, or process wastewater and includes, but is not limited to, the following:

(A) Settling basins.

(B) Areas within berms and diversions that separate uncontaminated storm water.

(c) Case-by-case designation of concentrated animal feeding operations **requirements are as follows:**

(1) Notwithstanding any other provision of this section, any animal feeding operation may be designated as a concentrated animal feeding operation where it is determined to be a significant contributor of ~~pollution~~ **pollutants** to the waters of the state. In making this designation, the commissioner shall consider the following factors:

(A) The size of the animal feeding operation and the amount of wastes reaching waters of the state.

(B) The location of the animal feeding operation relative to waters of the state.

(C) The means of conveyance of ~~animal wastes~~ **manure** and process wastewaters into waters of the state.

(D) The slope, vegetation, rainfall, and other factors affecting the likelihood or frequency of discharge of animal wastes, **manure,** and process wastewaters into waters of the state. ~~and~~

(E) Other factors relevant to the significance of the pollution problem under consideration.

(2) In no case shall a permit application be required from a concentrated animal feeding operation designated under this subsection until there has been an on-site inspection of the operation and a determination that the operation should be regulated under the permit program.

(3) No animal feeding operation with less than the numbers of animals set forth in subsection ~~(b)~~ **(b)(6)** shall be designated as a concentrated animal feeding operation unless:

(A) pollutants are discharged into waters of the state through a manmade ditch, flushing system, or other similar manmade device; or

(B) pollutants are discharged directly into waters of the state ~~which~~ **that** originate outside of the facility and pass over, across, or through the facility or otherwise come into direct contact with the animals confined in the operation.

(d) An owner or operator of a large CAFO does not need to seek permit coverage under this rule or 327 IAC 15-15 if the owner or operator has received a notification from the commissioner of a determination that the CAFO has no potential to discharge in accordance with 327 IAC 15-15-12. *(Water Pollution Control Board; 327 IAC 5-4-3; filed Sep 24, 1987, 3:00 p.m.: 11 IR 642)*

SECTION 2. 327 IAC 15-15 IS ADDED TO READ AS FOLLOWS:

Rule 15. Concentrated Animal Feeding Operations

327 IAC 15-15-1 Purpose

Authority: IC 13-13-5-1; IC 13-15-1-2; IC 13-15-2-1
Affected: IC 13-18-10

Sec. 1. The purpose of this rule is to establish an NPDES general permit for CAFOs. In addition to the requirements of this article for all general permits, this rule establishes the requirements for CAFOs in Indiana. *(Water Pollution Control Board; 327 IAC 15-15-1)*

327 IAC 15-15-2 Definitions

Authority: IC 13-13-5-1; IC 13-15-1-2; IC 13-15-2-1
Affected: IC 13-11-2; IC 13-18-10

Sec. 2. The definitions contained in IC 13-11-2, 327 IAC 5-1.5, 327 IAC 5-4-3, and 327 IAC 15-1-2 apply throughout this rule. In addition to those definitions, the following definitions apply throughout this rule:

(1) "Manure management plan" or "MMP" means the plan required under 327 IAC 16 for the proper handling, storage, and disposal of manure, litter, and process wastewater.

(2) "NRCS 590 standard" means the Indiana Natural Resources Conservation Service (NRCS) Nutrient Management Conservation Practice Standard, Code 590, July 2001.

(Water Pollution Control Board; 327 IAC 15-15-2)

327 IAC 15-15-3 Applicability

Authority: IC 13-13-5-1; IC 13-15-1-2; IC 13-15-2-1
Affected: IC 13-18-10; IC 13-30-3

Sec. 3. (a) This rule applies to all CAFOs or AFOs designated as CAFOs under 327 IAC 5-4-3(c) located within the permit boundary set forth in section 4 of this rule. All CAFO owners or operators must seek coverage under this rule or through an individual NPDES permit except as provided in subsection (d).

(b) Any owner or operator covered by this rule can request to be excluded from coverage under this general permit rule by applying for and obtaining an individual NPDES permit.

(c) A person excluded from the general permit rule solely because the person has a valid existing individual NPDES permit may request coverage under the general permit rule and may request revocation of the existing individual NPDES permit pursuant to 327 IAC 15-2-3.

(d) The discharge of manure, litter, or process wastewater to waters of the state from a CAFO as a result of land application of the manure, litter, or process wastewater to land areas under its control is a discharge from the CAFO subject to NPDES permit requirements except in the event of an agricultural storm water discharge. A precipitation-related discharge of manure, litter, or process wastewater from land areas under the control of a CAFO is an agricultural storm water discharge provided the manure, litter, or wastewater has been applied in accordance with site-specific nutrient management practices and the requirements of this rule.

(e) An owner or operator proposing construction:
(1) of a CAFO;
(2) at a CFO that results in an increase in the number of animals such that it becomes a CAFO; or
(3) of a confinement building or waste management system at a CAFO;
must apply for an approval in accordance with section 4 of this rule. *(Water Pollution Control Board; 327 IAC 15-15-3)*

327 IAC 15-15-4 Construction approval
Authority: IC 13-13-5-1; IC 13-15-1-2; IC 13-15-2-1
Affected: IC 13-18-10

Sec. 4. (a) An owner or operator proposing either construction of a CAFO, construction at a CFO that results in an increase in the number of animals such that it becomes a CAFO, or construction of a confinement building or waste management system at a CAFO must apply for a CFO approval from the commissioner in accordance with the following:
(1) 327 IAC 16-3-1(d) through 327 IAC 16-3-1(e).
(2) 327 IAC 16-5.
(3) 327 IAC 16-7-1.
(4) 327 IAC 16-7-2.
(5) 327 IAC 16-7-5 through 327 IAC 16-7-13.
(6) 327 IAC 16-8.

(b) If the proposed construction for the CAFO meets the requirements of this section, as applicable, the commissioner will issue an approval. The approval can only be denied for noncompliance with applicable provisions in this section and this rule. *(Water Pollution Control Board; 327 IAC 15-15-4)*

327 IAC 15-15-5 General permit rule boundary
Authority: IC 13-13-5-1; IC 13-15-1-2; IC 13-15-2-1
Affected: IC 13-18-10

Sec. 5. All CAFOs, or AFOs designated as CAFOs under 327 IAC 5-4-3(c) or 40 CFR 122.23(c), within the boundaries of the state are regulated by this rule. *(Water Pollution Control Board; 327 IAC 15-15-5)*

327 IAC 15-15-6 CFO approvals for CAFOs subject to the general permit rule
Authority: IC 13-13-5-1; IC 13-15-1-2; IC 13-15-2-1
Affected: IC 13-18-10

Sec. 6. (a) Qualifying for this general permit rule constitutes an approval under IC 13-18-10.

(b) A CAFO that has a general permit is not required to obtain or renew the CFO approval under 327 IAC 16-7-3 and 327 IAC 16-7-4 in order to operate.

(c) A CFO approval under section 4 of this rule is required for construction designated under section 4 of this rule. *(Water Pollution Control Board; 327 IAC 15-15-6)*

327 IAC 15-15-7 Notice of intent letter requirements
Authority: IC 13-13-5-1; IC 13-15-1-2; IC 13-15-2-1
Affected: IC 4-21.5; IC 13-18-10

Sec. 7. (a) The owner or operator of a CAFO shall submit a notice of intent (NOI) letter, on a form supplied by the commissioner, to the Indiana Department of Environmental Management, Office of Water Quality, 100 North Senate Avenue, P.O. Box 6015, Indianapolis, IN 46206-6015, Attention: Permits Section.

(b) The NOI letter shall include the following:
(1) Name, telephone number, and mailing address of the owner and operator.
(2) Facility name and location address. Contact person and telephone number.
(3) Type and number of animals at the facility.
(4) Type of containment and storage and total capacity for manure, litter, and process wastewater storage.
(5) Total number of acres under control of the applicant available for land application.
(6) Estimated amount of manure, litter, and process wastewater transferred to other persons per year (tons/gallons).
(7) List of other environmental permits held and permit numbers including the CFO farm ID number provided on state CFO approval under 327 IAC 16.
(8) A topographic map of the facility.
(9) Payment of application fee of fifty dollars ($50).
(10) SIC code for the facility.

(c) The NOI letter must be signed by:
(1) the owner or operator of the facility for which the NOI is submitted; or
(2) a person described under 327 IAC 15-4-3(g).

(d) Following submittal of the NOI letter to IDEM, IDEM shall do the following:
(1) Review the NOI for completeness and applicability under this rule.
(2) Consider comments received on whether a facility

meets the eligibility requirements for a general permit.

(3) Determine if the facility is eligible for a general permit under this rule or will be required to obtain an individual NPDES permit under 327 IAC 5.

(4) Request additional information, if needed.

(5) Notify the facility, within ninety (90) days of receipt of the NOI, that the applicant:

(A) qualifies for the general permit under this rule;

(B) does not qualify for the general permit under this rule; or

(C) must submit an individual NPDES permit application.

(e) In accordance with 40 CFR 122.28(b), any interested person may petition the commissioner to require a person subject to this rule to apply for and obtain an individual NPDES permit.

(f) Compliance with the NOI letter submission requirements under this rule may not be transferred. If ownership of a facility is transferred to a new person, that person must submit a NOI letter under this section or apply for an individual NPDES permit under 327 IAC 5. The new owner must submit the NOI at least thirty (30) days prior to beginning operation at the transferred facility.

(g) A determination under this section is appealable under IC 4-21.5. *(Water Pollution Control Board; 327 IAC 15-15-7)*

327 IAC 15-15-8 Notice of intent submittal deadline; additional information

Authority: IC 13-13-5-1; IC 13-15-1-2; IC 13-15-2-1
Affected: IC 13-18-10

Sec. 8. (a) The following are required to submit an NOI on or before April 13, 2006:

(1) CAFOs with one thousand (1,000) or more cow/calf pairs.

(2) CAFOs with one thousand (1,000) or more veal calves.

(3) CAFOs with ten thousand (10,000) or more swine weighing less than fifty-five (55) pounds.

(4) CAFOs with one hundred twenty-five thousand (125,000) or more chickens other than laying hens and if the operation uses other than a liquid manure handling system.

(5) CAFOs with eighty-two thousand (82,000) or more laying hens if the operation uses other than a liquid manure handling system.

(6) Operations defined as CAFOs as of April 14, 2003, that were not defined as CAFOS prior to that date because the operation discharged, is discharging, or will discharge only in the event of a twenty-five (25) year, twenty-four (24) hour storm.

These CAFOs must maintain a CFO approval under 327 IAC 16 until the NOI is submitted to comply with this rule.

(b) Operations defined as CAFOs as of April 14, 2003, that were not defined as CAFOs prior to that date because the operation has not discharged, does not discharge, and will not discharge except in the event of a twenty-five (25) year, twenty-four (24) hour storm must certify to the commissioner in writing within ninety (90) days of the effective date of this rule that the AFO was not required to apply for a permit under 327 IAC 5 and that a discharge has not occurred from the operation and the operation was constructed and is at all times being maintained to preclude discharge during dry weather and wet weather up to and including the twenty-five (25) year, twenty-four (24) hour storm. The certification shall be signed in accordance with 327 IAC 15-4-3(g). Any operation that has a discharge after certifying to the commission under this subsection shall submit an NOI within thirty (30) days after the discharge.

(c) The owner or operator of any existing CAFO, except those listed in subsection (a) or timely certifying under subsection (b), shall submit a NOI letter within ninety (90) days of the effective date of this rule.

(d) Any person proposing a new CAFO facility within the permit boundary shall submit a NOI letter at least one hundred eighty (180) days before the date the facility is populated with animals and must comply with all requirements of this rule upon submittal of the NOI.

(e) Operations designated as a CAFO in accordance with 327 IAC 5-4-3(c) or 40 CFR 122.23(c) must submit an NOI no later than ninety (90) days after receiving the notice of designation.*(Water Pollution Control Board; 327 IAC 15-15-8)*

327 IAC 15-15-9 General conditions

Authority: IC 13-13-5-1; IC 13-15-1-2; IC 13-15-2-1
Affected: IC 13-18-10

Sec. 9. (a) In addition to the conditions set forth in this rule, the conditions for a NPDES general permit under the following apply:

(1) 327 IAC 15-1-1, Purpose.

(2) 327 IAC 15-1-2, Definitions.

(3) 327 IAC 15-1-3, Department request for data.

(4) 327 IAC 15-1-4, Enforcement.

(5) 327 IAC 15-2-1, Purpose and scope.

(6) 327 IAC 15-2-3, NPDES general permit rule applicability requirements.

(7) 327 IAC 15-2-4, Administrative requirement for NPDES general permits.

(8) 327 IAC 15-2-5, Notice of intent letter.

(9) 327 IAC 15-2-6, Exclusions.

(10) 327 IAC 15-2-7, Effect of general permit rule.

(11) 327 IAC 15-2-8, Nontransferability of notification requirements; time limits for individual NPDES permit applications.

(12) 327 IAC 15-2-9, Special requirements for NPDES

general permit rule.

(13) 327 IAC 15-2-10, Prohibitions.

(14) 327 IAC 15-4-1, excluding subsections (h) and (m), General conditions.

(15) 327 IAC 15-4-3, Reporting requirements.

(b) The permittee must comply with 327 IAC 16-9 through 327 IAC 16-12 and must maintain the manure management plan (MMP) required under 327 IAC 16-7-11.

(c) This permit does not constitute a new or amended permit under 327 IAC 16-10-3(f)(2).

(d) Animals may not have direct access to waters of the state.

(e) Disposal of dead animals must be handled under rules of the Indiana state board of animal health at 345 IAC 7-7-3. *(Water Pollution Control Board; 327 IAC 15-15-9)*

327 IAC 15-15-10 Specific permit conditions

Authority: IC 13-13-5-1; IC 13-15-1-2; IC 13-15-2-1
Affected: IC 13-18-10

Sec. 10. The specific permit conditions in this section apply to all CAFO NPDES general permits. Permit holders must do the following:

(1) Obtain approval under 327 IAC 16-7-1(b) for any change in design or construction under 327 IAC 16-8 and 327 IAC 16-9-1.

(2) Comply with NRCS 590 Standard* by December 31, 2006, unless the commissioner has approved an alternative method to minimize the potential for nutrients to be transported or to migrate. This approval is based on satisfying the intent of the NRCS 590 Standard*.

(3) Submit an annual report to the commissioner by February 15 of each year for the previous calendar year with the following information:

(A) Number and type of animals, whether in open confinement or housed under roof.

(B) Estimated amount of total manure, litter, and process wastewater generated by the CAFO in the previous twelve (12) months.

(C) Estimated amount of total manure, litter, and process wastewater transferred to other persons by the CAFO in the previous twelve (12) months.

(D) Total number of acres for land application covered by MMP required by this rule.

(E) Total number of acres under control of the CAFO that were used for land application of manure, litter, and process wastewater in the previous twelve (12) months.

(F) Summary of all manure, litter, and process wastewater discharges from the production area that have occurred in the previous twelve (12) months, including the date, time, and approximate volume for each discharge.

(4) Develop soil conservation practice plan for land application areas within one (1) year after the effective date of this rule and implement the plan within three (3) years after the effective date of this rule. Developing and implementing a CNMP within the time frame specified in this subdivision satisfies this requirement. Any land:

(A) not owned or controlled by the CAFO to which manure is applied; and

(B) where the landowner does not implement conservation practices;

must be used in accordance with 327 IAC 16-10-3 through 327 IAC 16-10-5.

(5) Conduct manure testing for nitrogen and phosphorus annually.

(6) Land application of liquid manure on snow covered or frozen ground is prohibited unless done in accordance with a plan approved by the commissioner. The plan must demonstrate to the commissioner that land application under such conditions will not lead to run-off and discharge to waters of the state. The plan may include information about slope, barriers between the land application area and waters of the state, method of application, other conservation practices to be used, or any other information that would demonstrate that the potential to discharge pollutants to waters of the state is minimized. Permittees may not land apply under such conditions until receiving approval of the plan by the commissioner.

***This document is incorporated by reference. Copies may be obtained from the Government Printing Office, 732 North Capitol Avenue NW, Washington, D.C. 20401 or are available for review and copying at the Indiana Department of Environmental Management, Office of Land Quality, Indiana Government Center-North, Eleventh Floor, 100 North Senate Avenue, Indianapolis, Indiana 46204 or on-line at http://www.nrcs.usda.gov/technical/ECS/nutrient/590.html.** *(Water Pollution Control Board; 327 IAC 15-15-10)*

327 IAC 15-15-11 Inspection and enforcement

Authority: IC 13-13-5-1; IC 13-15-1-2; IC 13-15-2-1
Affected: IC 13-18-10; IC 13-30

Sec. 11. (a) The permittee shall allow the commissioner or an authorized representative, upon presentation of credentials, to enter upon the premises where a regulated facility or activity is located and have access to and copy any records that must be kept under the conditions of this rule in accordance with 327 IAC 15-4-1(l).

(b) The conditions of this rule are subject to enforcement under 327 IAC 15-4-1 and IC 13-30. *(Water Pollution Control Board; 327 IAC 15-15-11)*

327 IAC 15-15-12 No potential to discharge determination

Authority: IC 13-13-5-1; IC 13-15-1-2; IC 13-15-2-1
Affected: IC 13-18-10

Sec. 12. (a) The commissioner, upon request, may make a case-specific determination that a large CAFO has no potential to discharge pollutants to waters of the state. When making such a determination, the commissioner shall consider the following:

(1) The potential for discharges from the production area.

(2) The potential for discharges from any land application area.

(3) Any record of prior discharges by the CAFO.

(b) The commissioner shall not determine the CAFO to have no potential to discharge pollutants if the CAFO has had a discharge within the five (5) years prior to the date of the request under this section.

(c) To request a determination of no potential to discharge, the owner or operator shall submit any information that would support such a determination, including all NOI letter information required under section 5 of this rule. The commissioner may require additional information to supplement the request and may gather information through an on-site inspection of the CAFO. The information is to be submitted to the commissioner by the date required for submission of a NOI or permit application.

(d) Before making a final decision to grant a no potential to discharge determination, the commissioner shall issue a public notice of receipt of the request. The notice must be accompanied by a fact sheet, which shall include the following:

(1) A brief description of the type of facility or activity requesting the determination.

(2) A brief summary of the factual basis, upon which the request was based, for granting the determination.

(3) A description of the procedures for reaching a final decision on the determination.

(e) The commissioner must notify a CAFO of the final determination within ninety (90) days of receiving the request. If the commissioner denies the no potential for discharge determination, the owner or operator must seek coverage under a permit within thirty (30) days of the denial.

(f) Any unpermitted CAFO that discharges pollutants into waters of the state is in violation of the Clean Water Act even if it has received a no potential to discharge determination from the commissioner.

(g) Any CAFO that has received a determination under this section but that anticipates changes in circumstances that could create the potential for a discharge shall contact the commissioner and apply for and obtain permit authorization prior to the change of circumstances.

(h) The commissioner retains the authority to require NPDES permit coverage for a CAFO that has received a determination under this section if circumstances at the facility change, new information becomes available, or there is reason to believe that the CAFO has a potential to discharge. *(Water Pollution Control Board; 327 IAC 15-15-12)*

327 IAC 15-15-13 Duration and renewal of coverage

Authority: IC 13-13-5-1; IC 13-15-1-2; IC 13-15-2-1
Affected: IC 13-18-10

Sec. 13. (a) Coverage under this rule is granted by the commissioner for a period of five (5) years from the date coverage commences.

(b) Coverage commences on the date that the applicant receives a letter of approval from the commissioner. The commissioner shall notify the applicant within ninety (90) days of receipt of the NOI as required in section 7 of this rule. If the applicant does not receive notification from the commissioner within the time frames specified in this section, coverage shall commence ninety (90) days from the date the commissioner receives the NOI.

(c) To obtain renewal of coverage under this general permit rule, the information required under section 5 of this rule shall be submitted to the commissioner no later than forty-five (45) days prior to the expiration of coverage under this rule unless the commissioner determines that a later date is acceptable.

(d) If a CAFO is required to submit an application for an individual NPDES permit, the general permit terminates when:

(1) the owner or operator fails to submit the permit application required under section 5 of this rule; or

(2) the individual permit is issued or denied by the commissioner.

(Water Pollution Control Board; 327 IAC 15-15-13)

327 IAC 15-15-14 Effluent limitations

Authority: IC 13-13-5-1; IC 13-15-1-2; IC 13-15-2-1
Affected: IC 13-18-10

Sec. 14. (a) CAFOs subject to this rule are required to meet the effluent limitations contained in 40 CFR 412*.

(b) Compliance with general and specific permit conditions as required by sections 9 and 10 of this rule constitutes compliance with a nutrient management plan and implementation of best management practices as detailed in 40 CFR 412.4.

(c) Any discharges under this rule are required to meet water quality standards under 327 IAC 5.

***This document is incorporated by reference. Copies may be obtained from the Government Printing Office, 732**

North Capitol Avenue NW, Washington, D.C. 20401 or are available for review and copying at the Indiana Department of Environmental Management, Office of Land Quality, Indiana Government Center-North, Eleventh Floor, 100 North Senate Avenue, Indianapolis, Indiana 46204. *(Water Pollution Control Board; 327 IAC 15-15-14)*

Notice of Public Hearing

These rules are not scheduled for hearing at this time. When the public hearing is scheduled, it will be noticed in the Change in Notice section of the Indiana Register. Additional information regarding this action may be obtained from Lynn West, Rules, Outreach and Planning Section, Office of Land Quality, (317) 232-3593, or (800) 451-6027 (in Indiana). Copies of these rules are now on file at the File Room, Indiana Department of Environmental Management, Twelfth Floor, 100 North Senate Avenue and Legislative Services Agency, One North Capitol, Suite 325, Indianapolis, Indiana and are open for public inspection.

Bruce H. Palin
Deputy Assistant Commissioner
Office of Land Quality

TITLE 405 OFFICE OF THE SECRETARY OF FAMILY AND SOCIAL SERVICES

Proposed Rule
LSA Document #03-134

DIGEST

Amends 405 IAC 2-8-1 to eliminate the exclusion of a life insurance policy and annuity from the definition of "estate" for Medicaid estate recovery purposes. Amends 405 IAC 2-8-1.1 to reduce the estate recovery exemption for jointly-owned real property from $125,000 to $75,000. Amends 405 IAC 2-10-3 to eliminate the prohibition on filing a lien when an individual who provided care to the Medicaid recipient resides in the home. Amends 405 IAC 2-10-7 to provide that a lien expires unless the Office of Medicaid Policy and Planning commences a foreclosure action within two years of the recipient's death. Adds 405 IAC 2-10-7.1 specifying procedures for voiding the lien. Amends 405 IAC 2-10-8 to eliminate the prohibition on enforcement when a recipient is survived by a parent. Amends 405 IAC 2-10-9 to provide that a lien is subordinate to the security interest of a financial institution that loans money to be used as operating capital for a farm, business, or income-producing property. Adds 405 IAC 2-10-11 to specify that property that is disregarded for eligibility purposes in connection with the purchase and use of a qualified long term care insurance policy is exempt from lien placement and enforcement. Repeals 405 IAC 2-10-10 to eliminate the exemption of $125,000 on property subject to a lien. Effective 30 days after filing with the secretary of state.

405 IAC 2-8-1
405 IAC 2-8-1.1
405 IAC 2-10-3
405 IAC 2-10-7
405 IAC 2-10-7.1
405 IAC 2-10-8
405 IAC 2-10-9
405 IAC 2-10-10
405 IAC 2-10-11

SECTION 1. 405 IAC 2-8-1, AS AMENDED AT 26 IR 731, SECTION 1, IS AMENDED TO READ AS FOLLOWS:

405 IAC 2-8-1 Claims against estate for benefits paid
Authority: IC 12-8-6-5; IC 12-13-5-3; IC 12-15-1-10
Affected: IC 12-15-9; IC 12-15-39.6-10

Sec. 1. (a) Upon the death of a Medicaid recipient fifty-five (55) years of age or older, the office of Medicaid policy and planning (office) shall seek recovery from the recipient's estate for medical assistance paid on behalf of the recipient after the recipient became fifty-five (55) years of age or older. Recovery shall be made for benefits provided prior to October 1, 1993, only if the recipient was sixty-five (65) years of age or older at the time the benefits were provided.

(b) As used in this section, "estate", with respect to a deceased recipient, shall include all of the following:

(1) All real and personal property and other assets included within the recipient's estate as defined for purposes of state probate law.

(2) Any interest in real property owned by the individual at the time of death that was conveyed to the individual's survivor through joint tenancy with right of survivorship, if the joint tenancy was created after June 30, 2002. ~~and~~

(3) Any real or personal property conveyed through a nonprobate transfer. As used in this section, "nonprobate transfer" means a valid transfer, effective at death, by a transferor who immediately before death had the power, acting alone, to prevent transfer of the property by revocation or withdrawal and:

(A) use the property for the benefit of the transferor; or

(B) apply the property to discharge claims against the transferor's probate estate.

The term does not include a transfer of a survivorship interest in a tenancy by the entireties real estate ~~transfer of a life insurance policy or annuity,~~ or payment of the death proceeds of a life insurance policy. ~~or annuity.~~

(c) If the recipient is survived by a spouse, recovery shall be made after the death of the surviving spouse. Only those assets that are included in the recipient's estate as defined in subsection (b) are subject to recovery.

(d) If the recipient is survived by a child, no recovery shall be made while the child is either:

(1) under twenty-one (21) years of age; or

(2) blind or disabled as defined in 42 U.S.C. 1382c.

(e) A claim may not be enforced against the following assets:
(1) Personal effects, ornaments, or keepsakes of the deceased.
(2) Assets of an individual who purchases a long term care insurance policy that are disregarded pursuant to IC 12-15-39.6-10.
(3) Nonprobate assets that were determined exempt or unavailable for purposes of the decedent's Medicaid eligibility prior to May 1, 2002.
(4) Assets that the decedent transferred through a nonprobate transfer prior to May 1, 2002.

(f) The office may waive the application of this section in cases of undue hardship pursuant to section 2 of this rule. *(Office of the Secretary of Family and Social Services; 405 IAC 2-8-1; filed May 1, 1995, 10:45 a.m.: 18 IR 2226; filed Feb 15, 1996, 11:20 a.m.: 19 IR 1563; readopted filed Jun 27, 2001, 9:40 a.m.: 24 IR 3822; filed Oct 10, 2002, 10:55 a.m.: 26 IR 731)*

SECTION 2. 405 IAC 2-8-1.1, AS ADDED AT 26 IR 732, SECTION 2, IS AMENDED TO READ AS FOLLOWS:

405 IAC 2-8-1.1 Claims against estate; exemption
Authority: IC 12-8-6-5; IC 12-13-5-3; IC 12-15-1-10
Affected: IC 12-15-3-6; IC 12-15-9

Sec. 1.1. (a) This section applies only to real property owned by the individual at the time of death that was conveyed to the individual's survivor through joint tenancy with right of survivorship.

(b) The office may enforce its claim against property described in subsection (a) only to the extent that the value of the recipient's combined total interest in all real property described in subsection (a) subject to the claim exceeds ~~one hundred twenty-five~~ **seventy-five** thousand dollars ~~($125,000).~~ **($75,000).**

(c) This section expires January 1, 2008. *(Office of the Secretary of Family and Social Services; 405 IAC 2-8-1.1; filed Oct 10, 2002, 10:55 a.m.: 26 IR 732)*

SECTION 3. 405 IAC 2-10-3, AS ADDED AT 26 IR 1547, SECTION 1, IS AMENDED TO READ AS FOLLOWS:

405 IAC 2-10-3 Criteria for instituting a TEFRA lien
Authority: IC 12-8-6-5; IC 12-15-1-10; IC 12-15-8.5
Affected: IC 12-15-3-6; IC 12-15-9

Sec. 3. (a) When the office in accordance with 42 U.S.C. 1396p determines that a Medicaid recipient who resides in a medical institution cannot reasonably be expected to be discharged and return home, the office may attach a lien on the Medicaid recipient's real property subject to the provisions of this rule and IC 12-15-8.5.

(b) The office may not obtain a lien on the recipient's home if any of the following people lawfully reside in the home of the institutionalized recipient:
(1) The recipient's spouse.
(2) The recipient's child who is less than twenty-one (21) years of age, blind, or disabled as defined in 42 U.S.C. 1382c.
(3) The recipient's sibling who:
(A) was residing in the recipient's home for a period of at least one (1) year immediately before the recipient's institutionalization; and
(B) has an ownership interest in the home.
(4) The recipient's parent.
~~(5) An individual, other than a paid caregiver, who:~~
~~(A) was continuously residing in the recipient's home for a period of at least two (2) years immediately prior to the date of the recipient's institutionalization; and~~
~~(B) establishes to the satisfaction of the office that the person provided care to the recipient enabling the recipient to reside in his or her home, delaying institutionalization.~~
(Office of the Secretary of Family and Social Services; 405 IAC 2-10-3; filed Dec 13, 2002, 4:00 p.m.: 26 IR 1547)

SECTION 4. 405 IAC 2-10-7, AS ADDED AT 26 IR 1548, SECTION 1, IS AMENDED TO READ AS FOLLOWS:

405 IAC 2-10-7 Effect of filing; duration
Authority: IC 12-8-6-5; IC 12-15-1-10; IC 12-15-8.5
Affected: IC 12-15-3-6; IC 12-15-9

Sec. 7. (a) From the date on which the notice of lien is recorded in the office of the county recorder, the notice of lien:
(1) constitutes due notice of a lien against the recipient or recipient's estate for any amount then recoverable and any amounts that become recoverable under this article; and
(2) gives a specific lien in favor of the office on the Medicaid recipient's interest in the real property.

(b) The lien continues from the date of filing until the lien:
(1) is satisfied;
(2) is released; or
(3) expires.
The lien automatically expires unless the office commences a foreclosure action not later than ~~nine (9) months~~ **two (2) years** after the Medicaid recipient's death. *(Office of the Secretary of Family and Social Services; 405 IAC 2-10-7; filed Dec 13, 2002, 4:00 p.m.: 26 IR 1548)*

SECTION 5. 405 IAC 2-10-7.1 IS ADDED TO READ AS FOLLOWS:

405 IAC 2-10-7.1 Notice to office to file an action to foreclose the lien
Authority: IC 12-8-6-5; IC 12-15-1-10; IC 12-15-8.5
Affected: IC 12-15-3-6; IC 12-15-9

Sec. 7.1. (a) This section applies after the death of the

Medicaid recipient whose property is subject to a lien under this rule or after the sale or other transfer of property that is subject to the lien.

(b) A lien under this rule is void if both of the following occur:

(1) The owner of property subject to a lien under this rule or any person or corporation having an interest in the property, including a mortgagee or a lienholder, provides written notice to the office to file an action to foreclose the lien.

(2) The office fails to file an action to foreclose the lien in the county where the property is located not later than thirty (30) days after receiving the notice. However, this section does not prevent the claim from being collected as other claims are collected by law.

(c) A person who gives notice under subsection (a)(1) by registered or certified mail to the office at the address given in the recorded statement and notice of intention to hold a lien may file an affidavit of service of the notice to file an action to foreclose the lien with the recorder of the county in which the property is located. The affidavit must state the following:

(1) The facts of the notice.

(2) That more than thirty (30) days have passed since the notice was received by the office.

(3) That no action for foreclosure of the lien is pending.

(4) That no unsatisfied judgment has been rendered on the lien.

(d) The recorder shall:

(1) record the affidavit of service in the miscellaneous record book of the recorder's office; and

(2) certify on the face of the record any lien that is fully released.

When the recorder records the affidavit and certifies the record under this subsection, the real estate described in the lien is released from the lien. *(Office of the Secretary of Family and Social Services; 405 IAC 2-10-7.1)*

SECTION 6. 405 IAC 2-10-8, AS ADDED AT 26 IR 1548, SECTION 1, IS AMENDED TO READ AS FOLLOWS:

405 IAC 2-10-8 Enforcement; foreclosure

Authority: IC 12-8-6-5; IC 12-15-1-10; IC 12-15-8.5
Affected: IC 12-15-3-6; IC 12-15-9

Sec. 8. (a) The office may not enforce a lien on the recipient's home under this rule if the following individuals are lawfully residing in the recipient's home and have resided there on a continuous basis since the recipient's date of admission to the medical institution:

(1) The recipient's child of any age who:

(A) resided in the recipient's home for at least twenty-four (24) months before the recipient was institutionalized; and

(B) establishes to the satisfaction of the office that he or she provided care to the recipient that enabled the recipient to reside in his or her home delaying institutionalization.

(2) The recipient's sibling who has resided in the recipient's home for a period of at least one (1) year immediately before the date of the recipient's admission to the medical institution.

(b) The office may not enforce a lien on the real property of the recipient under this rule as long as the recipient is survived by any of the following:

(1) **The** recipient's spouse.

(2) **The** recipient's child who is less than twenty-one (21) years of age, blind, or disabled as defined in this rule.

~~(3) The recipient's parent.~~

(c) If there is no condition present in subsection (a) or (b), the office, or its designee, may bring a proceeding in foreclosure on the lien or to make arbitration of the amount due on the lien as follows:

(1) If the real property or recipient's interest is sold **or otherwise transferred** during the lifetime of the recipient.

(2) Upon the death of the recipient.

(Office of the Secretary of Family and Social Services; 405 IAC 2-10-8; filed Dec 13, 2002, 4:00 p.m.: 26 IR 1548)

SECTION 7. 405 IAC 2-10-9, AS ADDED AT 26 IR 1549, SECTION 1, IS AMENDED TO READ AS FOLLOWS:

405 IAC 2-10-9 Release; subordination

Authority: IC 12-8-6-5; IC 12-15-1-10; IC 12-15-8.5
Affected: IC 12-15-3-6; IC 12-15-9

Sec. 9. (a) The office shall release a lien obtained under this rule within ten (10) business days after the county office of family and children receives notice that the recipient is no longer institutionalized and is living in his or her home.

(b) A lien obtained under this rule is subordinate to the ~~subsequent~~ security interest of a financial institution as defined in IC 12-15-8.5 that loans money to the recipient provided that the recipient is able to establish to the satisfaction of the office that the funds were used for ~~any of the following purposes:~~

~~(1) The payment of taxes, insurance, maintenance, and repairs in order to preserve and maintain the recipient's real property.~~

~~(2)~~ operating capital for the operation of the recipient's farm, the recipient's business, or the recipient's real property that is income-producing.

~~(3) The payment of medical, dental, or optical expenses incurred by:~~

~~(A) the recipient;~~

~~(B) the recipient's spouse;~~

~~(C) the recipient's dependent parent; or~~

~~(D) a child less than twenty-one (21) years of age or who is blind or disabled.~~

~~(4) The reasonable costs and expenses for the support,~~

~~maintenance, comfort, and education of the recipient's spouse, a dependent parent, or a child who is less than twenty-one (21) years of age or who is blind or disabled.~~

(c) If the real property subject to the lien is sold, the office shall release its lien at the closing, and the lien shall attach to the net proceeds of the sale. *(Office of the Secretary of Family and Social Services; 405 IAC 2-10-9; filed Dec 13, 2002, 4:00 p.m.: 26 IR 1549)*

SECTION 8. 405 IAC 2-10-11 IS ADDED TO READ AS FOLLOWS:

405 IAC 2-10-11 Exemption
Authority: IC 12-8-6-5; IC 12-15-1-10; IC 12-15-8.5
Affected: IC 12-15-3-6; IC 12-15-39.6-10

Sec. 11. Real property that is disregarded for eligibility purposes in connection with the purchase and use of a qualified long term care insurance policy pursuant to IC 12-15-39.6-10 is exempt from lien placement and enforcement. *(Office of the Secretary of Family and Social Services; 405 IAC 2-10-11)*

SECTION 9. 405 IAC 2-10-10 IS REPEALED.

Notice of Public Hearing

Under IC 4-22-2-24, notice is hereby given that on August 27, 2003 at 10:00 a.m., at the Indiana Government Center-South, 402 West Washington Street, Conference Center Rooms 4 and 5, Indianapolis, Indiana the Office of the Secretary of Family and Social Services will hold a public hearing on proposed new rules to reduce the Medicaid estate recovery exemption for jointly-owned real property from $125,000 to $75,000, to repeal the exemption of $125,000 on property subject to a lien, and to make other changes concerning Medicaid estate recovery and liens. Copies of these rules are now on file at the Indiana Government Center-South, 402 West Washington Street, Room W451 and Legislative Services Agency, One North Capitol, Suite 325, Indianapolis, Indiana and are open for public inspection.

John Hamilton
Secretary
Office of the Secretary of Family and Social Services

TITLE 470 DIVISION OF FAMILY AND CHILDREN

Proposed Rule
LSA Document #03-136

DIGEST

Amends 470 IAC 6-2-1 and 470 IAC 6-2-13 to allow for a six month certification period for food stamp recipients pursuant to Section 4109 of the Farm Bill. Amends 470 IAC 6-4.1-4 to simplify changes a recipient must report during this period. Effective 30 days after filing with the secretary of state.

470 IAC 6-2-1
470 IAC 6-2-13
470 IAC 6-4.1-4

SECTION 1. 470 IAC 6-2-1 IS AMENDED TO READ AS FOLLOWS:

470 IAC 6-2-1 Household reporting requirements
Authority: IC 12-13-2-3; IC 12-13-5-3
Affected: IC 12-13-7-6

Sec. 1. A food stamp household is required to report changes as stated in 7 CFR 273.12(a) **and 7 U.S.C. 2015(c)(1)(D).** *(Division of Family and Children; 470 IAC 6-2-1; filed Apr 12, 1984, 8:24 a.m.: 7 IR 1503; filed Jul 16, 1987, 2:00 p.m.: 10 IR 2663; filed Jun 1, 1989, 10:00 a.m.: 12 IR 1855; readopted filed Jul 12, 2001, 1:40 p.m.: 24 IR 4235)*

SECTION 2. 470 IAC 6-2-13 IS AMENDED TO READ AS FOLLOWS:

470 IAC 6-2-13 Certification periods
Authority: IC 12-13-2-3; IC 12-13-5-3
Affected: IC 12-13-7-6

Sec. 13. (a) The agency shall establish a certification period for a PA household such that ~~the aid to families with dependent children (AFDC)~~ **temporary assistance to needy families (TANF)** restudy and food stamp recertification may be accomplished at the same time, provided no loss of, or delay in receipt of, food stamp benefits occurs.

(b) The agency shall establish a certification period tailored to the income calculation for any NA household for which self-employment income is annualized, contractual income is annualized, or educational income is prorated over the period the educational income is intended to cover.

(c) The agency shall establish a certification period of six (6) months ~~when an individual and his or her minor children and spouse live with the individual's parent or sibling.~~ **for all households except those which consist of all members who are elderly or disabled according to the criteria as stated in 7 CFR 273.1(b)(2). Elderly or disabled households shall have a certification period of twelve (12) months.**

~~(d) If an NA household falls subject to the criteria in subsections (b) through (c), the agency shall establish a certification period of six (6) months.~~

~~(e) If a household does not fall subject to any of the criteria described in subsections (a) through (c), the agency shall establish the longest certification period possible (up to one (1)~~

~~year)~~ ~~based~~ ~~on~~ ~~the~~ ~~predictability~~ ~~of~~ ~~the~~ ~~household's~~ ~~circumstances.~~

~~(f)~~ **(d)** When one (1) household moves into another household, residing at the same address, the agency shall shorten the certification period of the household with the longest certification in order to align the certification periods. *(Division of Family and Children; 470 IAC 6-2-13; filed Apr 12, 1984, 8:24 a.m.: 7 IR 1506; filed Jul 16, 1987, 2:00 p.m.: 10 IR 2665; filed Jun 1, 1989, 10:00 a.m.: 12 IR 1856; filed May 17, 1993, 5:00 p.m.: 16 IR 2402; readopted filed Jul 12, 2001, 1:40 p.m.: 24 IR 4235)*

SECTION 3. 470 IAC 6-4.1-4 IS AMENDED TO READ AS FOLLOWS:

470 IAC 6-4.1-4 Change reporting
Authority: IC 12-13-2-3; IC 12-13-5-3
Affected: IC 12-13-7-6

Sec. 4. **(a) Households with a six (6) month certification period are only required to report when the monthly income exceeds one hundred thirty percent (130%) of the federal poverty level. Households must report changes in the gross income greater than one hundred thirty percent (130 %) of the federal poverty level by the tenth day of the next month after the change occurs.**

~~(a)~~ **(b)** Households **with a twelve (12) month certification period** must report changes as required in 7 CFR 273.12. ~~with the exception that the state agency~~

(c) Households with a six (6) month certification period may report any other changes that occur, and those changes will be processed after verification is provided.

(d) Neither the division nor the county office shall ~~not~~ pay ~~the~~ postage for ~~the household~~ **households** to mail the change report form provided by the agency.

~~(b)~~ **(e)** All changes reported within the certification period necessary to determine eligibility shall be verified prior to implementing the changes.

~~(c)~~ **(f)** All reported changes which result in an increase in benefits shall be reflected the month following the month the change is reported providing verification is provided timely.

~~(d)~~ **(g)** Households which do not cooperate by providing requested verification ~~and/or~~ **or** information, **or both,** of reported changes, necessary to determine eligibility, shall be discontinued with advance notice. *(Division of Family and Children; 470 IAC 6-4.1-4; filed May 17, 1993, 5:00 p.m.: 16 IR 2404; readopted filed Jul 12, 2001, 1:40 p.m.: 24 IR 4235)*

Notice of Public Hearing

Under IC 4-22-2-24, notice is hereby given that on August 27, 2003 at 10:00 a.m., at the Indiana Government Center-South, 402 West Washington Street, Training Center Room 8, Indianapolis, Indiana the Division of Family and Children will hold a public hearing on proposed rules to establish a six month certification period for certain food stamp recipients and to provide for simplified change reporting requirements for said persons on six month certification. Written comments may be directed to the Indiana Government Center-South, 402 West Washington Street, Room W451, MS-27 Office of General Counsel, Attention: Deniece Safewright, Indianapolis, Indiana 46204. Correspondence should be identified in the following manner: "COMMENTS RE: PROPOSED RULE FOR FOOD STAMP CHANGE REPORTING, LSA #03-136". Written comments received will be made available for public display at the above listed address of the Office of General Counsel. Copies of these rules are now on file at the Indiana Government Center-South, 402 West Washington Street, Room W451 and Legislative Services Agency, One North Capitol, Suite 325, Indianapolis, Indiana and are open for public inspection.

John Jay Boyce
Director
Division of Family and Children

TITLE 550 BOARD OF TRUSTEES OF THE INDIANA STATE TEACHERS' RETIREMENT FUND

Proposed Rule
LSA Document #03-100

DIGEST

Adds 550 IAC 7 concerning the pickup of additional member contributions to a member's annuity savings account. Effective 30 days after filing with the secretary of state.

550 IAC 7

SECTION 1. 550 IAC 7 IS ADDED TO READ AS FOLLOWS:

ARTICLE 7. ADDITIONAL CONTRIBUTIONS

Rule 1. Elective Payroll Deductions for Additional Contributions

550 IAC 7-1-1 Miscellaneous
Authority: IC 21-6.1-3-6
Affected: IC 5-10.2-3-2

Sec. 1. (a) The purpose of this rule is to provide a pickup of member contributions by participating employers under Section 414(h)(2) of the Internal Revenue Code of 1986 for additional employee contributions made to the member's annuity savings account under IC 5-10.2-3-2(c) and IC 5-

10.2-3-2(d). Employers may elect to participate in the pickup of additional employee contributions by a resolution adopting the provisions of this rule.

(b) A member in active covered employment (with an electing employer) who elects to make contributions to the member's annuity savings account in addition to the contributions required under IC 5-10.2-3-2(b) may do so through a binding, irrevocable payroll deduction authorization.

(c) A member in active covered employment, having executed a binding, irrevocable payroll deduction authorization with respect to any such additional contributions, shall not be entitled to any option of choosing to receive the contributed amounts directly instead of having them paid by the employer to the board of trustees of the Indiana state teachers' retirement fund (board). Such contributions shall be remitted to the fund in the same manner as all other contributions and shall be credited to the member's annuity savings account. The salary the employer will use to calculate such contributions will be the same as the salary the employer reports to the board for purposes of determining a member's mandatory contribution and benefit calculation. Such contributions, although designated as employee contributions, will be paid by the employer in lieu of contributions by the employee. The contributions so assumed shall be treated as tax-deferred employer pickup contributions pursuant to Section 414(h)(2) of the Internal Revenue Code of 1986, subject to a favorable letter ruling by the Internal Revenue Service.

(d) A member in active covered employment may elect to pay all or part of any additional contribution through payroll deduction. This election is available for two (2) years beginning on the September 1 following the plan year in which the employee completes five (5) years of creditable service and ending on the August 31 of the second calendar year following the opening of the election period. The amounts to be deducted and the duration of the deduction shall be specified on the authorization form prescribed by the board, and the amounts and duration shall be irrevocable and binding once made. Prepayment of amounts covered by the authorization is not permitted. However, nothing herein shall prevent a member from paying any amounts not covered by the authorization with after-tax dollars up to the statutory maximum. The investment of the additional contributions shall be made in the same manner and percentage as the investment of the member's mandatory contributions.

(e) If a member terminates and then returns to covered employment with a different employer, when the member has five (5) or more years of creditable service credited or recredited under Indiana statutes, the member shall be entitled to execute a new binding irrevocable payroll deduction authorization within a two (2) year election period beginning on the September 1 following the plan year in which the employee completes or is recredited with five (5) years of creditable service and ending on the August 31 of the second calendar year following the opening of the election period. If a member terminates and then returns to covered employment with the same employer, the member's binding irrevocable payroll deduction authorization (if any) shall be immediately effective upon rehire.

(f) No payroll deduction shall begin unless and until the active member executes the payroll deduction authorization on a form prescribed by the board, which must be received within the election period defined in subsection (d). The board will send such form to the treasurer or other disbursing officer of the employer. After receiving the binding, irrevocable payroll deduction authorization, the treasurer or other disbursing officer of each employer shall add such contributions to the contributions deducted from the member's regular compensation each pay day. The employer shall treat these deductions as picked up contributions.

(g) All such payroll deductions, including the amounts and the duration specified, shall be binding and irrevocable upon the member's execution of the prescribed form. A member may execute and submit the payroll deduction authorization with the election period defined in subsection (d), effective as of the next possible payroll date within the election period. Notwithstanding the above, such deductions will cease only after the authorization has expired by its terms or upon any of the following events:

(1) The member's death.

(2) The termination of the member's employment.

Distribution of the additional contributions shall be made in the same manner as distributions from the member's annuity savings account. In no event shall the member receive a return of the payroll deductions made hereunder except pursuant to the normal disbursement procedures of IC 5-10.2 et seq.

(h) Members with at least five (5) years of creditable service as of June 30, 2003, may elect to make additional contributions to their annuity savings accounts through a payroll deduction pursuant to this provision between September 1, 2003, and August 31, 2005. *(Board of Trustees of the Indiana State Teachers' Retirement Fund; 550 IAC 7-1-1)*

Notice of Public Hearing

Under IC 4-22-2-24, notice is hereby given that on August 22, 2003 at 1:00 p.m., at the Indiana State Teachers' Retirement Fund, 150 West Market Street, Suite 300, Board Room, Indianapolis, Indiana the Board of Trustees of the Indiana State

Teachers' Retirement Fund will hold a public hearing on a proposed new rule regarding the pickup of additional member contributions to a member's annuity savings account. Copies of these rules are now on file at the Indiana State Teachers' Retirement Fund, 150 West Market Street, Suite 300 and Legislative Services Agency, One North Capitol, Suite 325, Indianapolis, Indiana and are open for public inspection.

Thomas N. Davidson
General Counsel
Board of Trustees of the Indiana State Teachers' Retirement Fund

TITLE 675 FIRE PREVENTION AND BUILDING SAFETY COMMISSION

Proposed Rule
LSA Document #03-71

DIGEST

Amends 675 IAC 14-4.2, the Indiana Residential Code. Amends 675 IAC 17-1.6, the Indiana Electrical Code. Amends 675 IAC 19-3-4 of the Indiana Energy Conservation Code, which applies to detached one and two family dwellings (Class 2 structures) and townhouses. Repeals 675 IAC 14-4.2-89.7, 675 IAC 14-4.2-89.10, 675 IAC 14-4.2-89.11, and 675 IAC 14-4.2-192. Effective 30 days after filing with the secretary of state.

675 IAC 14-4.2-1
675 IAC 14-4.2-2
675 IAC 14-4.2-3
675 IAC 14-4.2-6
675 IAC 14-4.2-7
675 IAC 14-4.2-9
675 IAC 14-4.2-13.5
675 IAC 14-4.2-15.5
675 IAC 14-4.2-19.5
675 IAC 14-4.2-20.5
675 IAC 14-4.2-21
675 IAC 14-4.2-22
675 IAC 14-4.2-26.5
675 IAC 14-4.2-27.5
675 IAC 14-4.2-29
675 IAC 14-4.2-31
675 IAC 14-4.2-34
675 IAC 14-4.2-37.5
675 IAC 14-4.2-45.3
675 IAC 14-4.2-46.8
675 IAC 14-4.2-49.1
675 IAC 14-4.2-49.3
675 IAC 14-4.2-52
675 IAC 14-4.2-53
675 IAC 14-4.2-53.7
675 IAC 14-4.2-61
675 IAC 14-4.2-63
675 IAC 14-4.2-69.5
675 IAC 14-4.2-71
675 IAC 14-4.2-73.5
675 IAC 14-4.2-77.6
675 IAC 14-4.2-77.7
675 IAC 14-4.2-81.2
675 IAC 14-4.2-81.3
675 IAC 14-4.2-81.7
675 IAC 14-4.2-82
675 IAC 14-4.2-83
675 IAC 14-4.2-89.2
675 IAC 14-4.2-89.6
675 IAC 14-4.2-89.7
675 IAC 14-4.2-89.8
675 IAC 14-4.2-89.9
675 IAC 14-4.2-89.10
675 IAC 14-4.2-89.11
675 IAC 14-4.2-95
675 IAC 14-4.2-96.2
675 IAC 14-4.2-97.5
675 IAC 14-4.2-97.9
675 IAC 14-4.2-107
675 IAC 14-4.2-112.5
675 IAC 14-4.2-117
675 IAC 14-4.2-171.5
675 IAC 14-4.2-174.5
675 IAC 14-4.2-177.5
675 IAC 14-4.2-189
675 IAC 14-4.2-189.2
675 IAC 14-4.2-191.4
675 IAC 14-4.2-192
675 IAC 17-1.6-12
675 IAC 17-1.6-16
675 IAC 19-3-4

SECTION 1. 675 IAC 14-4.2-1 IS AMENDED TO READ AS FOLLOWS:

675 IAC 14-4.2-1 Adoption by reference; title; availability; purpose
Authority: IC 22-13-2-2; IC 22-13-2-13
Affected: IC 22-12; IC 22-13; IC 22-14; IC 22-15; IC 36-7

Sec. 1. (a) That certain document being titled the International Residential Code for One and Two Family Dwellings published by the International Code Council, 5203 Leesburg Pike, Suite 708, Falls Church, Virginia 22041-3401, is hereby adopted by reference as if fully set out in this rule save and except those revisions made in this rule.

(b) This rule shall be known as the Indiana Residential Code, 2001 edition, and shall be published, except incorporated documents, by the fire and building services department for general distribution and use under that title. Wherever the term "this code" is used throughout this rule, it shall mean the Indiana Residential Code, 2001 edition.

(c) This rule is available ~~from~~ **for reference and review at** the Fire and Building Services Department, Indiana Government Center-South, 402 West Washington Street, Room ~~E221,~~ **W246,** Indianapolis, Indiana 46204.

(d) The purpose of this code is to provide minimum requirements for safety and to safeguard property, ~~and~~ public **safety, and general** welfare, **through affordability,** by regulating and controlling the design, construction, installation, and quality of materials of residential structures as regulated by this code. *(Fire Prevention and Building Safety Commission; 675 IAC 14-4.2-1; filed May 23, 2001, 4:02 p.m.: 24 IR 3032)*

SECTION 2. 675 IAC 14-4.2-2 IS AMENDED TO READ AS FOLLOWS:

675 IAC 14-4.2-2 Chapter 1; administration
Authority: IC 22-13-2-2; IC 22-13-2-13
Affected: IC 4-21.5; IC 4-22-7-7; IC 22-12-1-16; IC 22-12-1-17; IC 22-12-7; IC 22-13-2-7; IC 22-13-5; IC 22-14; IC 22-15; IC 25-4; IC 25-31; IC 36-7

Sec. 2. Delete Chapter 1 and substitute as follows: (a) SECTION R101 Application is added to read as follows:
SECTION R101 APPLICATION
The provisions of this code apply to the construction, prefabrication, alteration, addition, and remodel of detached one (1) or two (2) family dwellings and one (1) family townhouses not

more than three (3) stories in height and their accessory structures.
This code does not apply to manufactured homes as defined in SECTION R202, SECTION AE201, and IC 22-12-1-16 except as addressed in APPENDIX E.
This code does not apply to mobile structures as defined in IC 22-12-1-17.
Townhouses are classified as Class 1 structures and detached one (1) and two (2) family dwellings and their accessory structures are classified as Class 2 structures.
Provisions in the appendices are not enforceable unless specifically adopted.
The codes and standards referenced in this code shall be considered part of the requirements of this code to the prescribed extent of each such reference. Where differences occur between provisions of this code and referenced codes and standards, the provisions of this code shall apply.

EXCEPTION: Where **the** enforcement of a code provision would violate ~~the conditions of~~ the listing of the equipment, ~~or~~ appliance, **or certification of engineered products by a registered architect registered under IC 25-4 or a professional engineer registered under IC 25-31,** the conditions of the listing, ~~and~~ manufacturer's instructions, **or professional certification by a registered architect or professional engineer** shall apply.

(b) SECTION R102 is added to read as follows:
SECTION R102 APPEALS AND INTERPRETATIONS
Appeals from orders issued by the Fire Prevention and Building Safety Commission or the state building commissioner are governed by IC 4-21.5 and IC 22-12-7. Appeals from orders by a local unit of government are governed by IC 22-13-2-7 and local ordinance. Upon the written request of an interested person, the office of the state building commissioner may issue a written interpretation of a building law. The written interpretation as issued under IC 22-13-5 binds the interested person and the county or municipality with whom the interested person has the dispute until overruled under IC 4-21.5. **A written interpretation of a building law binds all counties and municipalities if the office of the state building commissioner publishes the written interpretation of the building law in the Indiana Register under IC 4-22-7-7(b).**

(c) SECTION R103 is added to read as follows:
SECTION R103 PLANS
Plans shall be submitted for Class 1 structures as required by the General Administrative Rules (675 IAC 12-6) and for Class 2 structures as required by local ordinance.

(d) SECTION R104 is added to read as follows:
SECTION R104 EXISTING CONSTRUCTION
For existing construction see the General Administrative Rules (675 IAC 12-4) and local ordinance.

(e) SECTION R105 is added to read as follows:
SECTION R105 ADDITIONS AND ALTERATIONS
Additions and alterations to any structure shall conform to that required for a new structure without requiring the existing structure to comply with all the requirements of this code. Additions or alterations shall not cause an existing structure to become unsafe.

(f) SECTION R106 is added to read as follows:
SECTION R106 ALTERNATIVE MATERIALS, METHODS, AND EQUIPMENT
SECTION R106.1 ALTERNATE MATERIALS, METHODS, AND EQUIPMENT
The provisions of this code are not intended to limit the appropriate use of materials, appliances, equipment, or methods of design or construction not specifically prescribed by this code provided the building official determines that the proposed alternate materials, appliances, equipment, or methods of design or construction are at least equivalent of that prescribed in this code in suitability, quality, strength, effectiveness, fire resistance, durability, dimensional stability, safety, and sanitation. For Class 1 structures, alternate materials, methods, equipment, and design shall be as required by the General Administrative Rules (675 IAC 12-6-11). Compliance with specific provisions of the Indiana Building Code (675 IAC 13) or the Indiana Plumbing Code (675 IAC 16) in lieu of the requirements of this code shall be permitted as an alternate.
SECTION R106.2 EVIDENCE
The building official may require that evidence or proof be submitted to substantiate any claims that may be made regarding the proposed alternate.
SECTION R106.3 TESTS
Determination of equivalence shall be based on design or test methods or other such standards. The building official may accept as supporting data to assist in this determination duly authenticated reports from the Building Officials and Code Administrators International, Inc., Southern Building Code Congress International, Inc., International Conference of Building Officials, the International Code Council, Inc., or their successors, or acceptance documents from the U. S. Department of Housing and Urban Development, **the certification of a registered architect registered under IC 25-4 or a professional engineer registered under IC 25-31,** or the General Administrative Rules (675 IAC 12).

(g) SECTION R107 is added to read as follows:
SECTION R107 WORKMANSHIP
General Workmanship. All construction methods shall be accepted practices to ensure livable and safe housing and shall demonstrate acceptable workmanship. *(Fire Prevention and Building Safety Commission; 675 IAC 14-4.2-2; filed May 23, 2001, 4:02 p.m.: 24 IR 3033)*

SECTION 3. 675 IAC 14-4.2-3 IS AMENDED TO READ AS FOLLOWS:

675 IAC 14-4.2-3 Section R202; definitions

Authority: IC 22-13-2-2; IC 22-13-2-13
Affected: IC 22-12; IC 22-13; IC 22-14; IC 22-15; IC 36-7

Sec. 3. Change SECTION R202 Definitions as follows: (a) Change in the definition of ACCESSORY STRUCTURE to read as follows: In one and two family dwellings and for the purpose of APPENDIX E, structures not more than three (3) stories high with separate means of egress, and the use of which is incidental to that of the main building and which is located on the same lot.

(b) Change the definition of ALTERATION by deleting "other than repair".

(c) Change APPROVED to read as follows: APPROVED means, as to materials, equipment, and types of construction, acceptance by the building official by one (1) of the following methods:

(1) investigation or tests conducted by recognized authorities; ~~or~~

(2) investigation or tests conducted by technical or scientific organizations; or

(3) accepted principles.

The investigation, tests, or principles shall establish that the materials, equipment, and types of construction are safe for their intended purpose.

(d) Change the definition of BUILDING, EXISTING to read as follows: BUILDING, EXISTING. Existing building is a building or structure erected prior to the adoption of this code.

(e) Change the definition of BUILDING OFFICIAL to read as follows: BUILDING OFFICIAL, as used in this code, shall be the local official or officials as designated in local ordinance, except it shall be the state building commissioner for Industrialized Building Systems under 675 IAC 15 and IC 22-15 and for plan review for townhouses under 675 IAC 12 and IC 22-15.

(f) Delete the definition of CONSTRUCTION DOCUMENTS and substitute to read as follows: CONSTRUCTION DOCUMENTS. For construction documents see the General Administrative Rules (675 IAC 12) for Class 1 structures and local ordinance for Class 2 structures.

(g) Delete EMERGENCY ESCAPE AND RESCUE OPENING and substitute to read as follows: EMERGENCY ESCAPE OPENING. An operable window, door, or similar device that provides for a means of escape in the event of an emergency.

(h) Delete from the definition of ESSENTIALLY NONTOXIC TRANSFER FLUIDS the following: "and FDA-approved boiler water additions for steam boilers".

(i) Change the definition of EXISTING INSTALLATIONS to read as follows: Any system regulated by this code that was legally installed prior to the effective date of this code.

(j) Add **the definition of FAMILY** after the definition of FACTORY-BUILT CHIMNEY ~~the definition of FAMILY~~ to read as follows: FAMILY means an individual or two (2) or more persons related by blood or marriage and/or a group of not more than ten (10) persons (excluding servants) who need not be related by blood or marriage living together in a dwelling unit.

(k) Add in the definition of FOAM PLASTIC INSULATION "of" between ~~the words~~ "consisting" and "open".

(l) Add the definition of FOUNDATION WALL after FOAM PLASTIC INSULATION to read as follows: FOUNDATION WALL means the supporting element(s) that extend from the top of the footing to the bottom of the sill plate.

~~(l)~~ **(m)** Delete in the definition of HEATING DEGREE DAY (HDD) "acceptable to the code" and substitute "approved by the building".

~~(m)~~ **(n)** Add the following definitions after INSULATING SHEATHING:

INTERNATIONAL BUILDING CODE means the Indiana Building Code (675 IAC 13).

ICC ELECTRICAL CODE means the Indiana Electrical Code (675 IAC 17).

INTERNATIONAL FIRE CODE means the Indiana Fire Code (675 IAC 22).

INTERNATIONAL FUEL GAS CODE means the Indiana ~~Mechanical~~ **Fuel Gas** Code ~~(675 IAC 18).~~ **(675 IAC 25).**

INTERNATIONAL MECHANICAL CODE means the Indiana Mechanical Code (675 IAC 18).

INTERNATIONAL PLUMBING CODE means the Indiana Plumbing Code (675 IAC 16).

~~(n)~~ **(o)** Delete the definition of LABELED and substitute to read as follows: LABELED. Equipment or materials to which has been attached a label, symbol, or other identifying mark of an organization engaged in product evaluation that maintains periodic inspection or production of labeled equipment or materials and by whose labeling the manufacturer indicates compliance with appropriate standards or performance in a specified manner.

~~(o)~~ **(p)** Delete the definition of LISTED AND LISTING and substitute to read as follows: LISTED AND LISTING. Equipment or materials included in a list published by an organization engaged in product evaluation that maintains periodic inspection of production of listed equipment or materials and whose listing states either that the equipment or material meets appropriate standards or has been tested and found suitable for use in a specified manner.

~~(p)~~ **(q)** Add the definition of NATIONAL ELECTRICAL CODE after MULTIPLE STATION SMOKE ALARM to read as follows: NATIONAL ELECTRICAL CODE means the Indiana Electrical Code (675 IAC 17).

~~(q)~~ **(r)** Add the definition of NFPA 70 after NATURAL DRAFT SYSTEM to read as follows: NFPA 70 means the Indiana Electrical Code (675 IAC 17).

~~(r)~~ **(s)** Delete the definition of PERMIT.

~~(s)~~ **(t)** Delete in the definition of PLUMBING, "repairs, maintenance".

~~(t)~~ **(u)** Delete in the definition of PLUMBING APPURTENANCE "maintenance, servicing, economy".

~~(u)~~ **(v)** Delete the definition of POTABLE WATER and substitute to read as follows: POTABLE WATER. Water that at the point of use is acceptable for human consumption under drinking water standards adopted by the Water Pollution Control Board at 327 IAC 8.

~~(v)~~ **(w)** Delete the definition of REGISTERED DESIGN PROFESSIONAL.

~~(w)~~ **(x)** Add the definition of RECESSED LIGHT after RECEPTOR to read as follows: RECESSED LIGHT means a light fixture that by design penetrates the thermal boundary of the building.

~~(x)~~ **(y)** Delete the definition of ROOF REPAIR.

~~(y)~~ **(z)** Add the definition of SLAB-ON-GRADE FLOOR INSULATION after SKYLIGHT AND SLOPED GLAZING to read as follows: SLAB-ON-GRADE FLOOR INSULATION means insulation around the perimeter of the floor slab or its supporting foundation.

(aa) Add the definition of SMOKE ALARM after SLOPE to read as follows: SMOKE ALARM an alarm device that is responsive to smoke.

(bb) Add the definition of TACTILE NOTIFICATION APPLIANCE after SWEEP to read as follows: TACTILE NOTIFICATION APPLIANCE a notification appliance that alerts by sense of touch or vibration.

~~(z)~~ **(cc)** Add to the definition of TOWNHOUSE, between "units" and "in", "separated by property lines". *(Fire Prevention and Building Safety Commission; 675 IAC 14-4.2-3; filed May 23, 2001, 4:02 p.m.: 24 IR 3034)*

SECTION 4. 675 IAC 14-4.2-6 IS AMENDED TO READ AS FOLLOWS:

675 IAC 14-4.2-6 Table R301.2(1); climatic and geographical design criteria

Authority: IC 22-13-2-2; IC 22-13-2-13
Affected: IC 22-12; IC 22-13; IC 22-14; IC 22-15; IC 36-7

Sec. 6. Delete TABLE R301.2(1) and corresponding footnotes and substitute to read as follows:

TABLE R301.2(1)

No.	County	Wind Speed[1] (MPH)	Seismic Zone[2]	**Ground** Snow (PSF)	Foundation[3]	Winter Design Temp	Decay	Termite	Weathering[4]
01	Adams	90	B	20	36	1°	Slight to Moderate	Moderate to Heavy	Severe
02	Allen	90	B	20	36	1°	Slight to Moderate	Moderate to Heavy	Severe
03	Bartholomew	90	B	20	24	9°	Slight to Moderate	Moderate to Heavy	Severe
04	Benton	90	B	20	36	1°	Slight to Moderate	Moderate to Heavy	Severe
05	Blackford	90	B	20	30	2º	Slight to Moderate	Moderate to Heavy	Severe
06	Boone	90	B	20	30	2º	Slight to Moderate	Moderate to Heavy	Severe
07	Brown	90	B	20	24	9º	Slight to Moderate	Moderate to Heavy	Severe
08	Carroll	90	B	20	36	1º	Slight to Moderate	Moderate to Heavy	Severe
09	Cass	90	A	20	36	1º	Slight to Moderate	Moderate to Heavy	Severe

10	Clark	90	B	20	24	9º	Slight to Moderate	Moderate to Heavy	Severe
11	Clay	90	C	20	24	9º	Slight to Moderate	Moderate to Heavy	Severe
12	Clinton	90	B	20	30	2º	Slight to Moderate	Moderate to Heavy	Severe
13	Crawford	90	C	20	24	9º	Slight to Moderate	Moderate to Heavy	Severe
14	Daviess	90	C_1	20	24	9º	Slight to Moderate	Moderate to Heavy	Severe
15	Dearborn	90	B	20	24	9º	Slight to Moderate	Moderate to Heavy	Severe
16	Decatur	90	B	20	24	9º	Slight to Moderate	Moderate to Heavy	Severe
17	Dekalb	90	B	30	36	1º	Slight to Moderate	Moderate to Heavy	Severe
18	Delaware	90	B	20	30	2º	Slight to Moderate	Moderate to Heavy	Severe
19	Dubois	90	C	20	24	9º	Slight to Moderate	Moderate to Heavy	Severe
20	Elkhart	90	A	30	36	1º	Slight to Moderate	Moderate to Heavy	Severe
21	Fayette	90	B	20	30	2º	Slight to Moderate	Moderate to Heavy	Severe
22	Floyd	90	B	20	24	9º	Slight to Moderate	Moderate to Heavy	Severe
23	Fountain	90	B	20	30	2º	Slight to Moderate	Moderate to Heavy	Severe
24	Franklin	90	B	20	24	9º	Slight to Moderate	Moderate to Heavy	Severe
25	Fulton	90	A	30	36	1º	Slight to Moderate	Moderate to Heavy	Severe
26	Gibson	90	C_1	20	24	9º	Slight to Moderate	Moderate to Heavy	Severe
27	Grant	90	B	20	30	2º	Slight to Moderate	Moderate to Heavy	Severe
28	Greene	90	C	20	24	9º	Slight to Moderate	Moderate to Heavy	Severe
29	Hamilton	90	B	20	30	2º	Slight to Moderate	Moderate to Heavy	Severe
30	Hancock	90	B	20	30	2º	Slight to Moderate	Moderate to Heavy	Severe
31	Harrison	90	B	20	24	9º	Slight to Moderate	Moderate to Heavy	Severe
32	Hendricks	90	B	20	30	2º	Slight to Moderate	Moderate to Heavy	Severe
33	Henry	90	B	20	30	2º	Slight to Moderate	Moderate to Heavy	Severe
34	Howard	90	A	20	30	2º	Slight to Moderate	Moderate to Heavy	Severe

35	Huntington	90	B	20	36	1º	Slight to Moderate	Moderate to Heavy	Severe
36	Jackson	90	B	20	24	9º	Slight to Moderate	Moderate to Heavy	Severe
37	Jasper	90	B	30	36	1º	Slight to Moderate	Moderate to Heavy	Severe
38	Jay	90	B	20	30	2º	Slight to Moderate	Moderate to Heavy	Severe
39	Jefferson	90	B	20	24	9º	Slight to Moderate	Moderate to Heavy	Severe
40	Jennings	90	B	20	24	9º	Slight to Moderate	Moderate to Heavy	Severe
41	Johnson	90	B	20	30	2º	Slight to Moderate	Moderate to Heavy	Severe
42	Knox	90	C_1	20	24	9º	Slight to Moderate	Moderate to Heavy	Severe
43	Kosciusko	90	A	30	36	1º	Slight to Moderate	Moderate to Heavy	Severe
44	LaGrange	90	A	30	36	1º	Slight to Moderate	Moderate to Heavy	Severe
45	Lake	90	B	30	36	1º	Slight to Moderate	Moderate to Heavy	Severe
46	LaPorte	90	A	30	36	1º	Slight to Moderate	Moderate to Heavy	Severe
47	Lawrence	90	C	20	24	9º	Slight to Moderate	Moderate to Heavy	Severe
48	Madison	90	B	20	30	2º	Slight to Moderate	Moderate to Heavy	Severe
49	Marion	90	B	20	30	2º	Slight to Moderate	Moderate to Heavy	Severe
50	Marshall	90	A	30	36	1º	Slight to Moderate	Moderate to Heavy	Severe
51	Martin	90	C	20	24	9º	Slight to Moderate	Moderate to Heavy	Severe
52	Miami	90	A	20	36	1º	Slight to Moderate	Moderate to Heavy	Severe
53	Monroe	90	C	20	24	9º	Slight to Moderate	Moderate to Heavy	Severe
54	Montgomery	90	B	20	30	2º	Slight to Moderate	Moderate to Heavy	Severe
55	Morgan	90	B	20	30	2º	Slight to Moderate	Moderate to Heavy	Severe
56	Newton	90	B	30	36	1º	Slight to Moderate	Moderate to Heavy	Severe
57	Noble	90	A	30	36	1º	Slight to Moderate	Moderate to Heavy	Severe
58	Ohio	90	B	20	24	9º	Slight to Moderate	Moderate to Heavy	Severe
59	Orange	90	C	20	24	9º	Slight to Moderate	Moderate to Heavy	Severe

60	Owen	90	C	20	24	9º	Slight to Moderate	Moderate to Heavy	Severe
61	Parke	90	B	20	30	2º	Slight to Moderate	Moderate to Heavy	Severe
62	Perry	90	C	20	24	9º	Slight to Moderate	Moderate to Heavy	Severe
63	Pike	90	C_1	20	24	9º	Slight to Moderate	Moderate to Heavy	Severe
64	Porter	90	B	30	36	1º	Slight to Moderate	Moderate to Heavy	Severe
65	Posey	90	C_1	20	24	9º	Slight to Moderate	Moderate to Heavy	Severe
66	Pulaski	90	A	30	36	1º	Slight to Moderate	Moderate to Heavy	Severe
67	Putnam	90	B	20	30	2º	Slight to Moderate	Moderate to Heavy	Severe
68	Randolph	90	B	20	30	2º	Slight to Moderate	Moderate to Heavy	Severe
69	Ripley	90	B	20	24	9º	Slight to Moderate	Moderate to Heavy	Severe
70	Rush	90	B	20	30	2º	Slight to Moderate	Moderate to Heavy	Severe
71	St. Joseph	90	A	30	36	1º	Slight to Moderate	Moderate to Heavy	Severe
72	Scott	90	B	20	24	9º	Slight to Moderate	Moderate to Heavy	Severe
73	Shelby	90	B	20	30	2º	Slight to Moderate	Moderate to Heavy	Severe
74	Spencer	90	C_1	20	24	9º	Slight to Moderate	Moderate to Heavy	Severe
75	Starke	90	A	30	36	1º	Slight to Moderate	Moderate to Heavy	Severe
76	Steuben	90	A	30	36	1º	Slight to Moderate	Moderate to Heavy	Severe
77	Sullivan	90	C_1	20	24	9º	Slight to Moderate	Moderate to Heavy	Severe
78	Switzerland	90	B	20	24	9º	Slight to Moderate	Moderate to Heavy	Severe
79	Tippecanoe	90	B	20	30	2º	Slight to Moderate	Moderate to Heavy	Severe
80	Tipton	90	B	20	30	2º	Slight to Moderate	Moderate to Heavy	Severe
81	Union	90	B	20	30	2º	Slight to Moderate	Moderate to Heavy	Severe
82	Vanderburgh	90	C_1	20	24	9º	Slight to Moderate	Moderate to Heavy	Severe
83	Vermillion	90	B	20	30	2º	Slight to Moderate	Moderate to Heavy	Severe
84	Vigo	90	C	20	24	9º	Slight to Moderate	Moderate to Heavy	Severe
85	Wabash	90	A	20	36	1º	Slight to Moderate	Moderate to Heavy	Severe

86	Warren	90	B	20	30	2º	Slight to Moderate	Moderate to Heavy	Severe
87	Warrick	90	C_1	20	24	9º	Slight to Moderate	Moderate to Heavy	Severe
88	Washington	90	B	20	24	9º	Slight to Moderate	Moderate to Heavy	Severe
89	Wayne	90	B	20	30	2º	Slight to Moderate	Moderate to Heavy	Severe
90	Wells	90	B	20	36	1º	Slight to Moderate	Moderate to Heavy	Severe
91	White	90	B	20	36	1º	Slight to Moderate	Moderate to Heavy	Severe
92	Whitley	90	A	20	36	1º	Slight to Moderate	Moderate to Heavy	Severe

[1]Wind exposure category shall be determined on a site-specific basis in accordance with SECTION R301.2.1.4.
[2]See SECTION R301.2.2.
[3]Foundation is minimum foundation depth to bottom of footing from the top of the finished grade above the footing in inches.
[4]The grade of masonry units shall be determined from ASTM C34, C55, C62, C73, C90, C129, C216, or C652.
(Fire Prevention and Building Safety Commission; 675 IAC 14-4.2-6; filed May 23, 2001, 4:02 p.m.: 24 IR 3035)

SECTION 5. 675 IAC 14-4.2-7 IS AMENDED TO READ AS FOLLOWS:

675 IAC 14-4.2-7 Figures R301.2(1), R301.2(2), R301.2(3), R301.2(4), R301.2(5), R301.2(6), and R301.2(7)
Authority: IC 22-13-2-2; IC 22-13-2-13
Affected: IC 22-12; IC 22-13; IC 22-14; IC 22-15; IC 36-7

Sec. 7. Delete Figures R301.2(1), R301.2(2), R301.2(3), R301.2(4), R301.2(5), R301.2(6), ~~and~~ R301.2(7), **and 301.2(8).** *(Fire Prevention and Building Safety Commission; 675 IAC 14-4.2-7; filed May 23, 2001, 4:02 p.m.: 24 IR 3037)*

SECTION 6. 675 IAC 14-4.2-9 IS AMENDED TO READ AS FOLLOWS:

675 IAC 14-4.2-9 Section R301.2.2; seismic provisions
Authority: IC 22-13-2-2; IC 22-13-2-13
Affected: IC 22-12; IC 22-13; IC 22-14; IC 22-15; IC 36-7

Sec. 9. Change SECTION R301.2.2 to read as follows: The seismic provisions of this code shall apply to buildings constructed in Seismic Design Categories C and C_1 as determined in accordance with this section.

EXCEPTION: Detached one and two family dwellings located in Seismic Design Category C and C_1 are exempt from the seismic requirements of this code except such dwellings in Category C_1 shall comply with the provisions of SECTIONS ~~R301.2.2.5~~ ~~and~~ ~~R606.11.2~~ **R301.2.2.1.1, R301.2.2.2, R403.1.2, R403.1.4, R404.1.1, R404.1.2, R606.11, R607.1.2, R703.7, M2005.5,** and ~~FIGURE 606.10(2)~~ **FIGURES R606.10(2) and R703.7.** Townhouses in Category C and C_1 are not exempt from the seismic provisions that apply to Categories C and C_1.

The weight limitations of SECTION R301.2.2.2 shall apply to buildings in all Seismic Design Categories regulated by this code. Buildings in Seismic Design Category C, townhouses, shall be constructed in accordance with the additional requirements of SECTIONS R301.2.2.3 and R301.2.2.4. Buildings in Category C_1 are exempt from the provisions of SECTIONS R301.2.2.3, R301.2.2.4, and R301.2.2.7 but shall comply with the provisions of SECTION R301.2.2.5. *(Fire Prevention and Building Safety Commission; 675 IAC 14-4.2-9; filed May 23, 2001, 4:02 p.m.: 24 IR 3038)*

SECTION 7. 675 IAC 14-4.2-13.5 IS ADDED TO READ AS FOLLOWS:

675 IAC 14-4.2-13.5 Section R301.2.2.3; anchored stone and masonry veneer in seismic design Category C
Authority: IC 22-13-2-2; IC 22-13-2-13
Affected: IC 22-12; IC 22-13; IC 22-14; IC 22-15; IC 36-7

Sec. 13.5. Make the following changes to SECTION R301.2.2.3: Add "and C_1" after "Category C" in three (3) places. *(Fire Prevention and Building Safety Commission; 675 IAC 14-4.2-13.5)*

SECTION 8. 675 IAC 14-4.2-15.5 IS ADDED TO READ AS FOLLOWS:

675 IAC 14-4.2-15.5 Section R301.4; live load
Authority: IC 22-13-2-2; IC 22-13-2-13
Affected: IC 22-12; IC 22-13; IC 22-14; IC 22-15; IC 36-7

Sec. 15.5. Add a subsection to SECTION R301.4 to read as follows: R301.4.1 Live Load Reduction.

1. Tributary floor area. A structural member which supports a tributary floor area of greater than 200 ft^2 on a given story is permitted to be designed using a reduced uniform floor live load for each qualifying story in accordance with the following formula:

$$L = L_0\left[0.25 + \frac{10.6}{\sqrt{A_t}}\right] \geq 0.75 \text{ for } A_t > 200\ ft^2$$

Where: A_t is the tributary area of floor surface in square feet supported by the structural member and L_0 is the floor live load from TABLE 301.4.

2. Multiple stories. When floor, roof, and attic live loads from multiple story levels are applied to a structural member the live loads may be factored as follows:

$$L = L_1 + 0.7(L_2 + L_3 + ...)$$

Where: L_1 is the live load from TABLES 301.4 and 301.5 producing the maximum individual load effect and L_2, L_3, and so forth are live loads from other sources of stories in accordance with TABLES 301.4 and 301.5. *(Fire Prevention and Building Safety Commission; 675 IAC 14-4.2-15.5)*

SECTION 9. 675 IAC 14-4.2-19.5 IS ADDED TO READ AS FOLLOWS:

675 IAC 14-4.2-19.5 Section R303.4; stairway illumination

Authority: IC 22-13-2-2; IC 22-13-2-13
Affected: IC 22-12; IC 22-13; IC 22-14; IC 22-15; IC 36-7

Sec. 19.5. In the first paragraph, delete everything after the first sentence and substitute to read as follows: Interior stairways shall be provided with an artificial light source capable of illuminating treads and landings to levels not less than one (1) foot-candle (eleven (11) lux) measured in the center of treads and landings. Exterior stairways shall be provided with an artificial light source capable of illuminating the top landing to a level not less than one (1) foot-candle (eleven (11) lux). Exterior stairways providing access to a basement from the outside grade shall be provided with an artificial light source capable of illuminating the bottom landing to a level not less than one (1) foot-candle (eleven (11) lux). *(Fire Prevention and Building Safety Commission; 675 IAC 14-4.2-19.5)*

SECTION 10. 675 IAC 14-4.2-20.5 IS AMENDED TO READ AS FOLLOWS:

675 IAC 14-4.2-20.5 Section R308.4; hazardous locations

Authority: IC 22-13-2-2; IC 22-13-2-13
Affected: IC 22-12; IC 22-13; IC 22-14; IC 22-15; IC 36-7

Sec. 20.5. ~~Delete Exception number 9~~ **Make the following change** to SECTION R308.4: **Change Exception 5 to read as follows:**

5. Glazing in SECTION 308.4, item 6, when a protective bar is installed on the accessible sides of the glazing thirty-four (34) inches (eight hundred sixty-four (864) millimeters) to thirty-eight (38) inches (nine hundred sixty-five (965) millimeters) above the floor, the bar shall be capable of withstanding a horizontal load of fifty (50) pounds (twenty-two and sixty-eight hundredths (22.68) kilograms) per linear foot without contacting the glass and be a minimum of one and one-half (1½) inches (thirty-eight (38) millimeters) in height.

(Fire Prevention and Building Safety Commission; 675 IAC 14-4.2-20.5; filed May 23, 2001, 4:02 p.m.: 24 IR 3039)

SECTION 11. 675 IAC 14-4.2-21 IS AMENDED TO READ AS FOLLOWS:

675 IAC 14-4.2-21 Section R309; garages and carports

Authority: IC 22-13-2-2; IC 22-13-2-13
Affected: IC 22-12; IC 22-13; IC 22-14; IC 22-15; IC 36-7

Sec. 21. Change the title and text of SECTION R309 as follows:

(a) Change the title of SECTION R309 to read as follows: GARAGES, CARPORTS, OR ACCESSORY STRUCTURES.

(b) Change the text of SECTION 309.2 to read as follows: The garage shall be separated from the residence and its attic area by a smoke separation not less than one-half (½) inch (thirteen (13) millimeters) gypsum board applied to the garage side.

~~(b)~~ **(c)** Change the second paragraph of SECTIONS R309.3 and R309.4 to read as follows: The area of floor used for parking of automobiles or other vehicles shall be sloped to facilitate the movement of liquids to an approved drain or toward the main vehicle entry doorway.

~~(c)~~ **(d)** Delete the title and text of SECTION R309.5, Flood hazard areas, and substitute to read as follows:

R309.5 Detached garages, carports, or accessory structures.

R309.5.1 Separation. Detached garages, carports, or accessory structures shall provide not less than six (6) feet of open space between same and the residence, except that such space may be roofed in compliance with Chapters 8 and 9 of this code. Detached garages, carports, or accessory structures separated from the residence by less than six (6) feet of open space shall be considered the same as attached and shall comply with this code. In no case shall garages, carports, or accessory structures be attached to the dwelling when the footings of the structure to be attached are above the frost line and the adjacent footings of the dwelling are at or below the frost line unless approved by the building official.

R309.5.2 Requirements. Detached garages, detached carports, or accessory structures shall be constructed to applicable sections of this code unless otherwise noted in TABLE R309. Any habitable rooms(s) located within a detached garage, detached carport, or accessory structure shall meet all applicable sections of this code and shall be provided with an exit door as specified in SECTION R311.1.

~~(d)~~ **(e)** Add TABLE R309 at the end of SECTION R309 to read as follows:

TABLE R309
DETACHED GARAGES, DETACHED CARPORTS, OR ACCESSORY STRUCTURES

CONSTRUCTION REQUIREMENTS	Portable 120 Square Feet Maximum	Monolithic[1] Footings 721 Square Feet Maximum	Structures with Conventional Foundation
Footings and Foundations	No Requirements	8″ W × 18″ D[2] **or** 12″ W × 12″ D[2]	Indiana ~~One and Two Family Dwelling~~ **Residential** Code
Floors	No Requirements	Indiana ~~One and Two Family Dwelling~~ **Residential** Code	
Exterior Walls	No Requirements		
Girders and Headers	No Requirements		
Roof Systems	No Requirements		
Electrical Power Limits	One 15 Amp. Circuit		
Water Supply/Sanitation	Not Allowed	[1]	
Permanent Heat	Not Allowed	[1]	
Maximum Number of Stories	1	1[3]	3

NOTES:

[1]In structures utilizing monolithic floor systems, the water and sanitation systems and permanent heating facilities may be installed when approved flexible connections are provided.

[2]6 × 6 - W2.9 × W2.9 welded wire fabric or equivalent is required when monolithic slab footing system is used.

[3]One (1) story unless otherwise approved by the building official.

(Fire Prevention and Building Safety Commission; 675 IAC 14-4.2-21; filed May 23, 2001, 4:02 p.m.: 24 IR 3040)

SECTION 12. 675 IAC 14-4.2-22 IS AMENDED TO READ AS FOLLOWS:

675 IAC 14-4.2-22 Section R310; emergency escape and rescue openings

Authority: IC 22-13-2-2; IC 22-13-2-13
Affected: IC 22-12; IC 22-13; IC 22-14; IC 22-15; IC 36-7

Sec. 22. (a) Change SECTION R310 as follows: (a) Change the title to read as follows: EMERGENCY ESCAPE OPENINGS.

(b) Change the title and text of SECTION R310.1 to read as follows: R310.1. Emergency escape required. Every sleeping room shall have at least one (1) openable emergency escape window or exterior door opening for emergency escape. Where openings are provided as a means of escape, they shall have a sill height of not more than forty-four (44) inches (one thousand one hundred eighteen (1,118) millimeters) above the floor. Where a door opening having a threshold below the adjacent ground elevation serves as an emergency escape opening and is provided with a bulkhead enclosure, the bulkhead enclosure shall comply with SECTION R310.3. The net clear opening dimensions required by this section shall be obtained by the normal operation of the window or door opening from the inside. Escape window openings with a finished sill height below the adjacent ground elevation shall be provided with a window well in accordance with SECTION R310.2.

(c) Change SECTION R310.1.1 to read as follows: R310.1.1 Minimum opening area. All emergency escape openings shall have a minimum net clear opening of five ~~and seven-tenths (5.7)~~ **(5)** square feet ~~(five hundred thirty-thousandths (0.530) m²)~~ **(four hundred sixty-five thousandths (0.465) square meters).**

~~EXCEPTION: Grade floor openings shall have a minimum net clear opening of five (5) square feet (four hundred sixty-five thousandths (0.465) m²).~~

(d) Change SECTION R310.1.2 as follows: Minimum opening height. The minimum net clear ~~opeing~~ **opening** height shall be **twenty-two** (22) inches ~~(610 mm).~~ **(five hundred fifty-nine (559) millimeters).**

(e) Change SECTION R310.1.4 to read as follows: R310.1.4 Operational constraints. Emergency escape openings shall be operational from the inside of the room without the use of key(s) or tool(s).

(f) Change the first sentence of SECTION R310.2 to read as follows: R310.2 Window wells. Window wells required for emergency escape shall have horizontal dimensions that allow the door or window of the emergency escape opening to be fully opened.

(g) Delete in SECTION R310.2.1 "below the adjacent ground level".

(h) Delete in two (2) places in SECTION R310.4 "and rescue".

(i) Add SECTION R310.5 to read as follows: R310.5 Sleeping room replacement window alterations. When replacing existing sleeping room windows, at least one (1) of the replacement windows **within that sleeping room** shall comply with SECTION R310.5. Replacement windows that do not meet the current emergency escape requirements of SECTION R310, without structural alterations to the dwelling, may be installed as long as they meet the following requirements.

1. Replacement window installation shall not reduce the existing net clear opening by more than six (6) inches horizontally and six (6) inches vertically, except that awning replacement windows shall not reduce the existing net clear opening by more than three (3) inches vertically.

2. In no case shall the replacement window net clear opening height be less than twenty-two (22) inches (five hundred fifty-nine (559) millimeters) and the net clear opening width be less than twenty (20) inches (five hundred eight (508) millimeters).

3. Double hung or sliding replacement windows shall have both sashes removable without the use of a key or tool. Single hung installations are not allowed by this section.

4. Casement and awning replacement windows may obtain the required net clear opening with the use of egress hardware.

5. If the replacement window cannot meet the minimum requirements listed in subdivisions 1, 2, 3, and 4, the existing window shall be replaced with a like window without reducing the existing net clear opening.

(Fire Prevention and Building Safety Commission; 675 IAC 14-4.2-22; filed May 23, 2001, 4:02 p.m.: 24 IR 3040)

SECTION 13. 675 IAC 14-4.2-26.5 IS ADDED TO READ AS FOLLOWS:

675 IAC 14-4.2-26.5 Section 314.8; under-stair protection

Authority: IC 22-13-2-2; IC 22-13-2-13
Affected: IC 22-12; IC 22-13; IC 22-14; IC 22-15; IC 36-7

Sec. 26.5. Change the text of 314.8 to read as follows: Enclosed accessible space under stairs, with a door or access panel, shall have walls, under-stair surface, and any soffits protected on the enclosed side with one-half (½) inch (thirteen (13) millimeters) gypsum board.

EXCEPTION: Any under-stair space with one (1) or more open sides.

(Fire Prevention and Building Safety Commission; 675 IAC 14-4.2-26.5)

SECTION 14. 675 IAC 14-4.2-27.5 IS AMENDED TO READ AS FOLLOWS:

675 IAC 14-4.2-27.5 Section R315.1; handrails

Authority: IC 22-13-2-2; IC 22-13-2-13
Affected: IC 22-12; IC 22-13; IC 22-14; IC 22-15; IC 36-7

Sec. 27.5. Amend SECTION R315.1 to read as follows: R315.1 Handrails. Handrails having minimum and maximum heights of **thirty-four** (34) inches and **thirty-eight** (38) inches **(eight hundred sixty-four** (864) ~~mm~~ and **nine hundred sixty-five** (965) ~~mm~~ **millimeters),** respectively, measured vertically from the nosing of the treads, shall be provided on at least one **(1)** side of stairways. All required handrails shall serve each tread the full length of the ~~interior~~ stairs with three **(3)** or more risers ~~and exterior stairs with two or more risers~~ from a point directly above the top riser of a flight to a point directly above the lowest riser of the flight. Ends shall be returned or shall terminate in newel posts or safety terminals. Handrails adjacent to a wall shall have a space of not less than ~~1.5~~ **one and one-half (1½)** inches ~~(33 mm)~~ **(thirty-eight (38) millimeters)** between the wall and handrail.

EXCEPTIONS: 1. Handrails shall be permitted to be interrupted by a newel post at a turn **or by a landing.**

2. The use of a volute, turnout, or starting easing shall be allowed over the lowest tread.

(Fire Prevention and Building Safety Commission; 675 IAC 14-4.2-27.5; filed May 23, 2001, 4:02 p.m.: 24 IR 3042)

SECTION 15. 675 IAC 14-4.2-29 IS AMENDED TO READ AS FOLLOWS:

675 IAC 14-4.2-29 Section R316.1; guards required

Authority: IC 22-13-2-2; IC 22-13-2-13
Affected: IC 22-12; IC 22-13; IC 22-14; IC 22-15; IC 36-7

Sec. 29. ~~Add in the first sentence of~~ **Change** SECTION R316.1 **as follows:**

(a) In the first sentence add ", decks" between "balconies" and "or".

(b) Add a sentence at the end of the section to read as follows: Guards that are installed on porches, balconies, decks, or raised floor surfaces that are thirty (30) inches (seven hundred sixty-two (762) millimeters) or less above the floor or grade do not have to meet the requirements of SECTION 316.

(Fire Prevention and Building Safety Commission; 675 IAC 14-4.2-29; filed May 23, 2001, 4:02 p.m.: 24 IR 3042)

SECTION 16. 675 IAC 14-4.2-31 IS AMENDED TO READ AS FOLLOWS:

675 IAC 14-4.2-31 Section R317; smoke alarm

Authority: IC 22-13-2-2; IC 22-13-2-13; IC 22-11-18
Affected: IC 22-12; IC 22-13; IC 22-14; IC 22-15; IC 36-7

Sec. 31. **Delete the text of** SECTION ~~R317.1.1~~ **R317 and substitute to read** as follows: ~~(a) Delete ", repairs" in the title.~~

~~(b) Delete ", repairs" in the first paragraph.~~

~~(c) Delete "or repairs" in EXCEPTION 1.~~

~~(d) Change EXCEPTION 2 to read as follows: Repairs are exempt from the requirements of this section.~~

R317.1 Labeling. Each smoke alarm shall be listed.

R317.2 Required smoke alarm locations. At least one (1) smoke alarm shall be installed in each of the following locations:

(a) In the living area remote from the kitchen and cooking appliances. Smoke alarms located within twenty (20) feet (six and one-tenth (6.1) meters) horizontally of a cooking appliance must incorporate a temporary silencing feature or be photoelectric type.

(b) In each room designed for sleeping.

(c) On the ceiling of the upper level near the top or above each stairway, other than a basement stairway, in any multistory dwelling. The alarm shall be located so that smoke rising in the stairway cannot be prevented from reaching the alarm by an intervening door or obstruction.

(d) On the basement ceiling near the stairway.

R317.2.1 Alterations and additions. When interior alterations or additions requiring a permit occur, or when one (1) or more sleeping rooms are added or created in existing dwellings, the individual dwelling unit shall be provided with smoke alarms located as required for new dwellings; the smoke alarms shall be interconnected and hard wired.

EXCEPTIONS: 1. Smoke alarms in existing areas shall not be required to meet the requirements of R317.5 where the alterations do not result in the removal of the interior wall or ceiling finishes exposing the structure unless there is an attic, crawlspace, or basement available which could provide access for hard wiring and interconnection without the removal of interior finishes.

2. Repairs are exempt from the requirements of the section.

R317.3 Prohibited smoke alarm locations. A smoke alarm required under this section shall not be placed:

1. within three (3) feet (nine hundred fourteen (914) millimeters) horizontally from any grille moving conditioned air within the living space; or

2. in any location or environment that is prohibited by the terms of the listing.

R317.4 Mounting requirements. Smoke alarms required by SECTION 317.2 shall be mounted in accordance with their listing, instructions, and the requirements of this section.

R317.4.1 Flat Ceilings. In rooms with flat, peaked sloping or single slope ceilings with a slope of less than 1.5/12, smoke alarms shall be mounted either:

1. on the ceiling at least four (4) inches (one hundred two (102) millimeters) from each wall; or

2. on a wall with the top of the alarm not less than four (4) inches (one hundred two (102) millimeters) below the ceiling and not farther from the ceiling than twelve (12) inches (three hundred five (305) millimeters) or the distance from the ceiling specified in the smoke alarm manufacturer's listing and instructions, whichever is less.

R317.4.2 Peaked Sloping Ceilings. In rooms with peaked sloping ceilings with a slope of 1.5/12 or greater, smoke alarms shall be:

1. mounted on the ceiling within three (3) feet (nine hundred fourteen (914) millimeters), measured horizontally, from the peak of the ceiling;

2. at least four (4) inches (one hundred two (102) millimeters), measured vertically, below the peak of the ceiling; and

3. at least four (4) inches (one hundred two (102) millimeters) from any projecting structural element.

R317.4.3 Single Slope Ceilings. In rooms with single slope ceilings with a slope of 1.5/12 or greater, smoke alarms shall be:

1. mounted on the ceiling within three (3) feet (nine hundred fourteen (914) millimeters), measured horizontally, on the high slope of the ceiling; and

2. not closer than four (4) inches (one hundred two (102) millimeters) from any adjoining wall surfaces or any projecting structural element.

R 317.4.4 Visible and tactile notification appliances. In addition to the smoke alarms required pursuant to this section, listed visible and tactile notification appliances, when installed, shall be installed in accordance with this section.

R317.4.4.1 Candela Rating-Sleeping Room. A visible notification appliance, when installed in a room designed for sleeping shall have a minimum rating of one hundred seventy-seven (177) candela, except that when the visible notification appliance is wall-mounted or suspended more than twenty-four (24) inches (six hundred ten (610) millimeters) below the ceiling, a minimum rating of one hundred ten (110) candela is permitted.

R317.4.4.2 Candela Rating–Non-Sleeping Room. A visible notification appliance, when installed in an area other than a room designed for sleeping, shall have a minimum rating of fifteen (15) candela. *(Fire Prevention and Building Safety Commission; 675 IAC 14-4.2-31; filed May 23, 2001, 4:02 p.m.: 24 IR 3042)*

SECTION 17. 675 IAC 14-4.2-34 IS AMENDED TO READ AS FOLLOWS:

675 IAC 14-4.2-34 Section R323.1; location required

Authority: IC 22-13-2-2; IC 22-13-2-13
Affected: IC 22-12; IC 22-13; IC 22-14; IC 22-15; IC 36-7

Sec. 34. **Make the following changes to SECTION R323.1: (a) In the first sentence delete "Figure R301.2(7)" and substitute "TABLE R301.2(1)".**

~~(a)~~ **(b)** Change ~~SECTION 323.1,~~ item 2 to read as follows: All sills or plates that rest on concrete or masonry exterior walls and are less than six (6) inches **(one hundred fifty-two (152) millimeters)** from exposed ground or masonry veneer ledge where the wood sill is less than four (4) inches **(one hundred two (102) millimeters)** above exposed ground.

(c) Change item 3 to read as follows: Sills and sleepers on a concrete slab that is in direct contact with the ground unless separated from such slab by an impervious barrier or not required by item 2 above.

~~(b)~~ **(d)** Add an exception to SECTION R323.1, item 7 to read as follows: 7. Wood furring strips or other wood framing members attached directly to the interior of exterior masonry walls or concrete walls below grade except where an approved vapor retarder is applied between the wall and the furring strips or framing members.

EXCEPTION: Exterior walls below grade complying with SECTION R406.

(Fire Prevention and Building Safety Commission; 675 IAC 14-4.2-34; filed May 23, 2001, 4:02 p.m.: 24 IR 3043)

SECTION 18. 675 IAC 14-4.2-37.5 IS ADDED TO READ AS FOLLOWS:

675 IAC 14-4.2-37.5 Section R324.1; subterranean termite control

Authority: IC 22-13-2-2; IC 22-13-2-13
Affected: IC 22-12; IC 22-13; IC 22-14; IC 22-15; IC 36-7

Sec. 37.5. Delete "favorable to termite damage" and substitute "subject to very heavy termite damage". *(Fire Prevention and Building Safety Commission; 675 IAC 14-4.2-37.5)*

SECTION 19. 675 IAC 14-4.2-45.3 IS ADDED TO READ AS FOLLOWS:

675 IAC 14-4.2-45.3 Section 403.1.1; minimum size

Authority: IC 22-13-2-2; IC 22-13-2-13
Affected: IC 22-12; IC 22-13; IC 22-14; IC 22-15; IC 36-7

Sec. 45.3. In SECTION 403.1.1, delete the fifth sentence and substitute to read as follows: The minimum size of footings supporting piers and columns shall be in accordance with TABLE R403.2. *(Fire Prevention and Building Safety Commission; 675 IAC 14-4.2-45.3)*

SECTION 20. 675 IAC 14-4.2-46.8 IS ADDED TO READ AS FOLLOWS:

675 IAC 14-4.2-46.8 Section 403.1.6; foundation anchorage

Authority: IC 22-13-2-2; IC 22-13-2-13
Affected: IC 22-12; IC 22-13; IC 22-14; IC 22-15; IC 36-7

Sec. 46.8. Make the following changes to SECTION 403.1.6:

1. Change the fourth sentence of the second paragraph to read as follows: Bolts shall be at least one-half (½) inch (thirteen (13) millimeters) in diameter and shall extend a minimum of seven (7) inches (one hundred seventy-eight (178) millimeters) into the core or cell of masonry units or concrete.

2. Number the exception, Exception 1 and add Exception 2 to read as follows: EXCEPTION 2. In lieu of twelve (12) inches (three hundred five (305) millimeters) from the end of each plate, the wood sole plate at the exterior walls may be anchored to the foundation with one-half (½) inch (thirteen (13) millimeters) diameter bolts spaced a maximum of six (6) feet (one thousand eight hundred twenty-nine (1,829) millimeters) on center and not more than twelve (12) inches (three hundred five (305) millimeters) from the corners with not less than one (1) bolt per step. The bolts shall extend a minimum of fifteen (15) inches (three hundred eighty-one (381) millimeters) into masonry or seven (7) inches (one hundred seventy-eight (178) millimeters) into concrete.

(Fire Prevention and Building Safety Commission; 675 IAC 14-4.2-46.8)

SECTION 21. 675 IAC 14-4.2-49.1 IS ADDED TO READ AS FOLLOWS:

675 IAC 14-4.2-49.1 Section R403.1.8.1; expansive soils classifications

Authority: IC 22-13-2-2; IC 22-13-2-13
Affected: IC 22-12; IC 22-13; IC 22-14; IC 22-15; IC 36-7

Sec. 49.1. Change SECTION 403.1.8.1(4) by deleting "UBC Standard 18-1" and substitute "The Indiana Building Code, 675 IAC 13". *(Fire Prevention and Building Safety Commission; 675 IAC 14-4.2-49.1)*

SECTION 22. 675 IAC 14-4.2-49.3 IS ADDED TO READ AS FOLLOWS:

675 IAC 14-4.2-49.3 Table R403.2; size of footings supporting piers and columns

Authority: IC 22-13-2-2; IC 22-13-2-13
Affected: IC 22-12; IC 22-13; IC 22-14; IC 22-15; IC 36-7

Sec. 49.3. Add TABLE R403.2 to read as follows:

TABLE R403.2
SIZE OF FOOTINGS SUPPORTING PIERS AND COLUMNS

Spacing of Girder "S"[1]	Type of Loading[2]			Column Size Required[3]		Size of Plain Concrete Footing Required[3]
	A	B	C	Steel	Wood	
10′	5′–6″	—	—			
15′	4′–0″	—	—		4″ × 4″	2′ × 2′ × 8″
20′	—	—	—			

10′ 15′ 20′	8′–6″ 6′–0″ 4′–6″	5′–0″ 4′–0″ —	— — —	3″ Steel Pipe[4]		
10′ 15′ 20′	12′–0″ 10′–0″ 8′–0″	9′–0″ 8′–0″ 7′–0″	8′–0″ 7′–0″ 6′–0″		6″ × 6″	4′ × 4′ × 16″[5]
10′ 15′ 20′	16′–0″ 13′–6″ 12′–0″	12′–6″ 10′–6″ 9′–6″	11′–0″ 10′–0″ 8′–0″		8″ × 8″	4′3″ × 4′3″ × 18″[5]
10′ 15′ 20′	20′–0″ 17′–0″ 15′–0″	16′–0″ 13′–6″ 12′–0″	13′–6″ 11′–6″ 10′–0″			

[1]The spacing "S" is the tributary load in the girder. It is found by adding the unsupported spans of the floor joists on each side which are supported by the girder and dividing by two (2).

[2]Figures under type of loading columns are the allowable girder spans.

Type A loading is for a girder supporting one (1) floor and ceiling.

Type B loading is for a girder supporting two (2) floors and one (1) ceiling.

Type C loading is for a girder supporting three (3) floors and one (1) ceiling.

[3]Required size of column is based on girder support from two (2) sides. Size of footing is based on allowable soil pressure of two thousand (2,000) pounds per square foot.

[4]Standard weight.

[5]Footing thickness is based on the use of plain concrete with an ultimate compressive strength of not less than two thousand (2,000) pounds per square inch at twenty-eight (28) days. If approved, the footing thickness may be reduced based on an engineered design utilizing higher strength concrete and/or reinforcement.

(Fire Prevention and Building Safety Commission; 675 IAC 14-4.2-49.3)

SECTION 23. 675 IAC 14-4.2-52 IS AMENDED TO READ AS FOLLOWS:

675 IAC 14-4.2-52 Section R404.1.1; masonry foundation walls

Authority: IC 22-13-2-2; IC 22-13-2-13
Affected: IC 22-12; IC 22-13; IC 22-14; IC 22-15; IC 36-7

Sec. 52. Delete SECTION R404.1.1 and substitute to read as follows: Concrete masonry and clay foundation walls shall be constructed as set forth in TABLES R404.1.1(1), R404.1.1(2), R404.1.1(3), and R404.1.1(4); however, TABLE R404.1.1(1) can only be used in Seismic Category C_1 when the unbalanced fill is four (4) feet or less and TABLES R404.1.1(2), R404.1.1(3), and R404.1.1(4) shall be used when the unbalanced fill exceeds four (4) feet in Category C_1. These tables shall also comply with the provisions of this section and the applicable provisions of SECTIONS R606, R607, and R608. Rubble stone masonry foundation walls shall be constructed in accordance with SECTIONS R404.1.8 and R606.2.2. Rubble stone masonry walls shall not be used in Seismic Design Category C_1. Foundations constructed in Seismic Design Category C_1 shall be exempt from the seismic requirements of SECTION R606.

EXCEPTION: In Seismic Design Category C_1 foundation walls not supporting masonry veneer, use TABLE R404.1.1(1).

(Fire Prevention and Building Safety Commission; 675 IAC 14-4.2-52; filed May 23, 2001, 4:02 p.m.: 24 IR 3045)

SECTION 24. 675 IAC 14-4.2-53 IS AMENDED TO READ AS FOLLOWS:

675 IAC 14-4.2-53 Section R404.1.2; concrete foundation walls

Authority: IC 22-13-2-2; IC 22-13-2-13
Affected: IC 22-12; IC 22-13; IC 22-14; IC 22-15; IC 36-7

Sec. 53. Delete SECTION R404.1.2 and substitute to read as follows: Concrete foundation walls shall be constructed as set forth in TABLES R404.1.1(1), R404.1.1(2), R404.1.1(3), and R404.1.1(4) and shall also comply with the provisions of this section and the applicable provisions of SECTION R402.2. In Seismic Design Category C_1, TABLE R404.1.1(1) can be used only when the height of the unbalanced fill is four (4) feet or less.

EXCEPTION: In Seismic Design Category C_1 foundation walls not supporting masonry veneer may use TABLE R404.1.1(1).

(Fire Prevention and Building Safety Commission; 675 IAC 14-4.2-53; filed May 23, 2001, 4:02 p.m.: 24 IR 3046)

SECTION 25. 675 IAC 14-4.2-53.7 IS ADDED TO READ AS FOLLOWS:

675 IAC 14-4.2-53.7 Section 404.1.5; foundation wall thickness based on walls supported

Authority: IC 22-13-2-2; IC 22-13-2-13
Affected: IC 22-12; IC 22-13; IC 22-14; IC 22-15; IC 36-7

Sec. 53.7. Delete the text of SECTION 404.1.5 and substitute to read: The thickness of concrete and masonry walls shall not be less than the thickness of the wall supported.

EXCEPTION: A foundation wall of at least eight (8) inches (two hundred three (203) millimeters) thickness shall be permitted:

1. Under brick veneered walls.

2. Under ten (10) inch (two hundred fifty-four (254) millimeters) wide cavity walls where the total height of the walls supported, including gables, is not more than twenty (20) feet (six thousand ninety-six (6,096) millimeters), provided the requirements of SECTIONS R404.1.1 and R404.1.2 are met.

(Fire Prevention and Building Safety Commission; 675 IAC 14-4.2-53.7)

SECTION 26. 675 IAC 14-4.2-61 IS AMENDED TO READ AS FOLLOWS:

675 IAC 14-4.2-61 Section R408.2; openings for underfloor ventilation

Authority: IC 22-13-2-2; IC 22-13-2-13
Affected: IC 22-12; IC 22-13; IC 22-14; IC 22-15; IC 36-7

Sec. 61. **Make the following changes to SECTION 408.2: (a)** Change Exception 1 ~~in SECTION R408.2~~ to read as follows: Ventilation openings to the outdoors are not required if ventilation openings to the interior are provided.

(b) Amend Exception 5 as follows: delete "Section N1102.1.7" and substitute "Chapter 11 of this code". *(Fire Prevention and Building Safety Commission; 675 IAC 14-4.2-61; filed May 23, 2001, 4:02 p.m.: 24 IR 3046)*

SECTION 27. 675 IAC 14-4.2-63 IS AMENDED TO READ AS FOLLOWS:

675 IAC 14-4.2-63 Section R408.6; flood resistance

Authority: IC 22-13-2-2; IC 22-13-2-13
Affected: IC 22-12; IC 22-13; IC 22-14; IC 22-15; IC 36-7

Sec. 63. Delete the title and text of SECTION R408.6 and substitute to read as follows: ~~Sump pit. All nonhabitable underfloor spaces shall be graded so as to direct any water accumulation to a central collection point. A sump pit shall be installed at that point so that, in the event of excess water accumulation, the installation of a sump pump can be readily accomplished. The sump pit shall be a minimum of eighteen (18) inches (four hundred fifty-seven (457) millimeters) in diameter or equivalent and a minimum of twenty-four (24) inches (six hundred ten (610) millimeters) below the bottom of the crawl space grade. Where a porous layer of gravel, crushed stone, or coarse sand is used in the crawl space, openings shall be made in the sump to allow drainage of that layer.~~ **Underfloor drainage. In other than Group I soils as per TABLE R405.1, under-floor spaces shall be drained to prevent water accumulation by one (1) of the following methods:**

1. The under-floor space shall be graded at a slope of not less than one percent (1%) to a collection point to discharge any water accumulation by mechanical or gravity means so that, in the event of excess water accumulation, the installation of a pump can be readily accomplished.

2. The under-floor space shall be graded at a slope of not less than five-tenths percent (.5%) and not less than two (2) inches (fifty-one (51) millimeters) of #11 crushed stone or equivalent shall be placed between the earth and the vapor retarder, when a vapor retarder is required, directed to a collection point to discharge any water accumulation by mechanical or gravity means so that, in the event of excess water accumulation, the installation of a pump can be readily accomplished.

3. The under floor-space shall comply with the requirements of R405.1.

(Fire Prevention and Building Safety Commission; 675 IAC 14-4.2-63; filed May 23, 2001, 4:02 p.m.: 24 IR 3047)

SECTION 28. 675 IAC 14-4.2-69.5 IS ADDED TO READ AS FOLLOWS:

675 IAC 14-4.2-69.5 Section 502.8.1; sawn lumber

Authority: IC 22-13-2-2; IC 22-13-2-13
Affected: IC 22-12; IC 22-13; IC 22-14; IC 22-15; IC 36-7

Sec. 69.5. Add an exception to SECTION 502.8.1 to read as follows: EXCEPTION: In 2 × 8 and larger solid lumber joists, holes up to fifty percent (50%) of the actual joist depth may be drilled at the center of the joist depth in the second and fifth sixths of the joist span. When the joist spans ninety percent (90%) or less of its maximum allowed span per TABLE R502.3.1(1), such holes may also be located in the center third of the joist span. Such hole shall be no closer than six (6) inches (one hundred fifty-two (152) millimeters) from any other hole. Except for end notches, no notches may be in the same half of the span as a hole allowed by this exception. See Figure R502.8.1. *(Fire Prevention and Building Safety Commission; 675 IAC 14-4.2-69.5)*

SECTION 29. 675 IAC 14-4.2-71 IS AMENDED TO READ AS FOLLOWS:

675 IAC 14-4.2-71 Section R502.11.3; alterations to trusses

Authority: IC 22-13-2-2; IC 22-13-2-13
Affected: IC 22-12; IC 22-13; IC 22-14; IC 22-15; IC 25-4; IC 25-31; IC 36-7

Sec. 71. Change the first sentence of SECTION R502.11.3 to read as follows: Truss members and components shall not be cut, notched, spliced, or otherwise altered in any way without the ~~approval~~ **acceptance** of **a registered architect registered under IC 25-4 or a professional engineer registered under IC 25-31, the manufacturer of the truss or components, or approved by** the building official. *(Fire Prevention and*

Building Safety Commission; 675 IAC 14-4.2-71; filed May 23, 2001, 4:02 p.m.: 24 IR 3048)

SECTION 30. 675 IAC 14-4.2-73.5 IS ADDED TO READ AS FOLLOWS:

675 IAC 14-4.2-73.5 Table R602.3(1); fastener schedule for structural members

Authority: IC 22-13-2-2; IC 22-13-2-13
Affected: IC 22-12; IC 22-13; IC 22-14; IC 22-15; IC 36-7

Sec. 73.5. In Description of Building Elements of TABLE R602.3(1), change "Double top plates, minimum forty-eight (48) inch offset of end joints, face nail in lapped area" to read "Double top plates, minimum twenty-four (24) inch (six hundred ten (610) millimeters) offset of end joints, face nail in lapped area". *(Fire Prevention and Building Safety Commission; 675 IAC 14-4.2-73.5)*

SECTION 31. 675 IAC 14-4.2-77.6 IS ADDED TO READ AS FOLLOWS:

675 IAC 14-4.2-77.6 Section R602.7; headers

Authority: IC 22-13-2-2; IC 22-13-2-13
Affected: IC 22-12; IC 22-13; IC 22-14; IC 22-15; IC 36-7

Sec. 77.6. Amend SECTION R602.7, Headers by adding a section to read as follows: SECTION 602.7.3, Location. Headers less than two (2) inches (fifty-one (51) millimeters) in width that span more than eight (8) feet (two thousand four hundred thirty-eight (2,438) millimeters) shall be located at the top of the wall immediately below the top plate.

EXCEPTION: When a minimum of three-eighths (d) inch (ten (10) millimeters) structural wood sheathing is applied from the bottom of the header to the top of the wall and all joints on structural members are fastened in accordance with TABLE R602.3(1) or TABLE R602.3(2).

(Fire Prevention and Building safety Commission; 675 IAC 14-4.2-77.6)

SECTION 32. 675 IAC 14-4.2-77.7 IS ADDED TO READ AS FOLLOWS:

675 IAC 14-4.2-77.7 Section 602.8.1; materials

Authority: IC 22-13-2-2; IC 22-13-2-13
Affected: IC 22-12; IC 22-13; IC 22-14; IC 22-15; IC 36-7

Sec. 77.7. Change the second sentence of SECTION 602.8.1 to read as follows: Faced batts or blankets of mineral wool or glass fiber or other approved materials installed in such a manner as to be securely retained in place shall be permitted as an acceptable fire block. *(Fire Prevention and Building Safety Commission; 675 IAC 14-4.2-77.7)*

SECTION 33. 675 IAC 14-4.2-81.2 IS ADDED TO READ AS FOLLOWS:

675 IAC 14-4.2-81.2 Section R606.2; thickness of masonry

Authority: IC 22-13-2-2; IC 22-13-2-13
Affected: IC 22-12; IC 22-13; IC 22-14; IC 22-15; IC 36-7

Sec. 81.2. Add a second sentence to read as follows: The nominal thickness of foundation walls shall conform to the requirements of SECTION R404. *(Fire Prevention and Building Safety Commission; 675 IAC 14-4.2-81.2)*

SECTION 34. 675 IAC 14-4.2-81.3 IS ADDED TO READ AS FOLLOWS:

675 IAC 14-4.2-81.3 Section R606.2.1; minimum thickness

Authority: IC 22-13-2-2; IC 22-13-2-13
Affected: IC 22-12; IC 22-13; IC 22-14; IC 22-15

Sec. 81.3. Delete the last sentence of SECTION R606.2.1 and substitute to read as follows: The minimum thickness of masonry foundation walls shall comply with SECTION R404. Masonry walls, except masonry foundation walls, shall be laterally supported in either the horizontal or vertical direction at intervals as required by SECTION R606.8. *(Fire Prevention and Building Safety Commission; 675 IAC 14-4.2-81.3)*

SECTION 35. 675 IAC 14-4.2-81.7 IS ADDED TO READ AS FOLLOWS:

675IAC 14-4.2-81.7 Section R606.10; anchorage

Authority: IC 22-13-2-2; IC 22-13-2-13
Affected: IC 22-12; IC 22-13; IC 22-14; IC 22-15

Sec. 81.7. Add an exception to SECTION 606.10 to read as follows: EXCEPTION: Masonry foundation walls in Seismic Design Category C_1 shall comply with the requirements of SECTION R404. *(Fire Prevention and Building Safety Commission; 675 IAC 14-4.2-81.7)*

SECTION 36. 675 IAC 14-4.2-82 IS AMENDED TO READ AS FOLLOWS:

675 IAC 14-4.2-82 Section R606.11; seismic requirements

Authority: IC 22-13-2-2; IC 22-13-2-13
Affected: IC 22-12; IC 22-13; IC 22-14; IC 22-15; IC 36-7

Sec. 82. ~~Add at the end of the first sentence of~~ **Make the following changes to** SECTION R606.11: ~~"C_1" between "C," and "D_1".~~

1. Add at the end of the first sentence "C_1" between "C" and "D_1".

2. Add an exception to read as follows: Masonry foundation walls in Seismic Design Category C and C_1 shall comply with SECTION R404.

(Fire Prevention and Building Safety Commission; 675 IAC 14-

4.2-82; filed May 23, 2001, 4:02 p.m.: 24 IR 3050)

SECTION 37. 675 IAC 14-4.2-83 IS AMENDED TO READ AS FOLLOWS:

675 IAC 14-4.2-83 Section R606.11.2; seismic design Category C

Authority: IC 22-13-2-2; IC 22-13-2-13
Affected: IC 22-12; IC 22-13; IC 22-14; IC 22-15; IC 36-7

Sec. 83. **(a)** Change the title and text of SECTION R606.11.2 to read as follows: Seismic Design Category C and C_1. Structures located in Seismic Design Category C and C_1 shall comply with the requirements of this section.

(b) Add an exception to read as follows: Masonry foundation walls in Seismic Design Category C and C_1 shall comply with SECTION R404. *(Fire Prevention and Building Safety Commission; 675 IAC 14-4.2-83; filed May 23, 2001, 4:02 p.m.: 24 IR 3050)*

SECTION 38. 675 IAC 14-4.2-89.2 IS ADDED TO READ AS FOLLOWS:

675 IAC 14-4.2-89.2 Table R703.4; weather-resistant siding attachment and minimum thickness

Authority: IC 22-13-2-2; IC 22-13-2-13
Affected: IC 22-12; IC 22-13; IC 22-14; IC 22-15; IC 36-7

Sec. 89.2. Change TABLE R703.4 as follows:

1. In the column titled "Sheathing paper required", change "NO" to "YES" at all three (3) places for Horizontal Aluminum; change the "No" to "Yes" for Vinyl Siding and change (13) to (m) for Brick Veneer, Concrete Masonry veneer.

2. Change footnote m to read as follows: For masonry veneer, a weather-resistant sheathing paper is not required over water-repellent sheathing materials applied according to manufacturer's instructions and a three-fourths (¾) inch (nineteen (19) millimeters) air space is provided. When the three-fourths (¾) inch (nineteen (19) millimeters) space is filled with mortar, a weather-resistant sheathing paper is required over the sheathing. *(Fire Prevention and Building Safety Commission; 675 IAC 14-4.2-89.2)*

SECTION 39. 675 IAC 14-4.2-89.6 IS AMENDED TO READ AS FOLLOWS:

675 IAC 14-4.2-89.6 Section R703.7.4.3; mortar or grout filled

Authority: IC 22-13-2-2; IC 22-13-2-13
Affected: IC 22-12; IC 22-13; IC 22-14; IC 22-15; IC 36-7

Sec. 89.6. Amend ~~Figure R703.7 by modifying the flashing detail to show the horizontal flashing between the veneer and the top of the top course of the foundation wall and delete the horizontal flashing between the sill plate and the top course of the foundation wall.~~ **SECTION R703.7.4.3 by deleting "1 inch (25.4 mm)" and inserting "three-fourths (¾) inch (nineteen (19) millimeters)".** *(Fire Prevention and Building Safety Commission; 675 IAC 14-4.2-89.6; filed May 23, 2001, 4:02 p.m.: 24 IR 3051)*

SECTION 40. 675 IAC 14-4.2-89.8 IS AMENDED TO READ AS FOLLOWS:

675 IAC 14-4.2-89.8 Section R703.7.6; weepholes

Authority: IC 22-13-2-2; IC 22-13-2-13
Affected: IC 22-12; IC 22-13; IC 22-14; IC 22-15; IC 36-7

Sec. 89.8. ~~Add an exception to the end~~ **Delete the title and text** of SECTION R703.7.6 ~~to read as follows: EXCEPTION: Where type S mortar is used throughout the masonry veneer construction, Figure R703.7A may be used.~~ **and substitute as follows: R703.7.6 Drained cavity. The three-fourths (¾) inch (nineteen (19) millimeters) air cavity shall be drained to the exterior of the structure at intervals of not less than thirty-three (33) inches (eight hundred thirty-eight (838) millimeters) on center. Each drain shall be not less than three-sixteenths ($^3/_{16}$) inch (four and eight-tenths (4.8) millimeters) in diameter, located immediately above the flashing.** *(Fire Prevention and Building Safety Commission; 675 IAC 14-4.2-89.8; filed May 23, 2001, 4:02 p.m.: 24 IR 3052)*

SECTION 41. 675 IAC 14-4.2-89.9 IS AMENDED TO READ AS FOLLOWS:

675 IAC 14-4.2-89.9 Sections R703.7.2.1; support by a steel angle; R703.7.2.2; support by roof construction; and R703.7.4.2; air space

Authority: IC 22-13-2-2; IC 22-13-2-13
Affected: IC 22-12; IC 22-13; IC 22-14; IC 22-15; IC 36-7

Sec. 89.9. **(a)** Delete SECTION R703.7.2.1.

(b) Delete SECTION R703.7.2.2.

(c) Change the text of SECTION R703.7.4.2 to read as follows: The veneer shall be separated from the sheathing by an air space of not less than three-fourths (¾) inch (nineteen (19) millimeters) but not more than four and one-half (4.5) inches (one hundred fourteen (114) millimeters). The weather-resistant sheathing paper as required by SECTION R703.2 is not required over water-repellent sheathing materials installed according to manufacturer's instructions. *(Fire Prevention and Building Safety Commission; 675 IAC 14-4.2-89.9; filed May 23, 2001, 4:02 p.m.: 24 IR 3052)*

SECTION 42. 675 IAC 14-4.2-95 IS AMENDED TO READ AS FOLLOWS:

675 IAC 14-4.2-95 Section R802.10.4; alterations to trusses
Authority: IC 22-13-2-2; IC 22-13-2-13
Affected: IC 22-12; IC 22-13; IC 22-14; IC 22-15; IC 25-4; IC 25-31; IC 36-7

Sec. 95. Change the first sentence of SECTION R802.10.4 to read as follows: Truss members shall not be cut, notched, drilled, spliced, or otherwise altered in any way ~~unless~~ **without the acceptance of a registered architect registered under IC 25-4 or a professional engineer registered under IC 25-31, the manufacturer of the truss members, or** approved by the building official. *(Fire Prevention and Building Safety Commission; 675 IAC 14-4.2-95; filed May 23, 2001, 4:02 p.m.: 24 IR 3052)*

SECTION 43. 675 IAC 14-4.2-96.2 IS ADDED TO READ AS FOLLOWS:

675 IAC 14-4.2-96.2 Table 802.11
Authority: IC 22-13-2-2; IC 22-13-2-13
Affected: IC 22-12; IC 22-13; IC 22-14; IC 22-15; IC 36-7

Sec. 96.2. In footnote (d), delete "Figure R301.2(4)" and substitute "TABLE R301.2(1)". *(Fire Prevention and Building Safety Commission; 675 IAC 14-4.2-96.2)*

SECTION 44. 675 IAC 14-4.2-97.5 IS ADDED TO READ AS FOLLOWS:

675 IAC 14-4.2-97.5 Section R806.1; ventilation required
Authority: IC 22-13-2-2; IC 22-13-2-13
Affected: IC 22-12; IC 22-13; IC 22-14; IC 22-15; IC 36-7

Sec. 97.5. Change the first sentence of SECTION R806.1 to read as follows: Enclosed attics and enclosed rafter spaces formed where ceilings are applied directly to the underside of roof rafters shall have cross ventilation for each separate space by either ventilating openings protected against the entrance of rain or snow or by power vents having an amperage indicator in a readily visible location. *(Fire Prevention and Building Safety Commission; 675 IAC 14-4.2-97.5)*

SECTION 45. 675 IAC 14-4.2-97.9 IS ADDED TO READ AS FOLLOWS:

675 IAC 14-4.2-97.9 Section R808.1; combustible insulation
Authority: IC 22-13-2-2; IC 22-13-2-13
Affected: IC 22-12; IC 22-13; IC 22-14; IC 22-15; IC 36-7

Sec. 97.9. In SECTION R808.1, delete "Section N1101.3" and substitute "Chapter 11 of this code". *(Fire Prevention and Building Safety Commission; 675 IAC 14-4.2-97.9)*

SECTION 46. 675 IAC 14-4.2-107 IS AMENDED TO READ AS FOLLOWS:

675 IAC 14-4.2-107 Chapter 11; energy efficiency
Authority: IC 22-13-2-2; IC 22-13-2-13
Affected: IC 22-12; IC 22-13; IC 22-14; IC 22-15; IC 36-7

Sec. 107. Delete **the text of** Chapter 11 in its entirety and substitute the following: ~~See the Indiana Energy Conservation Code, 675 IAC 19.~~

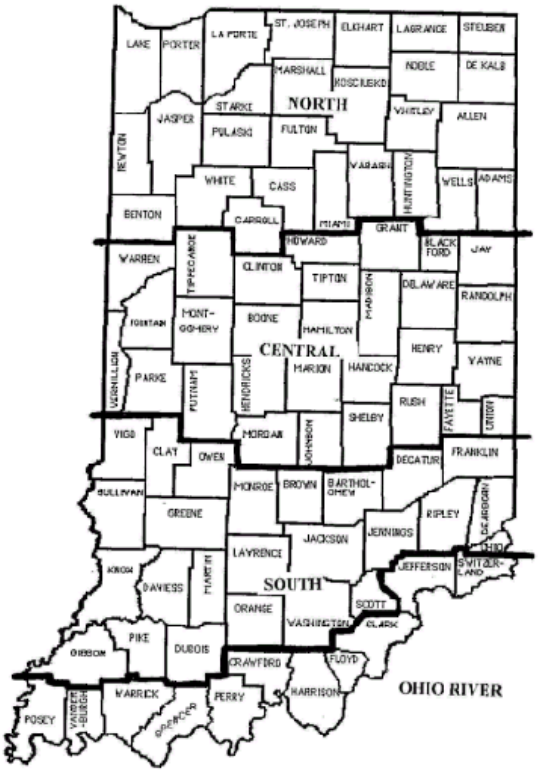
SECTION N1101; GENERAL

N1101.1 Scope. This chapter sets forth energy-efficiency requirements for the design and construction of buildings regulated by this code.

EXCEPTION: Provided that they are separated by building envelope assemblies from the remainder of the building, portions of the building that do not enclose conditioned space shall be from the building envelope provisions but shall comply with the provisions for building mechanical and service water systems.

N1101.2 Compliance. Compliance with this chapter shall be demonstrated shall be demonstrated by meeting the requirements of the applicable sections and tables of SECTIONS N1101, N1102, N1104, and N1105 of this chapter. Compliance with SECTION N1103 or N1106 is an alternative to compliance with SECTION N1102. Where applicable, provisions are based on the climate zone where the building is located as set forth in FIGURE 11-1 below.

FIGURE 11-1



N1101.2.1 Eligible buildings. Compliance for detached one

(1) and two (2) family dwellings and for townhouses shall be demonstrated by meeting the requirements of subsection N1101.2.

N1101.3 Materials and equipment. Materials and equipment shall be identified as complying with the provisions of this chapter. Materials and equipment shall be listed and labeled for their intended use and shall be installed in accordance with the manufacturer's installation instructions.

N1101.3.1 Insulation. The thermal resistance (R-value) shall be indicated on all insulation and the insulation installed such that the R-value can be verified during inspection, or evidence of compliance of the installed R-value shall be provided at the job site by the insulation installer.

N1101.3.2 Fenestration. The U-factor of fenestration the solar heat gain coefficient (SHGC) shall be determined by the manufacturer.

N1101.3.2.1 Default fenestration performance. When a manufacturer has not determined a fenestration product's U-factor, compliance shall be determined by assigning such products a default U-factor from TABLES 11-1 and 11-2. When a manufacturer has not determined a fenestration product's SHGC, compliance shall be determined by assigning such products a default SHGC from TABLE 11-3.

TABLE 11-1
U-FACTOR DEFAULT TABLE FOR WINDOWS, GLAZED DOORS, AND SKYLIGHTS

FRAME MATERIAL AND PRODUCT TYPE[a]	SINGLE GLAZED	DOUBLE GLAZED
Metal without thermal break		
Operable (including sliding and swinging glass doors)	1.27	0.87
Fixed	1.13	0.69
Garden window	2.60	1.81
Curtain wall	1.22	0.79
Skylight	1.98	1.31
Site-assembled sloped/overhead glazing	1.36	0.82
Metal with thermal break		
Operable (including sliding and swinging glass doors)	1.08	0.65
Fixed	1.07	0.63
Curtain wall	1.11	0.68
Skylight	1.89	1.11
Site-assembled sloped/overhead glazing	1.25	0.70
Reinforced vinyl/metal clad wood		
Operable (including sliding and swinging glass doors)	0.90	0.57
Fixed	0.98	0.56
Skylight	1.75	1.05
Wood/vinyl/fiberglass		
Operable (including sliding and swinging glass doors)	0.89	0.55
Fixed	0.98	0.56
Garden window	2.31	1.61
Skylight	1.47	0.84

[a]Glass block assemblies with mortar but without reinforcing or framing shall have a U-factor of 0.60.

TABLE 11-2
U-FACTOR DEFAULT TABLE FOR NONGLAZED DOORS

DOOR TYPE	WITH FOAM CORE	WITHOUT FOAM CORE
Steel doors (1.75 inches thick)	0.35	0.60
	WITHOUT STORM DOOR	WITH STORM DOOR
Wood doors (1.75 inches thick)		
Panel with 0.438-inch panels	0.54	0.36
Hollow core flush	0.46	0.32
Panel with 1.125-inch panels	0.39	0.28
Solid core flush	0.40	0.26

For SI: 1 inch = 25.4 mm.

TABLE 11-3

SHGC DEFAULT TABLE FOR FENESTRATION

PRODUCT DESCRIPTION	SINGLE GLAZED				DOUBLE GLAZED			
	Clear	Bronze	Green	Gray	Clear + Clear	Bronze + Clear	Green + Clear	Gray + Clear
Metal frames								
Operable	0.75	0.64	0.62	0.61	0.66	0.55	0.53	0.52
Fixed	0.78	0.67	0.65	0.64	0.68	0.57	0.55	0.54
Nonmetal frames								
Operable	0.63	0.54	0.53	0.52	0.55	0.46	0.45	0.44
Fixed	0.75	0.64	0.62	0.61	0.66	0.54	0.53	0.52

N1101.3.2.2 Air leakage. The air leakage of prefabricated fenestration shall be determined by the manufacturer. Alternatively, the fenestration shall be installed in accordance with the maximum allowable rates in TABLE 11-4.

EXCEPTION: Site-constructed windows and doors sealed in accordance with SECTION N1101.3.2.2.1.

TABLE 11-4

ALLOWABLE AIR FILTRATION RATES[a]

WINDOWS	DOORS	
(cfm per square foot of window area)	(cfm per square foot of door area)	
	Sliders	Swinging
0.3[b, c]	0.3	0.5

For SI: 1 cfm/ft^2 = 0.00508 m^3/(s· m^2).

[a]When tested in accordance with ASTM E283.

[b]See AAMA/WDMA 101/I.S. 2.

[c]See ASTM D4099.

N1101.3.2.2.1 Caulking and sealants. Exterior joints, seams, or penetrations in the building envelope that are sources of air leakage shall be sealed with caulking materials, closed with gasketing systems, taped, or covered with moisture vapor-permeable house-wrap. Sealing materials spanning joints between dissimilar construction materials shall allow for differential expansion and contraction of the construction materials. This includes sealing around tubs and showers, at the attic and crawl space panels, at recessed lights, and around all plumbing and electrical penetrations. These are openings located in the building envelope between conditioned space and unconditioned space or between the conditioned space and the outside.

SECTION N1102 COMPLIANCE BY PRESCRIPTIVE SPECIFICATIONS ON INDIVIDUAL COMPONENTS

N1102.1 Thermal performance criteria. The minimum required insulation R-value or maximum required U-factor for each element in the building thermal envelope (fenestration, roof/ceiling, opaque wall, floor, slab edge, crawl space wall, and basement wall) shall be in accordance with criteria in TABLE 11-5.

TABLE 11-5

INSULATION AND FENESTRATION REQUIREMENTS BY COMPONENTS[a]

78% AFUE or 6.8 HSPF and 10 SEER

REGION See Figure 11-1	GLAZING U-VALUE	SKYLIGHT U-VALUE[b]	CEILING R-VALUE	WALL R-VALUE[cc]	FLOOR R-VALUE[d]	BASEMENT WALL R-VALUE	SLAB PERIMETER R-VALUE/DEPTH	CRAWL SPACE WALL R-VALUE[f]
North	.35	0.60	30	15 plus 1	25	13 / 7 ft.	10 / 4 ft.	7 / 3.2 ft.
Central	.45	0.60	30	13 plus 1	25	10 / 7 ft.	10 / 4 ft.	10 / 2.7 ft.
South	.45	0.60	30	13 plus 1	19	7 / 7 ft.	7 / 3 ft.	7 / 2.7 ft. 80% AFUE
Ohio River	.45	0.60	30	13	19	7 / 4 ft.	3.5 / 2 ft.	3 / 2.2 ft.

[a]R-values are minimums. U-factors and SHGC are maximums. R-19 insulation shall be permitted to be compressed except as noted. The glazing U-factors are for windows only. The default U-factors for doors are in TABLES 11-1 and 11-2. The door U-values used in the above TABLE 11-5 were as follows:
Main exit, 0.54: Other exit doors, 0.34: Sliding glass doors, 0.55.

[b]Skylights are glazed fenestration less than 60 degrees from horizontal.

[c]Cavity insulation plus sheathing (wood frame walls only). Steel frame walls require the installation of an exterior insulated sheathing in accordance with SECTION N1102.1.12.

[d]Or insulation sufficient to fill the cavity, R-19 minimum.

[e]Box or rim joist cavity spaces must be insulated R-22 minimum, entire exterior perimeter.

[f]The insulation shall be installed from the top of the slab to the required depth, horizontally or vertically, or a combination of both, until the required depth is achieved.

N1102.1.1 Exterior walls. The minimum required R-value in TABLES 11-5 shall be met by the sum of the R-values of the insulation materials installed in framing cavities and/or sheathing applied and not by framing, drywall, or exterior siding materials. Insulation separated from the conditioned space by a vented space shall not be counted towards the required R-value.

N1102.1.1.1 Mass walls. For purposes of this section, the following definitions apply: Mass walls with exterior insulation position are those that have the entire effective mass layer interior to an insulation layer. Mass walls with integral insulation position are those that have either insulation and mass materials well mixed as in wood (logs) or substantially equal amounts of mass material on the interior and exterior of insulation as in concrete masonry units with insulated cores or masonry cavity walls. Mass walls with interior insulation position are those that have the mass material located exterior to the insulating material.

Mass walls shall be permitted to meet the mass wall criteria in TABLE 11-6 based on the insulation position and the climate zone where the building is located. Other mass walls shall meet the frame wall criteria for the building type and the climate zone where the building is located based on the sum of interior and exterior insulation.

Mass walls not meeting either of the above descriptions for exterior or integral positions shall meet the requirements for other mass walls in TABLE 11-6. The R-value for a solid concrete wall with a thickness of four (4) inches (one hundred two (102) millimeters) or greater is R-1.1. R-values for other assemblies are permitted to be based on hot box tests.

TABLE 11-6
MASS WALL PRESCRIPTIVE BUILDING ENVELOPE REQUIREMENTS

Building Location		Mass Wall Assembly R-Value (hr $ft^{2o}F$) / Btu	
Zone	HDD	Exterior or Integral Insulation	Other Mass Walls
Northern	6,300	R-13	R-15.2
Central	5,700	R-13	R-15.2
South	5,000	R-8	R-15.2
Ohio River	4,300	R-8	R-15.2

For SI: 1(hr ft^2 °F)/Btu = 0.176 m^2 K/W

N1102.1.1.2. Steel-frame walls. When steel framing construction is used, insulated sheathing with an R-5 value shall be installed in addition to the minimum required R-value for frame walls determined in accordance with TABLE 11-5.

N1102.1.2 Ceilings. The required "Ceiling R-value" in TABLE 11-5 assumes standard truss or rafter construction and shall apply to all roof/ceiling portions of the building thermal envelope including cathedral ceilings. R-30 shall be permitted to be compressed over the top plate to obtain the required rafter air spaces. R-30 shall be permitted to be used over the top plate where R-38 is required. R-38 shall be permitted over the top plate where R-49 is required.

N1102.1.3 Opaque doors. Opaque doors separating conditioned and unconditioned space shall have a maximum U-factor of thirty-five hundredths (0.35). One (1) opaque door shall be permitted to be exempt from this U-factor requirement.

N1102.1.4 Floors. The required R-value in TABLE 11-5 shall apply to all floors, except any individual floor assembly with over twenty-five percent (25%) of its conditioned floor area exposed directly to outside air shall meet the R-value requirement in TABLE 11-5 for ceilings.

N1102.1.5 Basement walls. When insulating basement walls, the required R-values shall be applied from the top of the basement wall to the depth required by TABLE 11-5.

N1102.1.6 Slab-on-grade floors. For slabs with a top edge eight (8) inches (two hundred three (203) millimeters) or less above or twelve (12) inches (three hundred five (305) millimeters) or less below finished grade, the required R-value in TABLE 11-5 shall be applied to the outside of the foundation or the inside of the foundation wall. The insulation shall extend downward from the top of the slab, or downward to the bottom of the slab and then horizontally in either direction, for the minimum distance listed in TABLE 11-5.

When installed between the exterior wall and the edge of the interior slab, the top edge of the insulation shall be permitted to be cut at a forty-five (45) degree (seventy-nine hundredths (0.79) radians) angle away from the exterior wall. Insulation extending horizontally away from the building shall be protected as set forth by SECTION R403.3.1.

R-2 shall be added to the values in TABLE 11-5 where

uninsulated hot water pipes, air distribution ducts, or electric heating cables are installed within or under the slab.

N1102.1.7 Crawl space walls. Where the floor above the crawl space is uninsulated, and the crawl space is not vented to outside air, insulation shall be installed on crawl space walls as required in TABLE 11-5. The insulation shall be applied inside of the crawl space wall, downward from the sill plate to the distance required by TABLE 11-5. The exposed earth in all crawl space foundations shall be covered with a continuous six (6) mil vapor retarder having a maximum permeance rating of one (1.0) perm [5.74525 × 10^{-11} kg / (Pa+s+m^2)].

N1102.1.8 Masonry veneer. For exterior foundation insulation, that horizontal portion of the foundation that supports a masonry veneer shall not be required to be insulated.

N1102.1.9 Protection. Exposed insulating materials applied to the exterior of foundation walls shall be protected from damage or deterioration. The protection shall extend at least six (6) inches (one hundred fifty-two (152) millimeters) below finished grade level.

N1102.2 Fenestration exemption. Up to one percent (1%) of the total glazing area shall be exempt from U-factor requirements.

SECTION N1103 COMPLIANCE BY TOTAL BUILDING ENVELOPE PERFORMANCE

N1103.1 Compliance with this section is an alternative to compliance with SECTION N1102.

N1103.2 Compliance by total building envelope performance. The building envelope design of a proposed building shall be permitted to deviate from the U_o factors, U factors, or R-values specified in TABLE 11-7, provided the total thermal transmission heat gain or loss for the proposed building envelope does not exceed the total heat gain or loss resulting from the proposed building's conformance to the values specified in TABLE 11-7. For basement and crawl space walls that are part of the building envelope, the U factor of the proposed foundation shall be adjusted by the R-value of the adjacent soil where the corresponding U factor in TABLE 11-7 is similarly adjusted. Heat gain or loss calculations for slab edge and basement or crawl space wall foundations shall be determined using approved methods.

TABLE 11-7[a,b]
EQUIVALENT U-FACTORS

REGION	GLAZING	SKY-LIGHT	CEILING	WALL	MASS WALL	FLOOR	BASEMENT	SLAB PERIMETER	CRAWL SPACE
North	0.45	0.60	0.035	0.064	0.077	0.037	0.055 80%	0.684 80% + 0.35 glazing	0.076 80%
Central	0.45	0.60	0.035	0.074	0.077	0.042	0.064	0.684	0.100
South	0.45	0.60	0.035	0.074	0.125	0.045	0.078	0.727	0.109
Ohio River	0.45	0.60	0.035	0.077	0.125	0.047	0.093	0.825	0.196

[a]Nonfenestration U-factors shall be obtained from this table, measurement, calculation, or an approved source.
[b]For 78% AFUE furnaces or 6.8 HSPF and 10 SEER except where otherwise noted.

SECTION N1104 MECHANICAL SYSTEMS

N1104.1 Heating and air conditioning appliance and equipment performance. Performance of equipment listed in TABLE 11-8 is covered by preemptive federal law. Appliances and equipment not listed in TABLE 11-8 shall be approved. Data furnished by the equipment supplier, or certified under a nationally recognized certification procedure, shall be used to satisfy these requirements. All such equipment shall be installed in accordance with the manufacturer's instructions.

TABLE 11-8
MINIMUM EQUIPMENT PERFORMANCE

EQUIPMENT CATEGORY	SUBCATEGORY[c]	REFERENCED STANDARD	MINIMUM PERFORMANCE
Air-cooled heat pumps heating mode <65,000 Btu/h cooling capacity	Split systems	ARI 210/240	6.8 HSPF[a, b]
	Single package		6.6 HSPF[a, b]
Gas-fired or oil-fired furnace <225,000 Btu/h		DOE 10 CFR Part 430, Subpart B, APPENDIX N	AFUE 78%[b] Et 80%[c]

Gas-fired or oil-fired steam and hot-water boilers <300,000 Btu/h		DOE 10 CFR Part 430, Subpart B, APPENDIX N	AFUE 78%[b, d]
Air-cooled air conditioners and heat pumps cooling mode <65,000 Btu/h cooling capacity	Split systems		10.0 SEER[b]
		ARI 210/240	
	Single package		9.7 SEER[b]

For SI: 1 Btu/h = 0.2931 W.

[a]For multicapacity equipment, the minimum performance shall apply to each capacity step provided. Multicapacity refers to manufacturer-published ratings for more than one (1) capacity mode allowed by the product's controls.

[b]This is used to be consistent with the National Appliance Energy Conservation Act (NAECA) of 1987 (Public Law 100-12).

[c]These requirements apply to combination units not covered by NAECA (three-phase power or cooling capacity sixty-five thousand (65,000) Btu/h).

[d]Except for gas-fired steam boilers, for which the minimum AFUE shall be seventy-five percent (75%).

[e]Seasonal rating.

N1104.2 Controls. At least one (1) thermostat shall be provided for each separate heating, cooling, or combination heating and cooling system. Heat pumps shall have controls that prevent supplementary electric resistance heater operation when the heating load can be met by the heat pump alone. Supplementary heater operation shall be permitted during outdoor coil defrost cycles not exceeding fifteen (15) minutes.

N1104.3 Duct insulation. All portions of the air distribution system that serve the permanent heating, ventilating, and air conditioning systems shall be installed in accordance with SECTION M1601 and be insulated to an installed R-4.2 when system components are located within the building but outside of conditioned space, and R-8 when located outside of the building. When located within a building envelope assembly, at least R-8 shall be applied between the duct and that portion of the assembly furthest from conditioned space.

EXCEPTION: Exhaust air ducts and portions of the air distribution system within appliances or equipment.

N1104.4 Duct sealing. All ducts shall be sealed in accordance with SECTION M1601.3.1.

N1104.5 Piping insulation. All mechanical system piping that serves the permanent heating, ventilating, and air conditioning systems shall be insulated in accordance with TABLE 11-9.

EXCEPTION: Piping installed within appliances and equipment or piping serving fluids between 55 °F (13 °C) and 120 °F (49 °C).

TABLE 11-9
MINIMUM HVAC PIPING INSULATION THICKNESSES[a]

	FLUID TEMPERATURE RANGE (°F)	INSULATION THICKNESS (inches)[b]
HEATING SYSTEMS		
Low pressure/temperature	201–250	1.5
Low temperature	120–200	1.0
Steam condensate (for feed water)	Any	1.5
COOLING SYSTEMS		
Chilled water, refrigerant, or brine	40–55	0.75
	Below 40	1.25

For SI: 1 inch = 25.4 mm, °C = (°F - 32) / 1.8.

[a]The pipe insulation thicknesses specified in this table are based on insulation R-values ranging from R-4 to R-4.6 per inch of thickness. For materials with an R-value greater than R-4.6, the insulation thickness specified in this table may be reduced as follows:

$$\text{New Minimum Thickness} = \frac{4.6 \times \text{Table Thickness}}{\text{Actual R-value}}$$

For materials with an R-value less than R-4, the minimum insulation thickness shall be increased as follows:

$$\text{New Minimum Thickness} = \frac{4.0 \times \text{Table Thickness}}{\text{Actual R-value}}$$

[b]For piping exposed to outdoor air, increase thickness by 0.5 inch.

SECTION N1105 SERVICE WATER HEATING

N1105.1 Water heating appliance and equipment performance. Performance of equipment listed in TABLE 11-10 is covered by preemptive federal law. Appliances and equipment not listed in TABLE 11-10 shall be approved.

TABLE 11-10
REQUIRED PERFORMANCE OF DOMESTIC HOT WATER HEATING EQUIPMENT SUBJECT TO MINIMUM FEDERAL STANDARDS

CATEGORY	MAXIMUM INPUT RATING	MINIMUM EFFICIENCY
Electric; storage or instantaneous	12 kW	0.93 - 0.00132 x V[a]
Gas; storage	75,000 Btu/h	0.62 - 0.0019 x V[a]
Gas; instantaneous	200,000 Btu/h	0.62 - 0.0019 x V[a]
Oil; storage	105,000 Btu/h	0.59 - 0.0019 x V[a]
Oil; instantaneous	210,000 Btu/h	0.59 - 0.0019 x V[a]

For SI: 1Btu/h = 0.2931 W, 1 gallon = 3.785 L.

[a]V is the rated storage volume in gallons as specified by the manufacturer.

N1106 ADOPTION BY REFERENCE

N1106.1 That certain document, being titled Chapter 4, Residential Building Design by Systems Analysis and Design of Buildings Utilizing Renewable Energy Sources, of the International Energy Conservation Code 2000, published by the International Code Council, 5203 Leesburg Pike, Suite 708, Falls Church, Virginia 22041-3401, be and the same is hereby adopted by reference and made a part of this rule (675 IAC 14-4.2) as if fully set out herein, except as amended in subsection N1106.3.

N1106.2 Compliance with this section is an alternative to compliance with SECTIONS N1102 and N1103.

N1106.3 (a) Change subsection 402.1 to read as follows: Compliance with this chapter will require an analysis of the annual energy usage, completed during the building design phase, and hereinafter called the "annual energy analysis".

(b) Delete the exception from subsection 402.1 without substitution.

(c) Delete "Chapter 5" from subsection 402.1.1 and substitute "TABLE 11-3".

(d) In TABLES 402.1.1(1) and 402.1.1(2), delete from footnote "a" "Table 302.1" and substitute "TABLE 11-3".

(e) In subsection 402.1.3.1.4, delete "Table 102.5.2(3)" and substitute "TABLE 11-3".

(f) In subsection 402.1.3.6, delete "Type A-1 Residential building" and substitute "1 or 2 family dwelling" and delete "Type A-2 Residential building" and substitute "townhouse".

(g) Add the following to the last sentence of subsection 402.1.3.10: "See subsection R303.1 for ventilation requirements for 1 and 2 family dwellings or townhouses.".

(h) In subsection 402.1.3.11, delete "Table 502.2" and substitute "TABLE 11-5".

(i) In subsection 402.4.1, delete "as required in Chapter 3" and substitute "as follows:" and the following table:

TABLE 11-11
THERMAL DESIGN PARAMETERS
EXTERNAL DESIGN CONDITIONS

	Northern	Central	South	Ohio River
WINTER Design Dry-Bulb °F	1°	2°	9°	9°
SUMMER Design Wet-Bulb °F	73°	74°	75°	75°
SUMMER Design Dry-Bulb °F	89°	90°	93°	93°
DEGREE DAYS HEATING	6,300	5,700	5,000	4,300

(j) In subsection 402.5, delete "Chapter 4" and substitute "this chapter".

(k) In subsection 403.1.1.1, delete "Section 502.1.4.1" and substitute "TABLE 11-4". *(Fire Prevention and Building Safety Commission; 675 IAC 14-4.2-107; filed May 23, 2001, 4:02 p.m.: 24 IR 3054; errata filed Jun 12, 2001, 2:18 p.m.: 24 IR 3070)*

SECTION 47. 675 IAC 14-4.2-112.5 IS ADDED TO READ AS FOLLOWS:

675 IAC 14-4.2-112.5 Section M1411.3.1; auxiliary and secondary drain systems

Authority: IC 22-13-2-2; IC 22-13-2-13
Affected: IC 22-12; IC22-13; IC 22-14; IC 22-15; IC 36-7

Sec. 112.5. In the first sentence of SECTION R1411.3.1, delete "damage to any building components will occur as a result of overflow from the equipment drain pan or stoppage in the condensate drain piping" and substitute "installed above the finish ceiling". *(Fire Prevention and Building Safety Commission; 675 IAC 14-4.2-112.5)*

SECTION 48. 675 IAC 14-4.2-117 IS AMENDED TO READ AS FOLLOWS:

675 IAC 14-4.2-117 Section M2005.5; anchorage of water heaters in seismic design Category C_1

Authority: IC 22-13-2-2; IC 22-13-2-13
Affected: IC 22-12, IC 22-13; IC 22-14; IC 22-15; IC 36-7

Sec. 117. Add SECTION M2005.5 to the end of SECTION M2005 to read as follows: M2005.5 Anchorage of Water Heaters in Seismic Design Category C_1. In Seismic Design Category C_1, all **gas** water heaters shall be anchored or fastened to resist horizontal displacement due to earthquake motion as provided in SECTION M1307.2. *(Fire Prevention and Building Safety Commission; 675 IAC 14-4.2-117; filed May 23, 2001, 4:02 p.m.: 24 IR 3055; errata filed Jun 12, 2001, 2:18 p.m.: 24 IR 3070)*

SECTION 49. 675 IAC 14-4.2-171.5 IS ADDED TO READ AS FOLLOWS:

675 IAC 14-4.2-171.5 Section P2801.5; required pan

Authority: IC 22-13-2-2; IC 22-13-2-13
Affected: IC 22-12; IC 22-13; IC 22-14; IC 22-15; IC 36-7

Sec. 171.5. In SECTION P2801.5, delete "in locations where leakage of the tanks or connections will cause damage" and substitute "above a ceiling". *(Fire Prevention and Building Safety Commission; 675 IAC 14-4.2-171.5)*

SECTION 50. 675 IAC 14-4.2-174.5 IS ADDED TO READ AS FOLLOWS:

675 IAC 14-4.2-174.5 Section 2903.5; water hammer

Authority: IC 22-13-2-2; IC 22-13-2-13
Affected: IC 22-12; IC 22-13; IC 22-14; IC 22-15; IC 36-7

Sec. 174.5. Change SECTION 2903.5 to read as follows: Water Hammer. The flow velocity through the water distribution system shall be controlled to reduce the possibility of water hammer. Water hammer arrestors, when installed, shall be installed in accordance with manufacturer's installation instructions and shall conform to ASSE/ANSI 1010. *(Fire Prevention and Building Safety Commission; 675 IAC 14-4.2-174.5)*

SECTION 51. 675 IAC 14-4.2-177.5 IS ADDED TO READ AS FOLLOWS:

675 IAC 14-4.2-177.5 Section P3103.1; roof extension

Authority: IC 22-13-2-2; IC 22-13-2-13
Affected: IC 22-12; IC 22-13; IC 22-14; IC 22-15; IC 36-7

Sec. 177.5. Change SECTION 3103.1 to read as follows: All open pipes which extend through a roof shall be terminated at least twelve (12) inches (three hundred five (305) millimeters) above the highest point where the vent passes through the roof. *(Fire Prevention and Building Safety Commission; 675 IAC 14-4.2-177.5)*

SECTION 52. 675 IAC 14-4.2-189 IS AMENDED TO READ AS FOLLOWS:

675 IAC 14-4.2-189 Section E3509.7; metal gas piping bonding

Authority: IC 22-13-2-2; IC 22-13-2-13
Affected: IC 22-12; IC 22-13; IC 22-14; IC 22-15; IC 36-7

Sec. 189. ~~Delete from~~ **Before the period at the end of** SECTION E3509.7, ~~and bonded to the grounding electrode system".~~ **add: "at an accessible point in accordance with SECTION E3509.8".** *(Fire Prevention and Building Safety Commission; 675 IAC 14-4.2-189; filed May 23, 2001, 4:02 p.m.: 24 IR 3063; errata filed Jun 12, 2001, 2:18 p.m.: 24 IR 3070)*

SECTION 53. 675 IAC 14-4.2-189.2 IS ADDED TO READ AS FOLLOWS:

675 IAC 14-4.2-189.2 Section E3509.8; bonding other metal piping

Authority: IC 22-13-2-2; IC 22-13-2-13
Affected: IC 22-12; IC 22-13; IC 22-14; IC 22-15; IC 36-7

Sec. 189.2. Change the third sentence of SECTION 3509.8 to read as follows: "A piping system shall be considered as bonded where connected to the equipment grounding conductor for the circuit capable of energizing such piping if connected using a fixed wiring method.". *(Fire Prevention and Building Safety Commission; 675 IAC 14-4.2-189.2)*

SECTION 54. 675 IAC 14-4.2-191.4, AS ADDED AT 26 IR 13, SECTION 17, IS AMENDED TO READ AS FOLLOWS:

675 IAC 14-4.2-191.4 Section E3801.11; HVAC outlet; Section E3802; ground-fault and arc-fault circuit-interrupter protection

Authority: IC 22-13-2-2; IC 22-13-2-13
Affected: IC 22-12; IC 22-13; IC 22-14; IC 22-15; IC 36-7

Sec. 191.4. **(a) In the first sentence of SECTION E3801.11, delete "located in attics and crawl spaces" without substitution.**

(b) Add SECTION E3802.7.1 after SECTION E3802.7 to read: Boathouses. All 125-volt, single-phase, ~~15-~~ **15-ampere** or 20-ampere receptacles installed in boathouses shall have ground-fault circuit-interrupter protection for personnel. *(Fire Prevention and Building Safety Commission; 675 IAC 14-4.2-191.4; filed Aug 14, 2002, 4:20 p.m.: 26 IR 13)*

SECTION 55. 675 IAC 17-1.6-12, AS ADDED AT 26 IR 17, SECTION 37, IS AMENDED TO READ AS FOLLOWS:

675 IAC 17-1.6-12 Section 210.12; arc-fault circuit-interrupter protection

Authority: IC 22-13-2-2; IC 22-13-2-13
Affected: IC 22-12; IC 22-13; IC 22-14; IC 22-15; IC 36-7

Sec. 12. ~~In~~ **Delete** SECTION 210.12(B). ~~Dwelling unit bedrooms, delete "outlets" and insert "receptacle outlets".~~ *(Fire Prevention and Building Safety Commission; 675 IAC 17-1.6-12; filed Aug 14, 2002, 4:20 p.m.: 26 IR 17)*

SECTION 56. 675 IAC 17-1.6-16, AS ADDED AT 26 IR 18, SECTION 37, IS AMENDED TO READ AS FOLLOWS:

675 IAC 17-1.6-16 Section 250.104; bonding of piping and exposed structural steel

Authority: IC 22-13-2-2; IC 22-13-2-13
Affected: IC 22-12; IC 22-13; IC 22-14; IC 22-15; IC 36-7

Sec. 16. ~~In~~ **(a) Amend** the ~~first~~ **third** sentence of SECTION 250.104(B) ~~delete "including gas piping," and insert "other than gas piping,".~~ **to read: The equipment grounding conductor for the circuit that may energize the piping shall be permitted to serve as the bonding means if connected using a fixed wiring method.**

(b) At the end of SECTION 250.104(B), add a sentence to read as follows: All aboveground metal gas piping upstream from the equipment shutoff valve shall be electrically continuous. *(Fire Prevention and Building Safety Commission; 675 IAC 17-1.6-16; filed Aug 14, 2002, 4:20 p.m.: 26 IR 18)*

SECTION 57. 675 IAC 19-3-4 IS AMENDED TO READ AS FOLLOWS:

675 IAC 19-3-4 Section 101.3; scope

Authority: IC 22-13-2-2; IC 22-13-4-1
Affected: IC 22-12; IC 22-13; IC 22-14; IC 22-15; IC 36-7-2-9

Sec. 4. Change the ~~last sentence~~ **second paragraph** in SECTION 101.3 to read as follows: ~~Buildings~~ **Class 1 structures, except townhouses,** shall be designed to comply with the requirements of one **(1)** of the following: Chapter 4, Chapter 5, or Chapter 6. **675 IAC 19 is not applicable to Class 2 structures and townhouses. Class 2 structures and townhouses shall be designed to comply with 675 IAC 14, the Indiana Residential Code.** *(Fire Prevention and Building Safety Commission; 675 IAC 19-3-4; filed Dec 1, 1992, 5:00 p.m.: 16 IR 1126; readopted filed Sep 11, 2001, 2:49 p.m.: 25 IR 530)*

SECTION 58. THE FOLLOWING ARE REPEALED: 675 IAC 14-4.2-89.7; 675 IAC 14-4.2-89.10; 675 IAC 14-4.2-89.11; 675 IAC 14-4.2-192.

Notice of Public Hearing

*Under IC 4-22-2-24, notice is hereby given that on October 16, 2003 at 10:00 a.m., at the Indiana Government Center-South, 402 West Washington Street, Conference Center Room 3, Indianapolis, Indiana; **AND** on December 2, 2003 at 10:00 a.m., at the Indiana Government Center-South, 402 West Washington Street, Conference Center Room B, Indianapolis, Indiana the Fire Prevention and Building Safety Commission will hold a public hearing on proposed amendments to provisions of the 2001 Indiana Residential Code, 675 IAC 14-4.2, to make substantive and clarifying changes; to amend provisions of the 2002 Indiana Electrical Code, 675 IAC 17-1.6, so as not to be in conflict with the electrical provisions of the Indiana Residential Code; and to delete Class 2 structures and townhouses from being regulated by the 1992 Indiana Energy Conservation Code, 675 IAC 19-3, because the topic will be regulated by the Indiana Residential Code. Copies of these rules are now on file at the Indiana Government Center-South, 402 West Washington Street, Room W246 and Legislative Services Agency, One North Capitol, Suite 325, Indianapolis, Indiana and are open for public inspection.*

Patrick Ralston
Secretary
Fire Prevention and Building Safety Commission

TITLE 864 STATE BOARD OF REGISTRATION FOR PROFESSIONAL ENGINEERS

Proposed Rule
LSA Document #03-125

DIGEST

Amends 864 IAC 1.1-2-2 to revise the minimum education and experience requirements established under IC 25-31-1-12 for admission to the professional engineer examination to address college courses that cover two or more categories. Adds 864 IAC 1.1-14 to establish the requirements for a limited liability company to practice or offer to practice engineering in Indiana. Partially effective 30 days after filing with the secretary of state and partially effective January 3, 2004.

864 IAC 1.1-2-2
864 IAC 1.1-14

SECTION 1. 864 IAC 1.1-2-2, AS AMENDED AT 26 IR 379, SECTION 1, IS AMENDED TO READ AS FOLLOWS:

864 IAC 1.1-2-2 Engineers; education and work experience

Authority: IC 25-31-1-7; IC 25-31-1-8
Affected: IC 25-31-1-12

Sec. 2. (a) This section establishes the minimum education and experience requirements under IC 25-31-1-12 for admission to the professional engineer examination.

(b) The following table establishes provisions for evaluating

combined education and experience to determine if it is sufficient to satisfy minimum registration requirements under IC 25-31-1-12 for professional engineer registration applicants holding the stated degrees:

Education (Qualifying Degree)	Minimum Years of Progressive Work Experience Following Baccalaureate Degree
Doctorate in an engineering discipline following a baccalaureate degree in an approved engineering curriculum	2
Master of science degree in an engineering discipline following a baccalaureate degree in an approved engineering curriculum	3
Doctorate in an engineering discipline following a baccalaureate degree which is not in an approved engineering curriculum	4
Master of science degree in an engineering discipline following a baccalaureate degree which is not in an approved engineering curriculum	5
Baccalaureate degree in an approved engineering curriculum	4
Baccalaureate degree and completion of specific educational courses as required in subsection (c)	6

(c) The education of all applicants, except those who have obtained a baccalaureate degree in an approved engineering curriculum, must include the following:

(1) At least twelve (12) semester credit hours in college level mathematics, excluding college algebra and trigonometry, which must include a minimum of nine (9) semester credit hours of calculus and a minimum of three (3) semester credit hours of advanced calculus based mathematics, such as differential equations, linear algebra, or numerical analysis.

(2) At least eight (8) semester credit hours in college level courses in the physical sciences, which must include a minimum of three (3) semester credit hours of calculus based physics and a minimum of three (3) semester credit hours of chemistry.

(3) At least twelve (12) semester credit hours of engineering sciences that require calculus as a prerequisite or corequisite.

(4) Effective January 3, 2003, at least twelve (12) semester credit hours in engineering design.

(d) For a course to qualify as an engineering design course, the course must instruct on the decision making process in which the basic sciences and mathematics and engineering sciences are applied to convert resources optimally to meet a stated objective. Among the fundamental elements of the design process are the establishment of objectives and criteria, synthesis, analysis, construction, testing, and evaluation. The content of an engineering design course must include some of the following features:

(1) Development of student creativity.

(2) Use of open-ended problems.

(3) Development and use of modern design theory and methodology.

(4) Formulation of design problems statements and specifications.

(5) Consideration of alternative solutions, feasibility considerations, production processes, concurrent engineering design, and detailed system descriptions.

Further, it is essential that a variety of realistic constraints, such as economic factors, safety, reliability, aesthetics, ethics, and social impact be included.

(e) An applicant for admission for the examination must:

(1) include on the application, or a document attached to the application, which courses meet the requirements of subsection (c) by stating the course names and numbers; and

(2) submit all college transcripts that show that college credit was awarded for the claimed courses.

(f) No degree requirement under this section may be achieved by obtaining an honorary degree or a degree obtained entirely by correspondence.

(g) College courses with substantial duplication of content may be counted only one (1) time toward the requirements of subsection (c).

(h) College courses that cover two (2) or more categories in subsection (c) shall be counted only in one (1) category. The appropriate category is that which is the greatest portion of the course. In determining the greatest portion of the course, the board may take into account information from the institution offering the course.

~~(h)~~ **(i)** Progressive experience of sufficient quality when used relative to the requirement for experience on engineering projects as provided for in IC 25-31-1-12(a) means the applicant has demonstrated the ability to assume continuously increasing levels of responsibility for engineering projects.

~~(i)~~ **(j)** No experience obtained prior to a baccalaureate degree shall qualify.

~~(j)~~ **(k)** Part-time experience acquired while the applicant was a full-time student shall not qualify. All other part-time experience shall be converted to its full-time equivalent in evaluating an application.

~~(k)~~ **(l)** Notwithstanding other provisions of this section, applicants who hold either a valid certificate as an EI or an engineer-in-training (EIT) do not need any additional education beyond that which was required for admission to the EI or EIT examination in Indiana, so long as they apply for admission to

the professional engineer examination no later than the first examination application deadline (as provided for in 864 IAC 1.1-3-4), which is subsequent to seven (7) years after the date the applicant took and passed the engineering intern examination. *(State Board of Registration for Professional Engineers; Rule 2, Sec 2; filed Feb 29, 1980, 3:40 p.m.: 3 IR 627; filed Oct 17, 1986, 2:20 p.m.: 10 IR 435; filed Sep 24, 1992, 9:00 a.m.: 16 IR 726, eff Jan 1, 1993; filed Mar 28, 1995, 2:00 p.m.: 18 IR 2103, eff Jul 4, 1995; filed Mar 28, 1995, 2:00 p.m.: 18 IR 2112, eff Jan 3, 1997; filed Mar 27, 2000, 8:58 a.m.: 23 IR 2002; filed May 4, 2001, 11:13 a.m.: 24 IR 2694, eff Jul 3, 2001; readopted filed Jun 21, 2001, 9:01 a.m.: 24 IR 3824; filed Sep 23, 2002, 9:59 a.m.: 26 IR 379, eff Dec 1, 2002)*

SECTION 2. 864 IAC 1.1-14 IS ADDED TO READ AS FOLLOWS:

Rule 14. Limited Liability Company Practice

864 IAC 1.1-14-1 Limited liability company practice
Authority: IC 25-31-1-7; IC 25-31-1-8
Affected: IC 23-18-2-2; IC 25-31-1-18

Sec. 1. A limited liability company doing business in Indiana may practice or offer to practice engineering only if that practice is carried on under the responsible direction and supervision of a registered professional engineer who is a full-time employee or member of the company. All plans, sheets of designs, specifications, reports, studies, or other engineering documents that require certification and are prepared by the personnel of a business must carry the signature and seal of the registered professional engineer who is in responsible charge of the professional engineering work. *(State Board of Registration for Professional Engineers; 864 IAC 1.1-14-1)*

SECTION 3. **Section 1 of this document takes effect January 3, 2004.**

Notice of Public Hearing

Under IC 4-22-2-24, notice is hereby given that on September 18, 2003 at 9:00 a.m., at the Indiana Government Center-South, 402 West Washington Street, Conference Center Room 5, Indianapolis, Indiana the State Board of Registration for Professional Engineers will hold a public hearing on proposed amendments to revise the minimum education and experience requirements established under IC 25-31-1-12 for admission to the professional engineer examination to address college courses that cover two or more categories and to establish the requirements for a limited liability company to practice or offer to practice engineering in Indiana. Copies of these rules are now on file at the Indiana Government Center-South, 302 West Washington Street, Room E012 and Legislative Services Agency, One North Capitol, Suite 325, Indianapolis, Indiana and are open for public inspection.

Gerald H. Quigley
Executive Director
Professional Licensing Agency

TITLE 865 STATE BOARD OF REGISTRATION FOR LAND SURVEYORS

Proposed Rule
LSA Document #03-41

DIGEST

Amends 865 IAC 1-13 to revise the continuing education requirements for registered land surveyors. Amends 865 IAC 1-14 to revise the requirements for land surveyors continuing education providers. Repeals 865 IAC 1-13-20 and 865 IAC 1-14-20 to eliminate the provisions that would cause the continuing education rules and continuing education provider rules to expire on August 1, 2004. Effective 30 days after filing with the secretary of state.

865 IAC 1-13-4
865 IAC 1-13-7
865 IAC 1-13-20
865 IAC 1-14-13
865 IAC 1-14-14
865 IAC 1-14-15
865 IAC 1-14-20

SECTION 1. 865 IAC 1-13-4 IS AMENDED TO READ AS FOLLOWS:

865 IAC 1-13-4 Length of instruction hour; length of course
Authority: IC 25-21.5-2-14; IC 25-21.5-8-7
Affected: IC 25-21.5

Sec. 4. **(a)** One (1) hour of continuing education must contain at least fifty (50) minutes of instruction.

(b) A continuing education course shall be a minimum of one (1) hour instruction period. *(State Board of Registration for Land Surveyors; 865 IAC 1-13-4; filed Nov 20, 2000, 3:01 p.m.: 24 IR 1026; readopted filed May 22, 2001, 9:55 a.m.: 24 IR 3237)*

SECTION 2. 865 IAC 1-13-7 IS AMENDED TO READ AS FOLLOWS:

865 IAC 1-13-7 Elective topics
Authority: IC 25-21.5-2-14; IC 25-21.5-8-7
Affected: IC 25-21.5

Sec. 7. **(a)** To qualify for renewal, a registered land surveyor must complete eighteen (18) hours of continuing education in any of the following elective topics:

(1) College level mathematics.

(2) College level physical sciences.
(3) Federal and state laws, rules, regulations, and practices pertaining to the establishment or reestablishment of land boundaries and the practice of land surveying in Indiana.
(4) Preparation and analysis of legal descriptions of interests in land.
(5) The design, planning, and platting of subdivisions.
(6) Preparation of plans and profiles for roads, storm drainage, and sanitary sewer extensions for subdivisions.
(7) The ethical, economic, and legal principles that pertain to the practice of land surveying.
(8) Distance and direction measurements, including statistical analysis.
(9) Topographic and hydrographic surveying.
(10) Photogrammetry.
(11) Surveying applications, such as GIS, LIS, GPS.
(12) Advanced surveying procedures and equipment.
(13) Computer applications for land surveyors.
(14) College level communication, such as public speaking and technical writing.
(15) The topics listed in section 6 of this rule.

(b) No single elective course may count for more than twelve (12) hours of continuing education. *(State Board of Registration for Land Surveyors; 865 IAC 1-13-7; filed Nov 20, 2000, 3:01 p.m.: 24 IR 1026; readopted filed May 22, 2001, 9:55 a.m.: 24 IR 3237)*

SECTION 3. 865 IAC 1-14-13 IS AMENDED TO READ AS FOLLOWS:

865 IAC 1-14-13 Certifications of completion
Authority: IC 25-21.5-2-14; IC 25-21.5-8-7
Affected: IC 25-21.5

Sec. 13. (a) Course providers shall provide the registered land surveyor who successfully completes an approved course a ~~certificate~~ **certification** of course completion that must include the following information:
(1) Name, telephone number, and address of the provider.
(2) Name ~~address,~~ and license number of the participant.
(3) Title of the course.
(4) Course location.
(5) Date of the course.
(6) Number of approved course hours.
(7) Name, address, and signature of the instructor.

(b) The course provider must complete the ~~certificate~~ **certification** of completion in its entirety.

(c) The board may accept documentation that provides the information that is contained in subsection (a).

(d) The board may accept a college transcript in lieu of a certification of course completion. *(State Board of Registration for Land Surveyors; 865 IAC 1-14-13; filed Nov 20, 2000, 3:01 p.m.: 24 IR 1030; readopted filed May 22, 2001, 9:55 a.m.: 24 IR 3237)*

SECTION 4. 865 IAC 1-14-14 IS AMENDED TO READ AS FOLLOWS:

865 IAC 1-14-14 Courses not completed
Authority: IC 25-21.5-2-14; IC 25-21.5-8-7
Affected: IC 25-21.5

Sec. 14. **(a)** Course providers, **at their discretion,** may ~~not~~ grant to registered land surveyors partial credit **in proportion to the amount of time that a registered land surveyor attended the continuing education course**. **After one (1) hour of instruction, course providers may grant registered land surveyors credit in one-half (½) hour increments.**

(b) To receive **full** credit for a course, a registered land surveyor must be present for the entire course. *(State Board of Registration for Land Surveyors; 865 IAC 1-14-14; filed Nov 20, 2000, 3:01 p.m.: 24 IR 1030; readopted filed May 22, 2001, 9:55 a.m.: 24 IR 3237)*

SECTION 5. 865 IAC 1-14-15 IS AMENDED TO READ AS FOLLOWS:

865 IAC 1-14-15 Reporting attendance to the board
Authority: IC 25-21.5-2-14; IC 25-21.5-8-7
Affected: IC 25-21.5

Sec. 15. **(a)** Course providers shall, not more than thirty (30) days after a course is presented, submit the following to the board:
(1) An alphabetical list of all registered land surveyors who attended the course.
(2) A certified statement of the hours of continuing education to be credited to each registrant.

(b) Course providers may submit the list required in subsection (a) electronically. *(State Board of Registration for Land Surveyors; 865 IAC 1-14-15; filed Nov 20, 2000, 3:01 p.m.: 24 IR 1030; readopted filed May 22, 2001, 9:55 a.m.: 24 IR 3237)*

SECTION 6. THE FOLLOWING ARE REPEALED: 865 IAC 1-13-20; 865 IAC 1-14-20.

Notice of Public Hearing

Under IC 4-22-2-24, notice is hereby given that on September 12, 2002 at 10:00 a.m., at the Indiana Government Center-South, 402 West Washington Street, Training Center Room 12, Indianapolis, Indiana the State Board of Registration for Land Surveyors will hold a public hearing on proposed amendments to amend 865 IAC 1-13 to revise the continuing education requirements for registered land surveyors, to amend 865 IAC 1-14 to revise the requirements for land surveyors continuing

education providers, and to repeal 865 IAC 1-13-20 and 865 IAC 1-14-20 to eliminate the provisions that would cause the continuing education rules and continuing education provider rules to expire on August 1, 2004. Copies of these rules are now on file at the Indiana Government Center-South, 302 West Washington Street, Room E012 and Legislative Services Agency, One North Capitol, Suite 325, Indianapolis, Indiana and are open for public inspection.

Gerald H. Quigley
Executive Director
Professional Licensing Agency

TITLE 868 STATE PSYCHOLOGY BOARD

Proposed Rule
LSA Document #03-60

DIGEST

Adds 868 IAC 2 to establish a list of restricted psychology tests. Effective 30 days after filing with the secretary of state.

868 IAC 2

SECTION 1. 868 IAC 2 IS ADDED TO READ AS FOLLOWS:

ARTICLE 2. RESTRICTED PSYCHOLOGY TESTS AND INSTRUMENTS

Rule 1. Restricted Psychology Tests and Instruments

868 IAC 2-1-1 Interpretation of article
Authority: IC 25-33-1-3
Affected: IC 23-33-1

Sec. 1. This article may not be interpreted to prevent a licensed or certified health care professional from practicing within the scope of the health care professional's:
(1) license or certification; and
(2) training or credentials.
(State Psychology Board; 868 IAC 2-1-1)

868 IAC 2-1-2 Application
Authority: IC 25-33-1-3
Affected: IC 25-33-1

Sec. 2. For each test or instrument listed in this article, the restriction applies to all editions and all versions, including all subtests and adaptations of the editions or versions, of the test or instrument. *(State Psychology Board; 868 IAC 2-1-2)*

868 IAC 2-1-3 Intelligence tests
Authority: IC 25-33-1-3
Affected: IC 25-33-1-14

Sec. 3. The following intelligence tests and instruments are restricted psychology tests and instruments as provided by IC 25-33-1-3(g) and IC 25-33-1-14(e):
(1) Battelle Developmental Inventory (BDI).
(2) Bayley Scales of Infant Development.
(3) California Test of Mental Maturity.
(4) Cattell Infant Intelligence Scale.
(5) Cognitive Abilities Scale.
(6) Cognitive Abilities Test (CogAT).
(7) Columbia Mental Maturity Scale.
(8) Comprehensive Test of Nonverbal Intelligence.
(9) Culture Fair Intelligence Test.
(10) Detroit Tests of Learning Ability.
(11) Differential Ability Scales.
(12) Differential Aptitude Tests.
(13) General Ability Measure for Adults (GAMA).
(14) General Aptitude Test Battery (GATB).
(15) Gesell Developmental Schedules.
(16) Kaufman Adolescent and Adult Intelligence Test (KAIT).
(17) Kaufman Assessment Battery for Children (K-ABC).
(18) Kaufman Brief Intelligence Test (K-BIT).
(19) Leiter International Performance Scale.
(20) McCarthy Scales of Children's Abilities.
(21) Multidimensional Aptitude Battery.
(22) Pictorial Test of Intelligence.
(23) Primary Mental Abilities Test.
(24) Raven's Progressive Matrices.
(25) Sensory Integration and Praxis Tests (SIPT).
(26) Slosson Full-Range Intelligence Test (S-FRIT).
(27) Slosson Intelligence Test for Children and Adults.
(28) Southern California Figure-Ground Visual Perception Test.
(29) Stanford-Binet Intelligence Scale.
(30) Structure of Intellect Learning Abilities Test (SOI-LA).
(31) Swanson Cognitive Processing Test (S-CPT).
(32) System of Multicultural Pluralistic Assessment (SOMPA).
(33) Test of Nonverbal Intelligence.
(34) Universal Nonverbal Intelligence Test.
(35) Wechsler Abbreviated Scale of Intelligence.
(36) Wechsler Adult Intelligence Scale.
(37) Wechsler Intelligence Scale for Children.
(38) Wechsler Preschool and Primary Scale of Intelligence (WPPSI).
(State Psychology Board; 868 IAC 2-1-3)

868 IAC 2-1-4 Personality tests
Authority: IC 25-33-1-3
Affected: IC 25-33-1-14

Sec. 4. The following personality and psychopathology tests and instruments are restricted psychology tests and instruments as provided by IC 25-33-1-3(g) and IC 25-33-1-14(e):

(1) Antisocial Process Screening Device.
(2) Anxiety Disorders Interview Schedule for DSM-IV.
(3) Asperger Syndrome Diagnostic Scale.
(4) Basic Personality Inventory (BPI).
(5) California Psychological Inventory.
(6) Child Abuse Potential Inventory.
(7) Child Sexual Behavior Inventory (CSBI).
(8) Childhood Autism Rating Scale.
(9) Clinical Analysis Questionnaire.
(10) Conners' Adult ADHD Diagnostic Interview for the DSM-IV.
(11) Detailed Assessment of Posttraumatic Stress.
(12) Diagnostic Interview for Children and Adolescents (DICA).
(13) Diagnostic Interview Schedule for Children (DISC).
(14) Gilliam Asperger Disorder Scale.
(15) Gilliam Autism Rating Scale.
(16) Gordon Personal Profile Inventory (GPPI).
(17) Inwald Psychological Inventory.
(18) Millon Adolescent Clinical Inventory.
(19) Millon Adolescent Personality Inventory.
(20) Millon Behavioral Health Inventory (MBHI).
(21) Millon Clinical Multiaxial Inventory.
(22) Minnesota Multiphasic Personality Inventory.
(23) My Worst Experience Scale.
(24) OMNI Personality Inventory.
(25) OMNI-IV Personality Disorder Inventory.
(26) Personality Assessment Inventory (PAI).
(27) Personality Inventory for Children.
(28) Personality Inventory for Youth (PIY).
(29) Posttraumatic Stress Diagnostic Scale.
(30) Psychiatric Diagnostic Screening Questionnaire.
(31) Psychopathology Inventory for Mentally Retarded Adults.
(32) Rust Inventory of Schizotypal Cognitions.
(33) Scales for Diagnosing Attention Deficit/Hyperactivity Disorder.
(34) Schedule of Affective Disorders and Schizophrenia (SADS).
(35) Semi-structured Clinical Interview for Children and Adolescents, ages 6-18.
(36) Structured Clinical Interview for DSM-IV.

(State Psychology Board; 868 IAC 2-1-4)

868 IAC 2-1-5 Neuropsychological tests and instruments
Authority: IC 25-33-1-3
Affected: IC 25-33-1-14

Sec. 5. The following neuropsychological tests and instruments are restricted psychology tests and instruments as provided by IC 25-33-1-3(g) and IC 25-33-1-14(e):
(1) Behavioural Inattention Test (BIT).
(2) Bender Visual Motor Gestalt Test.
(3) Benton Facial Recognition Test.
(4) Benton Visual Retention Test.
(5) Block Pattern Analysis Test (BPAT).
(6) Brief Test of Head Injury (BTHI).
(7) Burns Brief Inventory of Communication and Cognition.
(8) California Neuropsychological Screening Battery (CNSB).
(9) California Verbal Learning Test, Adult Version (CVLT).
(10) California Verbal Learning Test, Children's Version (CVLTC).
(11) Canter Background Interference Procedure for Bender Gestalt Test.
(12) Carrow Auditory-Visual Abilities Test (CAVAT).
(13) Category Test.
(14) CERAD.
(15) Children's Auditory Verbal Learning Test (CAVLT).
(16) Children's Category Test.
(17) Children's Memory Scale.
(18) Christensen Luria Test.
(19) Cognitive Linguistic Quick Test.
(20) Colorado Malingering Test.
(21) Conners' Continuous Performance Test (CPT).
(22) Conners' Kiddie Continuous Performance Test.
(23) Consonant Trigrams.
(24) Contextual Memory Test.
(25) Continuous Performance Test.
(26) Continuous Recognition Memory Test (CRMT).
(27) Controlled Oral Word Association Test (COWAT).
(28) Corsi Block Tapping Test.
(29) Delis-Kaplan Executive Function Test.
(30) Dementia Rating Scale.
(31) Denman Neuropsychology Memory Scale.
(32) Developmental Test of Visual-Motor Integration (DVMI).
(33) Developmental Test of Visual Perception.
(34) Developmental Test of Visual Perception–Adolescent and Adult.
(35) Digit Vigilance Test.
(36) Dot Counting Test.
(37) Expanded Paired Associate Test (EPAT).
(38) Expressive One-Word Picture Vocabulary Test (EOWPVT).
(39) Expressive Vocabulary Test.
(40) Extended Scale for Dementia (ESD).
(41) Farnsworth Panel D-15 Test.
(42) Figural Fluency Test.
(43) Frontal Systems Behavior Scale.
(44) Fuld Object-Memory Evaluation (FOME).
(45) Gordon Diagnostic System.
(46) Graham Kendall Memory for Designs Test.
(47) Grooved Pegboard Test.
(48) Halstead-Reitan Neuropsychological Test Battery (HRB).
(49) Halstead Russell Neurological Evaluation System.
(50) Hooper Visual Organization Test (HVOT).

(51) Hopkins Verbal Learning Test.
(52) Interference Learning Test (ILT).
(53) Iowa Screening Battery for Mental Decline.
(54) Benton Judgment of Line Orientation (JLO).
(55) Kaplan Baycrest Neurocognitive Assessment.
(56) Kaufman Short Neuropsychological Assessment Procedure (K-SNAP).
(57) Lafayette Clinic Repeatable Neuropsychological Test Battery.
(58) Learning and Memory Battery (LAMB).
(59) Learning Efficiency Test (LET).
(60) Letter and Symbol Cancellation Tests.
(61) Line Bisection Test (LB).
(62) Luria-Nebraska Neuropsychological Battery.
(63) Matching Familiar Figures Test (MFFT).
(64) Matrix Analogies Test (MAT).
(65) Memory Assessment Scales (MAS).
(66) Memory for Designs.
(67) Mini Inventory of Right Brain Injury.
(68) Benton Motor Impersistence Battery.
(69) Naglieri Nonverbal Ability Test (NNAT).
(70) NEPSY.
(71) Neurobehavioral Assessment of the Preterm Infant (NAPI).
(72) Neurobehavioral Cognitive Status Examination (NCSE).
(73) Overlapping Figures Test.
(74) Paced Auditory Serial Attention Test (PASAT).
(75) Peabody Picture Vocabulary Test III.
(76) Pictorial Verbal Test (PVLT).
(77) Porteus Mazes Test.
(78) Portland Digit Recognition Test (PDRT).
(79) Purdue Pegboard Test.
(80) Quality Extinction Test (QET).
(81) Quick Neurological Screening Test.
(82) Quick Test.
(83) Randt Memory Test.
(84) Receptive-Expressive Emergent Language Test.
(85) Receptive One-Word Picture Vocabulary Test (ROWPVT).
(86) Recognition Memory Test (RMT).
(87) Recurring Figures Test.
(88) Repeatable Battery for the Assessment of Neuropsychological Status (RBANS).
(89) Revised Token Test (RTT).
(90) Rey Auditory Verbal Learning Test (RAVLT).
(91) Rey Complex Figure Test and Recognition Trial.
(92) Rey's Fifteen Item Test.
(93) Rey's Visual Design Learning Test (RVDLT).
(94) Rivermead Behavioral Memory Test.
(95) Scales of Cognitive Ability for Traumatic Brain Injury (SCATBI).
(96) Selective Reminding Test (SRT).
(97) Benton Serial Digit Learning (SDL).
(98) Severe Impairment Battery (SIB).
(99) Street Completion Test.
(100) Stroop Color and Word Test.
(101) Stroop Neurological Screening Test.
(102) Symbol Digit Modalities Test (SDMT).
(103) Benton Temporal Orientation Test.
(104) Test of Auditory Reasoning and Processing Skills (TARPS).
(105) Test of Memory and Learning (TOMAL).
(106) Test of Sustained Attention and Tracking (TSAT).
(107) Test of Variables of Attention (TOVA).
(108) Test of Visual-Motor Skills.
(109) Thurstone Word Fluency Test (TWFT).
(110) Timed Card Sorting Test (TCST).
(111) Test of Memory Malingering (TOMM).
(112) Tower of London, Hanoi, and other adaptations.
(113) Smell Identification Test (SIT).
(114) Victoria Symptom Validity Test.
(115) Validity Indicator Profile (VIP).
(116) Visual Search and Attention Test (VSAT).
(117) Wechsler Memory Scale.
(118) Wechsler Test of Adult Reading.
(119) Wide Range Assessment of Memory and Learning (WRAML).
(120) Wisconsin Card Sorting Test.

(State Psychology Board; 868 IAC 2-1-5)

868 IAC 2-1-6 Tests of learning ability and school readiness

Authority: IC 25-33-1-3
Affected: IC 25-33-1-14

Sec. 6. The following tests of learning ability and school readiness are restricted psychology tests and instruments as provided by IC 25-33-1-3(g) and IC 25-33-1-14(e):

(1) Das Naglieri Cognitive Assessment System.
(2) Mullen Scales of Early Learning.
(3) Woodcock-Johnson III Tests of Cognitive Ability.

(State Psychology Board; 868 IAC 2-1-6)

868 IAC 2-1-7 Projective tests

Authority: IC 25-33-1-3
Affected: IC 25-33-1-14

Sec. 7. The following projective tests are restricted psychology tests and instruments as provided by IC 25-33-1-3(g) and IC 25-33-1-14(e):

(1) Adolescent Apperception Cards (AAC).
(2) Adolescent Self-Report and Projective Inventory.
(3) Children's Apperception Test (CAT).
(4) Children's Self-Report and Projective Inventory.
(5) Draw a Person Test, House Tree Person, and Kinetic Family Drawing Tests.
(6) Family Apperception Test.
(7) Hand Test.
(8) Holtzman Inkblot Technique (HIT).
(9) Roberts Apperception Test.

(10) Rorschach Inkblot Technique.
(11) Rotter Incomplete Sentences Blank.
(12) Self-Report and Projective Inventory (SRPI).
(13) Sexual Projective Card Set.
(14) Tell-Me-A-Story (TEMAS).
(15) Thematic Apperception Test (TAT).
(16) Walker Visuals.
(State Psychology Board; 868 IAC 2-1-7)

868 IAC 2-1-8 Inventories and rating scales
Authority: IC 25-33-1-3
Affected: IC 25-33-1-14

Sec. 8. The following inventories and rating scales are restricted psychology tests and instruments as provided by IC 25-33-1-3(g) and IC 25-33-1-14(e):
(1) Ackerman-Schoendorf Scales for Parent Evaluation of Custody (ASPECT).
(2) ADHD Symptoms Checklist.
(3) ADHD Symptoms Rating Scale.
(4) Behavior Rating Inventory of Executive Function.
(5) Behavioral Assessment System for Children (BASC).
(6) Brown Attention-Deficit Disorder Scales (Brown ADD).
(7) Achenbach System of Empirically Based Assessment: Child Behavior Checklists.
(8) Conduct Disorder Scale.
(9) Conners' Parent Rating Scales.
(10) Conners' Teacher Rating Scale.
(11) Devereaux Scales of Mental Disorders.
(12) Eating Disorders Inventory.
(13) Parenting Stress Index.
(14) Reiss Screen for Maladaptive Behavior.
(15) Trauma Symptom Checklist for Children (TSCC).
(16) Trauma Symptom Inventory.
(State Psychology Board; 868 IAC 2-1-8)

868 IAC 2-1-9 Adaptive behavior scales
Authority: IC 25-33-1-3
Affected: IC 25-33-1-14

Sec. 9. The following adaptive behavior scales are restricted psychology tests and instruments as provided by IC 25-33-1-3(g) and IC 25-33-1-14(e):
(1) AAMR Adaptive Behavior Scale-Residential and Community.
(2) Adaptive Behavior Assessment System.
(3) Adaptive Behavior Evaluation Scale.
(4) Independent Living Scales.
(5) Scales of Independent Behavior.
(6) Vineland Adaptive Behavior Test.
(State Psychology Board; 868 IAC 2-1-9)

Notice of Public Hearing

Under IC 4-22-2-24, notice is hereby given that on September 19, 2003 at 9:30 a.m., at the Indiana Government Center-South, 402 West Washington Street, Room W064, Indianapolis, Indiana the State Psychology Board will hold a public hearing on proposed new rules establishing a list of restricted psychology tests. Copies of these rules are now on file at the Indiana Government Center-South, 402 West Washington Street, Room W066 and Legislative Services Agency, One North Capitol, Suite 325, Indianapolis, Indiana and are open for public inspection.

Lisa R. Hayes
Executive Director
Health Professions Bureau

TITLE 876 INDIANA REAL ESTATE COMMISSION

Proposed Rule
LSA Document #03-124

DIGEST

Amends 876 IAC 1-1-19 to establish an application fee for a licensee who submits a transfer application to terminate his or her association with a principal broker. Effective 30 days after filing with the secretary of state.

876 IAC 1-1-19

SECTION 1. 876 IAC 1-1-19 IS AMENDED TO READ AS FOLLOWS:

876 IAC 1-1-19 Termination of association with principal broker; duties of parties
Authority: IC 25-8-1-2; IC 25-34.1-2-5
Affected: IC 25-34.1-3-3.1; IC 25-34.1-3-4.1

Sec. 19. Any licensee, upon termination of his **or her** association with a principal broker, shall turn over to ~~said~~ **the** principal broker any and all listings obtained during his association unless otherwise stipulated by a written contract. ~~Said~~ **The** listings shall remain the property of the principal broker whether originally given to the licensee by the principal broker or copied from the records of ~~said~~ **the** broker. The principal broker of a terminated salesperson is responsible for submitting to the commission within five (5) business days of the termination, a notification form provided by the commission and signed by the terminating broker and attesting to the termination. In the event the terminated licensee is transferring to a new principal broker, it shall be the responsibility of the licensee to provide the commission with a transfer application signed by the licensee and the new principal broker ~~Said~~ **and pay a ten dollar ($10) transfer fee. The** licensee is responsible for submitting to the commission the transfer application at the time of this association with another principal broker. The ~~broker-~~

~~salesperson~~ **broker-salesperson's or** salesperson's license will remain in the commission's ~~inactive~~ **unassigned** file **of licensees who are currently not associated with a principal broker** until ~~such~~ **a** transfer application is timely received. A licensee who terminates his association with a principal broker must immediately notify the commission of his **or her** change of address. *(Indiana Real Estate Commission; Rule 20; filed Sep 28, 1977, 4:30 p.m.: Rules and Regs. 1978, p. 799; filed Jan 16, 1979, 11:55 a.m.: 2 IR 315; filed Mar 13, 1980, 2:40 p.m.: 3 IR 648; filed Dec 11, 1986, 10:40 a.m.: 10 IR 877; readopted filed Jun 29, 2001, 9:56 a.m.: 24 IR 3824)*

Notice of Public Hearing

Under IC 4-22-2-24, notice is hereby given that on August 28, 2003 at 10:30 a.m., at the Indiana Government Center-South, 402 West Washington Street, Conference Center Room 12, Indianapolis, Indiana the Indiana Real Estate Commission will hold a public hearing on proposed amendments to establish an application fee for a licensee who submits a transfer application to terminate his or her association with a principal broker. Copies of these rules are now on file at the Indiana Government Center-South, 302 West Washington Street, Room E012 and Legislative Services Agency, One North Capitol, Suite 325, Indianapolis, Indiana and are open for public inspection.

Gerald H. Quigley
Executive Director
Professional Licensing Agency

TITLE 905 ALCOHOL AND TOBACCO COMMISSION

Proposed Rule
LSA Document #03-94

DIGEST

Amends 905 IAC 1-15.2-3 to clarify the conditions under which a minor in a permit premises that has no bar is considered to be loitering. Effective 30 days after filing with the secretary of state.

905 IAC 1-15.2-3

SECTION 1. 905 IAC 1-15.2-3 IS AMENDED TO READ AS FOLLOWS:

905 IAC 1-15.2-3 Loitering
Authority: IC 7.1-2-3-7
Affected: IC 7.1-5

Sec. 3. **(a)** A minor in that part of a restaurant permit premises that has no bar shall be considered to be loitering unless he or she

~~(1)~~ is accompanied by his or her parent, legal guardian, or family member who is twenty-one (21) years of age or older.

(b) A minor in that part of a restaurant permit premises that has no bar who does not meet the conditions of subsection (a) shall be considered to be loitering unless he or she:

~~(2)~~ **(1)** has placed an order for food and said order has not been served;

~~(3)~~ **(2)** is eating; or

~~(4)~~ **(3)** is viewing or listening to lawful ~~nonparticipatory~~ entertainment ~~provided by the establishment; provided, however, that said entertainment may not consist solely of music, whether live or recorded.~~ **in which the minor is not a participant.**

(Alcohol and Tobacco Commission; 905 IAC 1-15.2-3; filed Feb 20, 1991, 5:05 p.m.: 14 IR 1444; filed Jun 21, 2001, 2:30 p.m.: 24 IR 3651; readopted filed Oct 4, 2001, 3:15 p.m.: 25 IR 941)

Notice of Public Hearing

Under IC 4-22-2-24, notice is hereby given that on August 25, 2003 at 10:00 a.m., at the Indiana Government Center-South, 302 West Washington Street, Room E114, Indianapolis, Indiana the Alcohol and Tobacco Commission will hold a public hearing on a proposed amendment to clarify the conditions under which a minor inside a permit premises is considered to be loitering. Copies of these rules are now on file at the Indiana Government Center-South, 302 West Washington Street, Room E114 and Legislative Services Agency, One North Capitol, Suite 325, Indianapolis, Indiana and are open for public inspection.

Mary L. DePrez
Chairperson
Alcohol and Tobacco Commission

TITLE 905 ALCOHOL AND TOBACCO COMMISSION

Proposed Rule
LSA Document #03-96

DIGEST

Adds 905 IAC 1-35.1 to establish rules regulating the sale of alcoholic beverages at auto race tracks under IC 7.1-3-6-16 and IC 7.1-3-14-6 and to provide definitions and procedures to implement said statutes. Effective 30 days after filing with the secretary of state.

905 IAC 1-35.1

SECTION 1. 905 IAC 1-35.1 IS ADDED TO READ AS FOLLOWS:

Rule 35.1. Auto Race Tracks

905 IAC 1-35.1-1 Definitions
Authority: IC 7.1-2-3-7
Affected: IC 7.1-3-1-14; IC 7.1-3-1-25; IC 7.1-3-6-16; IC 7.1-3-14-6; IC 7.1-5-7-11

Sec. 1. The following definitions apply throughout this rule:

(1) "Auto race track" means an outdoor facility with the main purpose and function being organized sporting competition, but does not include the following:

(A) A facility to which IC 7.1-3-1-25(a) applies.

(B) A tract that contains a premises that is described in IC 7.1-3-1-14(e)(2).

(2) "Organized sporting competition" means a sporting event sanctioned by a nationally chartered and recognized governing or regulating body for automobile or motorcycle racing.

(Alcohol and Tobacco Commission; 905 IAC 1-35.1-1)

905 IAC 1-35.1-2 Basic qualifications
Authority: IC 7.1-2-3-7
Affected: IC 7.1-3-6-16; IC 7.1-3-14-6

Sec. 2. In order to qualify as an auto race track, a premises shall meet the following requirements:

(1) Meet all of the requirements of the underlying one-way or two-way alcoholic beverage permit.

(2) Be totally enclosed by some type of finite boundary that prohibits free ingress and egress except for entrances and exits, which must be so designated that they are easily controlled by the permittee.

(3) Be regularly used (at least seasonally) for organized sporting competition.

(Alcohol and Tobacco Commission; 905 IAC 1-35.1-2)

905 IAC 1-35.1-3 Ownership of the permit
Authority: IC 7.1-2-3-7
Affected: IC 7.1-3-4-2

Sec. 3. The holder of the alcoholic beverage permit must be either the owner or the lessee of the land and of the buildings on which the auto race track is located. *(Alcohol and Tobacco Commission; 905 IAC 1-35.1-3)*

905 IAC 1-35.1-4 Minimum food services required
Authority: IC 7.1-2-3-7
Affected: IC 7.1-3-6-16; IC 7.1-3-14-6

Sec. 4. The auto race track must maintain the minimum food requirements of IC 7.1 and this title. Such food service must be available at all times when alcoholic beverages are being dispensed anywhere upon the licensed premises. *(Alcohol and Tobacco Commission; 905 IAC 1-35.1-4)*

905 IAC 1-35.1-5 Floor plan approval
Authority: IC 7.1-2-3-7
Affected: IC 7.1-3

Sec. 5. The floor plan and any changes therein of the auto race track must be approved by the commission. *(Alcohol and Tobacco Commission; 905 IAC 1-35.1-5)*

905 IAC 1-35.1-6 Areas where alcoholic beverages may be dispensed
Authority: IC 7.1-2-3-7
Affected: IC 7.1-3-6-16; IC 7.1-3-14-6

Sec. 6. (a) Alcoholic beverages, for on-premises consumption only, may be dispensed only from the service window and snack stands within the approved boundaries of the auto race track.

(b) The snack stands must be a semipermanent structure and meet the minimum food requirements of IC 7.1 and this title, except for hot soup. A tent is not acceptable. *(Alcohol and Tobacco Commission; 905 IAC 1-35.1-6)*

905 IAC 1-35.1-7 Sales of alcoholic beverages
Authority: IC 7.1-2-3-7
Affected: IC 7.1-3-4-6

Sec. 7. (a) Alcoholic beverages may be dispensed from the snack stand beginning one (1) hour prior to the start of an organized sporting competition and must cease within one (1) hour after the end of the competition providing the hours are within the statutory limits of IC 7.1.

(b) There shall be no carryout sales allowed from any location at any time.

(c) No alcoholic beverages may be carried into or upon the auto race track whether or not alcoholic beverages are being dispensed by the permit holder. *(Alcohol and Tobacco Commission; 905 IAC 1-35.1-7)*

905 IAC 1-35.1-8 Adherence to sporting rules
Authority: IC 7.1-2-3-7
Affected: IC 7.1-2

Sec. 8. The auto race track shall comply with all applicable rules and regulations of the recognized sanctioning body of a given sporting event regarding the service of alcoholic beverages. *(Alcohol and Tobacco Commission; 905 IAC 1-35.1-8)*

905 IAC 1-35.1-9 Filing of sanctioning organizations
Authority: IC 7.1-2-3-7
Affected: IC 7.1-3

Sec. 9. In addition to all other required paperwork for new permits or the renewal of any existing permit, the applicant or permit holder seeking approval to be classified as an auto race track shall file with the commission a list of all sanctioning organizations that will or may be reasonably expected to sanction sporting competition at the auto race track. The commission reserves the right to approve or

deny any sanctioning organization and will give notice to the permittee of any details. *(Alcohol and Tobacco Commission; 905 IAC 1-35.1-9)*

Notice of Public Hearing

Under IC 4-22-2-24, notice is hereby given that on August 25, 2003 at 10:00 a.m., at the Indiana Government Center-South, 302 West Washington Street, Room E114, Indianapolis, Indiana the Alcohol and Tobacco Commission will hold a public hearing on a proposed new rule to establish the procedures for the sale of alcoholic beverages at auto race tracks. Copies of these rules are now on file at the Indiana Government Center-South, 302 West Washington Street, Room E114 and Legislative Services Agency, One North Capitol, Suite 325, Indianapolis, Indiana and are open for public inspection.

Mary L. DePrez
Chairperson
Alcohol and Tobacco Commission

TITLE 905 ALCOHOL AND TOBACCO COMMISSION

Proposed Rule
LSA Document #03-97

DIGEST

Amends 905 IAC 1-36-2 to include the requirement that an appeal from the commission's determination on a permit must be verified and state the grounds for objection to the commission's action. Clarifies the intervention procedure. Provides that the 15 day period to appeal a determination does not begin until the appellant receives notice of the commission's action. Effective 30 days after filing with the secretary of state.

905 IAC 1-36-2

SECTION 1. 905 IAC 1-36-2 IS AMENDED TO READ AS FOLLOWS:

905 IAC 1-36-2 Review of local alcoholic beverage board's approval or denial of an application for an alcoholic beverage permit

Authority: IC 7.1-2-3-7
Affected: IC 4-21.5-2-6

Sec. 2. (a) After a local board recommends approval or denial of an application for a new permit, including a transfer application or renewal of an existing permit, the commission shall act promptly upon the local board's recommendation. If there was no remonstrance before the local board and if the commission approves the application, the commission shall issue the permit to the applicant. If either there was a remonstrance against the application before the local board or the commission disapproves the application, the commission shall give personal notice of its action or written notice of its action by certified mail to the applicant and to any remonstrator. For purposes of this rule, "remonstrator" means a person who appeared, personally or by counsel, as a remonstrator against the application at the local board hearing and identified himself to the local board, stating his name and address or telephone number to the board at the hearing.

(b) Upon receipt of notice of the commission's action under section 1(a) of this rule, an applicant or a remonstrator shall have fifteen (15) days to file any objection to the commission's action and to request an appeal hearing before the commission. **Such appeal must be in writing and signed under the penalties for perjury. Said appeal must clearly state the grounds for objection to the commission's actions.** The objections of any remonstrator shall also be accompanied by a **separate** petition for intervention stating facts ~~which~~ **that** demonstrate that the petitioner will be aggrieved or adversely affected by the commission's action. A copy of the remonstrator's objections and petition for intervention shall be served by the remonstrator on the applicant by certified mail unless the remonstrator is not represented by counsel. In such case, the commission will serve the remonstrator's ~~pleading(s)~~ **pleading or pleadings** on the applicant. Failure of the applicant to file objections or failure of a remonstrator to file objections and a petition for intervention within the fifteen (15) day period shall constitute a waiver of any appeal hearing from the commission's action. **The fifteen (15) day period does not begin to run until the commission rules on the local board's recommendation.** Absent exigent circumstances, the commission shall deny the petition for intervention of any person who did not appear personally or by counsel at the local board hearing. Upon receipt of an applicant's objections, the commission shall set the applicant's objections for hearing.

(c) If the objection is based on the denial of an application or renewal of an existing permit, the applicant may request an extension of the life of the permit to allow him **or her** to continue operating, pending the appeal procedure. If the commission issues the extension, the applicant shall pay the required fee and shall be allowed to operate until notified by the commission that the extension is terminated by either personal notice or written notice by certified mail to the applicant's last known address as stated on his **or her** application for said permit. Upon receipt of said notification, **the** applicant shall have ten (10) days to continue operating, and at the expiration of the ten (10) days he **or she** must cease selling alcoholic beverages. **At any time during the appeals process,** the commission, at its discretion, may allow the applicant to place the denied permit into escrow and allow a reasonable time for the applicant to sell said permit to a bona fide purchaser for value in an arm's length transaction subject to the approval of the commission.

(d) Upon receipt of a remonstrator's objections and petition

for intervention under subsection (b), the commission shall review the petition and determine whether the remonstrator should be permitted to intervene in the matter. In making its determination, the commission shall consider whether the remonstrator has **alleged facts that if** proven **show** that he or she ~~will~~ **would** be personally aggrieved or adversely affected if the application for permit is granted. If the commission finds that the remonstrator ~~would be aggrieved or adversely affected,~~ **has alleged such facts,** he **or she** shall be allowed to intervene, ~~and~~ notice of such shall be sent to the applicant, and ~~the remonstrator and~~ the intervening remonstrator's objections shall be set for hearing. If the commission finds that the remonstrator should not be permitted to intervene, it may deny the remonstrator's request for hearing. As used hereafter in this rule, "intervening remonstrator" means a remonstrator that has been granted permission to intervene by the commission.

(e) An applicant, a remonstrator, or an intervening remonstrator who has filed objections to the commission's determination may request and pay a deposit in the amount of fifty dollars ($50) for the preparation of the local board transcript, and, as soon as it is prepared, he **or she** shall pay any final amounts due.

(f) The commission shall give the applicant and any remonstrators or intervening remonstrators notice of the appeal hearing by certified mail at least ten (10) days prior to the hearing. The notice shall state the time and place of the hearing. At the discretion of the commission, the hearing may be conducted by the full commission, any individual member of the commission, or a duly authorized agent of the commission. *(Alcohol and Tobacco Commission; 905 IAC 1-36-2; filed Feb 20, 1991, 5:05 p.m.: 14 IR 1446; readopted filed Oct 4, 2001, 3:15 p.m.: 25 IR 941)*

Notice of Public Hearing

Under IC 4-22-2-24, notice is hereby given that on August 25, 2003 at 10:00 a.m., at the Indiana Government Center-South, 302 West Washington Street, Room E114, Indianapolis, Indiana the Alcohol and Tobacco Commission will hold a public hearing on a proposed amendment concerning appellate procedures from commission determinations on permits. Copies of these rules are now on file at the Indiana Government Center-South, 302 West Washington Street, Room E114 and Legislative Services Agency, One North Capitol, Suite 325, Indianapolis, Indiana and are open for public inspection.

Mary L. DePrez
Chairperson
Alcohol and Tobacco Commission

Proposed Readopted Rules

TITLE 68 INDIANA GAMING COMMISSION

Proposed Rule
LSA Document #03-132

DIGEST

Readopts 68 IAC 4 as it currently appears in the Administrative Code. Under IC 4-22-2.5-4, the Indiana Gaming Commission received a written request to separately consider 68 IAC 4. Under IC 4-22-2.5-4(b)(2), the Indiana Gaming Commission is now following the procedure for adoption of administrative rules under IC 4-22-2 with respect to 68 IAC 4. Under IC 4-22-2.5-5 and Executive Order 02-22, printed at 26 IR 1746, 68 IAC 4 will expire on January 1, 2004, unless readopted. Effective 30 days after filing with the secretary of state.

68 IAC 4-1-1
68 IAC 4-1-2
68 IAC 4-1-3
68 IAC 4-1-4
68 IAC 4-1-5
68 IAC 4-1-6
68 IAC 4-1-7
68 IAC 4-1-8
68 IAC 4-1-9
68 IAC 4-1-10

SECTION 1. UNDER IC 4-22-2.5-4, 68 IAC 4-1-1 IS READOPTED TO READ AS FOLLOWS:

ARTICLE 4. CORPORATIONS

Rule 1. Publicly Traded Corporations

68 IAC 4-1-1 Definitions
Authority: IC 4-33-4-1; IC 4-33-4-2; IC 4-33-4-3; IC 4-33-4-21
Affected: IC 4-33-5; IC 4-33-6; IC 4-33-9; IC 23-2-1-1

Sec. 1. The following definitions apply throughout this rule:

(1) "Current market price" means the average of the daily closing prices for the twenty (20) consecutive trading days immediately preceding the date of such transaction or the closing price on the day immediately preceding the date of the transaction, whichever is higher. For the purpose of this definition, the closing price shall be determined as follows:

(A) If the security is admitted to trading or listed on the principal national securities and exchange, the closing price for each day shall be:

(i) the last reported sale price, regular way; or

(ii) in case no such reported sale takes place on such day, the average of the last reported bid and asked prices, regular way.

In either case, the closing price on the principal national securities and exchange registered under the Securities and Exchange Act of 1934 (15 U.S.C. 78a et seq.) on which such security is admitted to trading or listed.

(B) If the security is not listed or admitted to trading on any national securities exchange, the closing price for each day shall be:

(i) the closing price of such security; or

(ii) in case no reported sale takes place, the average of the closing bid and asked prices on NASDAQ or any comparable system.

(C) If the security is not listed or quoted on NASDAQ or on any comparable system, the closing price for each day shall be:

(i) the closing sale price; or

(ii) in case no reported sale takes place, the average of the closing bid and asked prices, as furnished by any member of the National Association of Securities Dealers, Inc., selected from time to time by the issuer for that purpose.

(2) "Holding company" means any corporation, firm, partnership, trust, limited liability company, or other form of business entity that meets the following criteria:

(A) Directly or indirectly:

(i) owns;

(ii) has the power or right to vote or control; or

(iii) holds with the power to vote;

all or any part of the stock, interest, or other voting security of a business entity that holds or has applied for an Indiana riverboat owner's license or a supplier's license.

(B) Indirectly holds, holds, or owns any power, right, or security if it does so through any interest in a subsidiary or successive subsidiary, however, many such subsidiaries may intervene between the holding company and the holder or applicant for a riverboat owner's license or a supplier's license.

(3) "Intermediary company" means any corporation, firm, partnership, trust, limited liability company, or other form of business entity that meets the following criteria:

(A) Is a holding company of a holder or an applicant for a riverboat owner's license or a supplier's license.

(B) Is a subsidiary with respect to any holding company.

(4) "Public offering" means a sale of voting securities that is subject to the registration requirements of Section 5 of the Securities Act of 1933 (15 U.S.C. 78a et seq.), or that is exempt from such requirements solely by reason of an exemption contained in either:

(A) Section 3(a)(10), 3(a)(11), or 3(c) of the Securities Act of 1933 (15 U.S.C. 78a et seq.); or

(B) Regulation A or Regulation D adopted under Section 3(b) of the Securities Act of 1933 (15 U.S.C. 78a et seq.).

(5) "Publicly traded corporation" means the following:

(A) Any person, other than an individual, that:

(i) has one (1) or more classes of voting securities registered under Section 12 of the Securities and Exchange Act of 1934 (15 U.S.C. 78a et seq.);

(ii) issues securities and is subject to Section 15(d) of the Securities Act of 1934 (15 U.S.C. 78a et seq.); or

(iii) has one (1) or more classes of voting securities exempted from the registration requirements of Section 5 of the Securities Act of 1933 (15 U.S.C. 78a et seq.) due to an exemption contained in Section 3(a)(10), 3(a)(11), or 3(c) of the Securities Act of 1933 (15 U.S.C. 78a et seq.);

or any other company required to file under the Securities and Exchange Act of 1934.

(B) Any person, other than an individual, created under the laws of a foreign country that:

(i) has one (1) or more classes of voting securities registered on that country's securities exchange or over-the-counter market; and

(ii) the commission has determined that the business entity's activities are regulated in a manner that protects the investors and Indiana.

The term includes any person, other than an individual, that has securities registered or is an issuer under this definition solely because it guaranteed a security issued by an affiliate under a public offering and is considered by the Securities and Exchange Commission to be a co-issuer of a public offering of securities under Rule 140 of the Securities and Exchange Act of 1934 (15 U.S.C. 78a et seq.).

(6) "Security" has the meaning set forth in IC 23-2-1-1(k).

(7) "Subsidiary" means any firm, partnership, trust, limited liability company, or other form of business organization, all or any interest of which is:

(A) owned;

(B) subject to a power or right of control; or

(C) held with power to vote;

directly, indirectly, or in conjunction with a holding company or intermediary company.

(8) "Voting security" means a security the holder of which is entitled to vote generally for the election of a member or members of the board of directors or board of trustees of a corporation or a comparable person or persons in the case of a partnership, trust, or other form of business organization other than a corporation.

(Indiana Gaming Commission; 68 IAC 4-1-1; filed Dec 11, 1995, 4:30 p.m.: 19 IR 1026)

SECTION 2. UNDER IC 4-22-2.5-4, 68 IAC 4-1-2 IS READOPTED TO READ AS FOLLOWS:

68 IAC 4-1-2 Applicability

Authority: IC 4-33-4-1; IC 4-33-4-2; IC 4-33-4-3; IC 4-33-4-21
Affected: IC 4-33-5; IC 4-33-6; IC 4-33-9

Sec. 2. (a) This rule applies to publicly traded corporations holding riverboat owners' licenses, certificates of suitability, or supplier licenses in Indiana and riverboat licensees, riverboat license applicants, or supplier licensees owned directly or indirectly by a publicly traded corporation, whether through a subsidiary or intermediary company thereof, where such ownership interest directly or indirectly is, or will be upon approval by the commission, five percent (5%) or more of the entire riverboat licensee, riverboat license applicant, or supplier licensee.

(b) If the commission determines that a publicly traded corporation, or a subsidiary, intermediary company, or holding company thereof has the actual ability to exercise influence over a riverboat licensee or supplier licensee, regardless of the percentage of ownership possessed by the entity, the commission may require the entity to comply with this rule. *(Indiana Gaming Commission; 68 IAC 4-1-2; filed Dec 11, 1995, 4:30 p.m.: 19 IR 1027)*

SECTION 3. UNDER IC 4-22-2.5-4, 68 IAC 4-1-3 IS READOPTED TO READ AS FOLLOWS:

68 IAC 4-1-3 Public offerings

Authority: IC 4-33-4-1; IC 4-33-4-2; IC 4-33-4-3; IC 4-33-4-21
Affected: IC 4-33-5; IC 4-33-6; IC 4-33-9

Sec. 3. A riverboat licensee, riverboat license applicant, supplier licensee, affiliate, or controlling person thereof commencing a public offering must notify the commission, with regard to a public offering to be registered with the Securities and Exchange Commission, no later than ten (10) business days after the initial filing of a registration statement with the Securities and Exchange Commission, or, with regard to any other type of public offering, no later than ten (10) business days prior to the public use or distribution of any offering document, if:

(1) the riverboat licensee, supplier licensee, affiliate, or controlling person thereof intending to issue the voting securities is not a publicly traded corporation; or

(2) the riverboat licensee, supplier licensee, affiliate, or controlling person thereof intending to issue the voting securities is a publicly traded corporation and if the proceeds of the offering, in whole or in part, are intended to be used:

(A) to pay for the construction of a gambling operation to be owned or operated by the licensee in Indiana;

(B) to acquire any direct or indirect interest in a gambling operation located in Indiana or a supplier licensee;

(C) to finance the operation of a gambling operation in Indiana by the licensee; or

(D) to retire or extend obligations incurred for one (1) or more purposes set forth in clause (A), (B), or (C).

(Indiana Gaming Commission; 68 IAC 4-1-3; filed Dec 11, 1995, 4:30 p.m.: 19 IR 1027)

SECTION 4. UNDER IC 4-22-2.5-4, 68 IAC 4-1-4 IS READOPTED TO READ AS FOLLOWS:

68 IAC 4-1-4 Notice of public offering

Authority: IC 4-33-4-1; IC 4-33-4-2; IC 4-33-4-3; IC 4-33-4-21
Affected: IC 4-33-5; IC 4-33-6; IC 4-33-9

Sec. 4. A person notifying the commission of a public offering shall disclose the following information:

(1) A description of the voting securities to be offered.

(2) The proposed terms upon which the voting securities are to be offered.

(3) The anticipated gross and net proceeds of the offering, including a detailed list of expenses.

(4) The use of the proceeds.

(5) The name and address of the lead underwriter.

(6) The forms of the underwriting agreement, the agreement underwriters, if any, and the selected dealers agreements, if any.

(7) A statement of intended compliance with all applicable federal, state, local, and foreign securities laws.

(8) The names and addresses of the riverboat licensee or supplier licensee's counsel for such public offering, independent auditors, and special consultants for the offering.

(9) If any voting securities to be issued are not to be offered to the general public, the general nature of the offerees and the form of the offering.

(10) Any other offering material filed with the Securities and Exchange Commission that is required to be submitted pursuant to the direction of the Securities and Exchange Commission.

(Indiana Gaming Commission; 68 IAC 4-1-4; filed Dec 11, 1995, 4:30 p.m.: 19 IR 1027)

SECTION 5. UNDER IC 4-22-2.5-4, 68 IAC 4-1-5 IS READOPTED TO READ AS FOLLOWS:

68 IAC 4-1-5 Fraudulent and deceptive practices prohibited

Authority: IC 4-33-4-1; IC 4-33-4-2; IC 4-33-4-3; IC 4-33-4-21
Affected: IC 4-33-5; IC 4-33-6; IC 4-33-9; IC 23-2-1

Sec. 5. A disciplinary action may be initiated under 68 IAC 13 if any person, in connection with the purchase or sale of any security issued by a riverboat licensee, supplier licensee, affiliate, or controlling person thereof is:

(1) found guilty of;

(2) pleads nolo contendere to;

(3) is the subject of a final cease and desist order with respect to;

(4) is subject to an order of permanent injunction issued on the basis of; or

(5) is the subject of a similar final action taken on the basis of;

a violation of Rule 10b-5 promulgated by the Securities and Exchange Commission under Section 10(b) of the Securities Exchange Act of 1934 (15 U.S.C. 78a et seq.) or a violation of IC 23-2-1. *(Indiana Gaming Commission; 68 IAC 4-1-5; filed Dec 11, 1995, 4:30 p.m.: 19 IR 1028)*

SECTION 6. UNDER IC 4-22-2.5-4, 68 IAC 4-1-6 IS READOPTED TO READ AS FOLLOWS:

68 IAC 4-1-6 Submission of proxy and information statements

Authority: IC 4-33-4-1; IC 4-33-4-2; IC 4-33-4-3; IC 4-33-4-21
Affected: IC 4-33-5; IC 4-33-6; IC 4-33-9

Sec. 6. Each publicly traded corporation that is a riverboat licensee or supplier licensee shall, within ten (10) business days after distributing any:

(1) proxy statement subject to Regulation 14A of the Securities and Exchange Commission; or

(2) information statement subject to Regulation 14C of the Securities and Exchange Commission;

to its security holders, submit such proxy statement or information statement to the commission. *(Indiana Gaming Commission; 68 IAC 4-1-6; filed Dec 11, 1995, 4:30 p.m.: 19 IR 1028)*

SECTION 7. UNDER IC 4-22-2.5-4, 68 IAC 4-1-7 IS READOPTED TO READ AS FOLLOWS:

68 IAC 4-1-7 Reporting requirements

Authority: IC 4-33-4-1; IC 4-33-4-2; IC 4-33-4-3; IC 4-33-4-21
Affected: IC 4-33-5; IC 4-33-6; IC 4-33-9

Sec. 7. (a) A publicly traded corporation that is a riverboat licensee, a riverboat license applicant, or a supplier licensee which files:

(1) Form 10;

(2) Form 10-Q;

(3) Form 10-K;

(4) Form 8-K;

(5) Form 1-A;

(6) Registration Statement S-1;

(7) Registration Statement SB-2;

(8) Registration Statement 10-SB;

(9) Report 10-KSB;

(10) Report 10-QSB;

(11) Schedule 13e-3;

(12) Schedule 14D-9; or

(13) any filing required by Rule 14f-1 promulgated under the Securities Exchange Act of 1934 (15 U.S.C. 78a et seq.);

shall, within ten (10) business days of filing the document with the Securities and Exchange Commission, file three (3) copies of such document with the commission.

(b) A publicly traded corporation that is a riverboat licensee or supplier licensee that receives any material document filed with the Securities and Exchange Commission by any other person relating to such publicly traded corporation shall, within ten (10) business days following such receipt, file one (1) copy of such document with the commission.

(c) A publicly traded corporation that is a riverboat licensee or supplier licensee shall file a list of recordholders and beneficial owners of its voting securities with the commission annually.

(d) A publicly traded corporation that is a riverboat or supplier licensee shall report to the commission the election or appointment of any director, executive officer, or any other officer of the licensee, holding company, or intermediary company thereof who is actively and directly engaged in the administration or supervision of the riverboat gambling operation or the supplier licensee.

(e) A publicly traded corporation that is a riverboat licensee or supplier licensee shall advise the commission, in writing, that a key person or substantial owner of the publicly traded corporation has disposed of any of such publicly traded corporation's voting securities by the fifteenth day of the month following the transaction.

(f) A riverboat licensee, supplier licensee, intermediary, or holding company thereof shall file any other document re-

quested by the commission to ensure compliance with the Act or this title within thirty (30) days or such other time established by the commission. *(Indiana Gaming Commission; 68 IAC 4-1-7; filed Dec 11, 1995, 4:30 p.m.: 19 IR 1028)*

SECTION 8. UNDER IC 4-22-2.5-4, 68 IAC 4-1-8 IS READOPTED TO READ AS FOLLOWS:

68 IAC 4-1-8 Required charter provisions

Authority: IC 4-33-4-1; IC 4-33-4-2; IC 4-33-4-3; IC 4-33-4-21
Affected: IC 4-33-5; IC 4-33-6; IC 4-33-9

Sec. 8. (a) The following provisions, or similar provisions approved by the executive director in accordance with subsection (d), must be included in the articles of incorporation, or similar organization documents, of each publicly traded riverboat licensee or supplier licensee: "The [corporation] [partnership] [limited liability company] shall not issue five percent (5%) or greater of any voting securities or other voting interests to a person except in accordance with the provisions of the Indiana Riverboat Gambling Act (IC 4-33) and the rules promulgated thereunder (68 IAC). The issuance of any voting securities or other voting interests in violation thereof shall be void and such voting securities or other voting interests shall be deemed not to be issued and outstanding until one (1) of the following occurs:

(1) The [corporation] [partnership] [limited liability company] shall cease to be subject to the jurisdiction of the Indiana Gaming Commission.

(2) The Indiana Gaming Commission shall, by affirmative action, validate said issuance or waive any defect in issuance.

No voting securities or other voting interests issued by the [corporation] [partnership] [limited liability company] and no interest, claim, or charge of five percent (5%) or greater therein or thereto shall be transferred in any manner whatsoever except in accordance with the provisions of the Indiana Riverboat Gambling Act (IC 4-33) and rules promulgated thereunder (68 IAC). Any transfer in violation thereof shall be void until one (1) of the following occurs:

(1) The [corporation] [partnership] [limited liability company] shall cease to be subject to the jurisdiction of the Indiana Gaming Commission.

(2) The Indiana Gaming Commission shall, by affirmative action, validate said transfer or waive any defect in said transfer.

If the Indiana Gaming Commission at any time determines that a holder of voting securities or other voting interests of this [corporation] [partnership] [limited liability company] shall be denied the application for transfer, then the issuer of such voting securities or other voting interests may, within thirty (30) days after the denial, purchase such voting securities or other voting interests of such denied applicant at the lesser of:

(1) the market price of the ownership interest; or

(2) the price at which the applicant purchased the ownership interest;

unless such voting securities or other voting interests are transferred to a suitable person (as determined by the commission) within thirty (30) days after the denial of the application for transfer of ownership.

Until such voting securities or other voting interests are owned by persons found by the commission to be suitable to own them, the following restrictions must be followed:

(1) The [corporation] [partnership] [limited liability company] shall not be required or permitted to pay any dividend or interest with regard to the voting securities or other voting interests.

(2) The holder of such voting securities or other voting interests shall not be entitled to vote on any matter as the holder of the voting securities or other voting interests, and such voting securities or other voting interests shall not for any purposes be included in the voting securities or other voting interests of the [corporation] [partnership] [limited liability company] entitled to vote.

(3) The [corporation] [partnership] [limited liability company] shall not pay any remuneration in any form to the holder of the voting securities or other voting interests as provided in this paragraph.".

(b) A riverboat license applicant must be in compliance with subsection (a) prior to the commission issuing the riverboat owner's license under 68 IAC 2-1.

(c) A supplier licensee must be in compliance with subsection (a) within forty-five (45) days of receiving a permanent supplier's license under 68 IAC 2-2. Each supplier licensee must file one (1) copy of the amended articles of incorporation or similar organization documents within fifty (50) days of receiving a permanent supplier's license.

(d) A riverboat license applicant, riverboat licensee, or supplier licensee must submit similar charter provisions to the executive director at least thirty (30) days prior to the public offering for approval. The executive director shall notify the riverboat license applicant, riverboat licensee, or supplier licensee, in writing, that the charter provisions are acceptable. *(Indiana Gaming Commission; 68 IAC 4-1-8; filed Dec 11, 1995, 4:30 p.m.: 19 IR 1028)*

SECTION 9. UNDER IC 4-22-2.5-4, 68 IAC 4-1-9 IS READOPTED TO READ AS FOLLOWS:

68 IAC 4-1-9 Consequences of violation of rule

Authority: IC 4-33-4-1; IC 4-33-4-2; IC 4-33-4-3; IC 4-33-4-21
Affected: IC 4-33-5; IC 4-33-6; IC 4-33-9

Sec. 9. If the commission determines that a riverboat licensee, a riverboat license applicant, or a supplier licensee has violated or is in violation of this rule, the commission may initiate an investigation, a disciplinary action, or both, under 68 IAC 13. *(Indiana Gaming Commission; 68 IAC 4-1-9; filed Dec 11, 1995, 4:30 p.m.: 19 IR 1029)*

SECTION 10. UNDER IC 4-22-2.5-4, 68 IAC 4-1-10 IS READOPTED TO READ AS FOLLOWS:

68 IAC 4-1-10 Waiver, alteration, or restriction of requirements

Authority: IC 4-33-4-1; IC 4-33-4-2; IC 4-33-4-3; IC 4-33-4-21
Affected: IC 4-33-5; IC 4-33-6; IC 4-33-9

Sec. 10. The commission may waive, alter, or restrict any requirement or procedure set forth in this rule if the commission determines that the requirement or procedure is impractical or burdensome and the waiver, alteration, or restriction is in the best interest of the public and the gaming industry and is not outside the technical requirements necessary to serve the purpose of the requirement or procedure. *(Indiana Gaming Commission; 68 IAC 4-1-10; filed Dec 11, 1995, 4:30 p.m.: 19 IR 1029)*

Notice of Public Hearing

Under IC 4-22-2-24 and IC 4-22-2.5-4, notice is hereby given that on September 4, 2003 at 10:00 a.m., at the Indiana Gaming Commission, National City Center, 115 West Washington Street, South Tower, Suite 950, Conference Room, Indianapolis, Indiana the Indiana Gaming Commission will hold a public hearing to consider 68 IAC 4 for readoption. Under IC 4-22-2.5-4(b)(2) and receipt of a request for separate consideration, the Indiana Gaming Commission is now following the procedure for adoption of administrative rules under IC 4-22-2 with respect to 68 IAC 4. Under IC 4-22-2.5-5 and Executive Order 02-22, printed at 26 IR 1746, 68 IAC 4 will expire on January 1, 2004, unless readopted. If an accommodation is required to allow an individual with a disability to participate, please contact Jennifer L. Chelf at (317) 233-0046 at least 48 hours prior to the meeting. Copies of these rules are now on file at the Indiana Gaming Commission, National City Center, 115 West Washington Street, South Tower, Suite 950, Indianapolis, Indiana; the Indiana State Archives, Indiana State Library, 140 North Senate Avenue, Indianapolis, Indiana; and Legislative Services Agency, One North Capitol, Suite 325, Indianapolis, Indiana and are open for public inspection.

Glenn R. Lawrence
Executive Director
Indiana Gaming Commission

TITLE 540 INDIANA EDUCATION SAVINGS AUTHORITY

Proposed Rule
LSA Document #03-112

DIGEST

Readopts rules in anticipation of IC 4-22-2.5-2, providing that an administrative rule adopted under IC 4-22-2 expires January 1 of the seventh year after the year in which the rule takes effect, unless the rule contains an earlier expiration date. Effective 30 days after filing with the secretary of state.

540 IAC 1-1-1
540 IAC 1-1-2
540 IAC 1-1-5
540 IAC 1-1-8
540 IAC 1-1-10
540 IAC 1-1-15
540 IAC 1-1-18
540 IAC 1-2
540 IAC 1-3-1
540 IAC 1-4-1
540 IAC 1-4-2
540 IAC 1-8-8
540 IAC 1-10-2
540 IAC 1-11
540 IAC 1-12-1
540 IAC 1-12-3
540 IAC 1-12-4

SECTION 1. UNDER IC 4-22-2.5-4, THE FOLLOWING ARE READOPTED:

540 IAC 1-1-1	Applicability
540 IAC 1-1-2	"Academic period" defined
540 IAC 1-1-5	"Administrative account" defined
540 IAC 1-1-8	"Authority" defined
540 IAC 1-1-10	"Board" defined
540 IAC 1-1-15	"Program administrator" defined
540 IAC 1-1-18	"Trustee" defined
540 IAC 1-2	Program Administrator's Duties
540 IAC 1-3-1	Eligibility
540 IAC 1-4-1	Eligibility
540 IAC 1-4-2	Number of beneficiaries
540 IAC 1-8-8	Contribution adjustments
540 IAC 1-10-2	Distribution of benefits
540 IAC 1-11	Investment Policies
540 IAC 1-12-1	Separate accounting
540 IAC 1-12-3	Security for a loan
540 IAC 1-12-4	Board policies

Notice of Public Hearing

Under IC 4-22-2-24 and IC 4-22-2.5-4, notice is hereby given that on September 4, 2003 at 10:30 a.m., at the Indiana Education Savings Authority, One North Capitol, Suite 110, Indianapolis, Indiana the Indiana Education Savings Authority will hold a public hearing to readopt rules.

Requests for any part of this readoption to be separate from this action must be made in writing within 30 days of this publication. Send written comments to:

Indiana Education Savings Authority
Attention: Executive Director
One North Capitol, Suite 444
Indianapolis, Indiana 46204

Copies of these rules are now on file at the Indiana Education Savings Authority, One North Capitol, Suite 444 and Legislative Services Agency, One North Capitol, Suite 325, Indianapolis, Indiana and are open for public inspection.

Susan Loftus
Executive Director
Indiana Education Savings Authority

TITLE 830 INDIANA DIETITIANS CERTIFICATION BOARD

Proposed Rule
LSA Document #03-55

DIGEST

Readopts rules in anticipation of IC 4-22-2.5-2, providing that an administrative rule adopted under IC 4-22-2 expires January 1 of the seventh year after the year in which the rule takes effect, unless the rule contains an earlier expiration date. Effective 30 days after filing with the secretary of state.

830 IAC 1-2-1
830 IAC 1-2-2
830 IAC 1-2-3
830 IAC 1-2-4
830 IAC 1-2-5
830 IAC 1-3
830 IAC 1-4
830 IAC 1-5

SECTION 1. UNDER IC 4-22-2.5-4, THE FOLLOWING ARE READOPTED:

830 IAC 1-2-1 Application procedures and qualifications
830 IAC 1-2-2 Replacement of certificates
830 IAC 1-2-3 Education and training
830 IAC 1-2-4 Certification renewal
830 IAC 1-2-5 Abandoned application
830 IAC 1-3 Reciprocity
830 IAC 1-4 Fees
830 IAC 1-5 Code of Ethics

Notice of Public Hearing

Under IC 4-22-2-24 and IC 4-22-2.5-4, notice is hereby given that on September 23, 2003 at 9:00 a.m., at the Indiana Government Center-South, 402 West Washington Street, Conference Center Room 3, Indianapolis, Indiana the Indiana Dietitians Certification Board will hold a public hearing to readopt rules.

Requests for any part of this readoption to be separate from this action must be made in writing within 30 days of this publication. Send written comments to:

Kristen Kelley
Health Professions Bureau
402 West Washington Street, Room W066
Indianapolis, IN 46204
or via e-mail to krkelley@hpb.state.in.us.

Copies of these rules are now on file at the Health Professions Bureau, Indiana Government Center-South, 402 West Washington Street, Room W066 and Legislative Services Agency, One North Capitol, Suite 325, Indianapolis, Indiana and are open for public inspection.

Lisa R. Hayes
Executive Director
Health Professions Bureau

60 Day Requirement (IC 4-22-2-19)

TITLE 470 DIVISION OF FAMILY AND CHILDREN

LSA Document #02-298

To: Chairperson, Administrative Rules Oversight Committee
c/o Mr. Chuck Mayfield

From: Erin M. McQueen, Staff Attorney
Office of General Counsel
Family and Social Services Administration

Re: LSA #02-298(F) - Rule for Child Care Center Licensing

Date: July 7, 2003

Cc: Chuck Mayfield, Legislative Services Agency
Howard Stevenson, General Counsel, FSSA
Beth Eiler, Deputy Director, DFC/BCD
Keith Carver, Manager, Child Care Licensing, DFC/BCD

On behalf of the Family and Social Services Administration, Division of Family and Children, Bureau of Child Development, I am submitting this notice to the Administrative Rules Oversight Committee in compliance with IC 4-22-2-25, because the division has determined there is a possibility that the promulgation of the captioned rule may not be completed within one year after publication of the notice of intent to adopt a rule.

The division published its notice of intent to adopt a rule for the captioned document on November 1, 2002 (26 IR 418). The proposed rule was published on February 1, 2003 (26 IR 1675). This rule adds new rules in 470 IAC 3-4.7 concerning the licensure of child care centers. The new rule provides for the minimum standards necessary to obtain and retain a child care center license. The rule also repeals 470 IAC 3-4.1 and 470 IAC 3-4.2 which currently govern the subject. There was a delay between the close of the written comment period and adoption of the final rule by the division because of the number of public comments. Three public hearings were held on February 26, 2003; February 27, 2003 and March 5, 2003 in the northern, central and southern parts of the state. The written comment period was left open to March 28, 2003. The division received numerous comments both at the public hearings and in written form. The division gave careful consideration to all the public comments. Consequently, the review and consideration of the comments took longer than expected.

The division adopted the rule as a final rule on May 22, 2003. Any rule adopted by the division has to be approved by the Family and Social Services Committee (see IC 12-8-3). The Committee approved the rule on June 10, 2003. On June 12, 2003 the rule was sent to the Attorney General's Office for review. Pursuant to IC 4-22-2-32, the Attorney General has forty-five days to complete his review of a rule. Although the division intends to have this rule approved by the governor by August 12, 2003, which would be within one year of the date of publication of the notice of intent, this notice is being forwarded to the Administrative Rules Oversight Committee as a precaution, since the rule could be returned to the agency by the Attorney General under IC 4-22-2-32(d)(2). Thus, the division expects that the rule can be approved by the governor by December 31, 2003.

This notice setting forth the expected date of approval of LSA Document #02-298(F) by December 31, 2003 is being submitted in a timely manner. July 8, 2003 is the two hundred fiftieth day after publication of the notice of intent to adopt a rule.

TITLE 326 AIR POLLUTION CONTROL BOARD

FIRST NOTICE OF COMMENT PERIOD
#03-195(APCB)

DEVELOPMENT OF AMENDMENTS TO 326 IAC 6-1-13 AND 326 IAC 7-4-3 CONCERNING DELETION OF REFERENCES TO DECOMMISSIONED BOILERS AND THEIR CORRESPONDING PARTICULATE MATTER AND SULFUR DIOXIDE EMISSION LIMITATIONS AT PFIZER INC.

PURPOSE OF NOTICE

The Indiana Department of Environmental Management (IDEM) is soliciting public comment on amendments to rules 326 IAC 6-1-13 and 326 IAC 7-4-3 concerning deletion of references to decommissioned boilers and their corresponding particulate matter and sulfur dioxide emission limitations at Pfizer Inc. IDEM seeks comment on the affected citations listed and any other provisions of Title 326 that may be affected by this rulemaking.

CITATIONS AFFECTED: 326 IAC 6-1-13; 326 IAC 7-4-3.

AUTHORITY: IC 13-14-8; IC 13-17-3-4.

SUBJECT MATTER AND BASIC PURPOSE OF RULEMAKING

Basic Purpose and Background

Pfizer Inc.(Pfizer) has requested that IDEM remove references in 326 IAC 6-1-13 and 326 IAC 7-4-3(11) to boilers that have been decommissioned and will no longer be in use and their corresponding particulate matter and sulfur dioxide emission limitations, respectively. Pfizer has decommissioned Boilers 5, 6, and 7 and replaced them with a new boiler that is subject to the more stringent new source performance standard (NSPS) rules. Boiler D, listed in 326 IAC 6-1-13 has been taken out of service and reference to this boiler shall be deleted from the rule. Pfizer is located in Terre Haute, Indiana.

Alternatives To Be Considered Within the Rulemaking

The alternatives to this rulemaking include making the amendments to delete the listed equipment or not making the amendments. The current rule is inconsistent with the source's operating permit.

Applicable Federal Law

326 IAC 6-1-13 and 326 IAC 7-4-3 are approved by U.S. Environmental Protection Agency (EPA) as part of Indiana's State Implementation Plan (SIP). Indiana will send these rules to EPA to be approved as part of Indiana's SIP so federal law coincides with current operations at Pfizer. If 326 IAC 6-1-13 and 326 IAC 7-4-3(11) are not amended to reflect current operations, Pfizer's permitted equipment, state approved limits for PM and SO_2 emissions from its boilers, and the current SIP approved rules are inconsistent.

Potential Fiscal Impact

None. Pfizer has already decommissioned Boilers 5, 6, and 7 and taken Boiler D out of service. This rulemaking only removes references to those boilers in 326 IAC 6-1-13 and 326 IAC 7-4-3(11), therefore there is no fiscal impact.

Public Participation and Workgroup Information

At this time, no workgroup is planned for the rulemaking. If you feel that a workgroup or other informal discussion on the rule is necessary, please contact Suzanne Whitmer, Rules Section, Office of Air Quality at (317) 232-8229 or (800) 451-6021 (in Indiana).

STATUTORY AND REGULATORY REQUIREMENTS

IC 13-14-8-4 requires the board to consider the following factors in promulgating rules:

(1) All existing physical conditions and the character of the area affected.
(2) Past, present, and probable future uses of the area, including the character of the uses of surrounding areas.
(3) Zoning classifications.
(4) The nature of the existing air quality.
(5) Technical feasibility, including the quality conditions that could reasonably be achieved through coordinated control of all factors affecting the quality.
(6) Economic reasonableness of measuring or reducing any particular type of pollution.
(7) The right of all persons to an environment sufficiently uncontaminated as not to be injurious to human, plant, animal, or aquatic life or to the reasonable enjoyment of life and property.

REQUEST FOR PUBLIC COMMENTS

At this time, IDEM solicits the following:
(1) The submission of alternative ways to achieve the purpose of the rule.
(2) The submission of suggestions for the development of draft rule language.

Mailed comments should be addressed to:
#03-195(APCB) Pfizer
Suzanne Whitmer
c/o Administrative Assistant
Rule Development Section
Office of Air Quality
Indiana Department of Environmental Management
P.O. Box 6015
Indianapolis, Indiana 46206-6015.

Hand delivered comments will be accepted by the IDEM receptionist on duty at the Tenth Floor East reception desk, Office of Air Quality, Indiana Government Center-North, 100 North Senate Avenue, Indianapolis, Indiana.

Comments may be submitted by facsimile at the IDEM fax number: (317) 233-2342, Monday through Friday, between 8:15 a.m. and 4:45 p.m. Please confirm the timely receipt of faxed comments by calling the Rule Development Section at (317) 233-0426.

COMMENT PERIOD DEADLINE

Comments must be postmarked, faxed, or hand delivered by September 1, 2003.

Additional information regarding this action may be obtained from Suzanne Whitmer, Rules Section, Office of Air Quality, (317) 232-8229 or (800) 451-6027 (in Indiana).

Janet G. McCabe
Assistant Commissioner
Office of Air Quality

TITLE 326 AIR POLLUTION CONTROL BOARD

FIRST NOTICE OF COMMENT PERIOD
#03-201(APCB)

DEVELOPMENT OF AMENDMENTS TO RULES 326 IAC 2-10 AND 326 IAC 2-11 CONCERNING PERMIT BY RULE FOR SPECIFIC SOURCE CATEGORIES

PURPOSE OF NOTICE

The Indiana Department of Environmental Management (IDEM) is soliciting public comment on amendments to rules 326 IAC 2-10

concerning permit by rule and 326 IAC 2-11 concerning permit by rule for specific source categories. These rules were noticed for readoption in the initial sunset rulemaking (LSA Document #00-44); a request was made that these rules go through the regular, IC 13-14-9, rulemaking process. IDEM seeks comments on the affected citations listed and any other provisions of Title 326 that may be affected by this rulemaking

CITATIONS AFFECTED: 326 IAC 2-10; 326 IAC 2-11.

AUTHORITY: IC 13-14-9; IC 13-14-9.5.

SUBJECT MATTER AND BASIC PURPOSE OF RULEMAKING

Basic Purpose and Background

In 1996 the Indiana legislature provided for the expiration of certain administrative rules unless expressly readopted under IC 13-14-9.5. 326 IAC 2-10, permit by rule and 326 IAC 2-11, permit by rule, for specific source categories, are subject to IC 13-14-9.5. All rules adopted after December 31, 1995, expire on January first of the seventh year after the year in which the rule takes effect. IC 13-14-9.5-4(a) provides that the department or board that has rulemaking authority under Title 13 may readopt all rules subject to expiration under one rule that lists all rules that are readopted by their titles and subtitles only. IC 13-14-9.5-4(b) provides that if a person submits to the department or board that has rulemaking authority under Title 13 a written request and a basis for the request during the first comment period that a particular rule be readopted separately from the readoption rule described in subsection (a), the department or board must readopt the rule separately from the readoption rule and follow the procedure for adoption of administrative rules under IC 13-14-9 with respect to the rule. 325 IAC 2-10 and 326 IAC 2-11 were first noticed for readoption in the first sunset rulemaking (LSA Document #00-44). Because a request and a basis for the request was submitted during the first comment period for both rules, 326 IAC 2-10 and 326 IAC 2-11 were not readopted in the first sunset rulemaking and must now go through the IC 13-14-9 rulemaking process.

326 IAC 2-10 applies to sources that limit their actual emissions below major source levels and do not have a control device as an integral part of their process. A source that meets the requirements of the rule possesses a permit under the rule. 326 IAC 2-10, sections 1 through 6, was adopted in 1996; section 1 of that rule was amended in 1998 and will expire on January 1, 2006. Sections 2 through 6 will expire on January 1, 2004.

326 IAC 2-11 applies to gasoline dispensing operations, grain elevators, and sources that process or mill grain and limit their allowable emissions or "potential to emit" by complying with specified conditions. A source that complies with the requirements of this rule possesses a permit under the rule. Sections 1 through 4 were adopted in 1997; section 1 of this rule was amended in 1998 and will expire January 1, 2006. Section 2 through 4 will expire on January 1, 2005.

The number of sources that are covered by these two rules is not known since the rules provide that as long as a source can demonstrate compliance with the requirements of the rule upon request, it is covered by the applicable permit by rule and is not required to possess a permit issued by the department. This rulemaking will provide an opportunity for public comment and amendment or readoption of 326 IAC 2-10 and 326 IAC 2-11.

Alternatives To Be Considered Within the Rulemaking

Alternative 1. Let 326 IAC 2-10 and 326 IAC 2-11 expire. Under this alternative, sources that are now covered by the permit by rule will be required to possess a permit issued under one of the following programs: 326 IAC 2-6.1, Minor Source Operating Permit Program; 326 IAC 2-7, Part 70 Permit Program; 326 IAC 2-8, Federally Enforceable State Operating Permit Program; or 326 IAC 2-9, Source Specific Operating Agreements. Although there are no fees associated with 326 IAC 2-10 or 326 IAC 2-11, there are fees associated with each of the other types of permits.

Alternative 2. Amend 326 IAC 2-10 and 326 IAC 2-11. This alternative was requested by a commentor who suggested that the department should make a number of revisions, including the following:

(1) Identify those portions of the rule that impose additional burdens beyond federal requirements.

(2) Identify the practical problem, if any, that requires such additional burdens.

(3) Clarify the rules to resolve numerous problems that permit writers have encountered in implementation.

(4) Improve the consistency and flow of the requirements in distinguishing between major and minor sources.

(5) Resolve problems associated with implementing Part 70 requirements at facilities that filed timely applications but have not yet received Part 70 permits.

Alternative 3. Readopt 326 IAC 2-10 and 326 IAC 2-11 as currently written. These rules were developed to minimize the burdens for sources potentially subject to Part 70 that did not have a control device as an integral part of their process and that could limit their "potential to emit". The rules, as written, allow sources to use the permit by rule function to avoid formal permitting and fees.

Applicable Federal Law

There is no applicable federal law requiring 326 IAC 2-10 and 326 IAC 2-11. However, these two rules were developed to minimize the regulatory burden and cost for both the regulated community and the department by implementing the permit requirements of Title V of the Clean Air Act Amendments of 1990 that resulted in development of the Part 70 Permit Program.

In the absence of 326 IAC 2-10 and 326 IAC 2-11, sources now permitted under these rules will be subject to one of the federally approved permit programs or state permit programs and will be required to obtain the applicable permit and pay the associated fees.

Potential Fiscal Impact

If either 326 IAC 2-10 or 326 IAC 2-11, or both, expire, as stated in Alternative 1, sources that are now covered by 326 IAC 2-10 or 326 IAC 2-11 will need a permit under 326 IAC 2-6.1, Minor Source Operating Permit Program; 326 IAC 2-7, Part 70 Permit Program; 326 IAC 2-8, Federally Enforceable State Operating Permit Program; or 326 IAC 2-9, Source Specific Operating Agreements, as applicable. There are fees associated with each type of permit.

If either rule expires, the department or local permitting agencies will receive permit applications. Additional state or local resources will be required to write and issue the necessary permits.

If the rules expire, there should be no direct economic effect on citizens.

If the rules are amended, as stated in Alternative 2, the potential fiscal impact is not known. Upon review of the suggestions, a fiscal impact could not be developed due to the scope of the request.

If the rules are readopted, as stated in Alternative 3, there will be no fiscal impact to the sources, the department, or citizens.

Public Participation and Workgroup Information

At this time, no workgroup is planned for the rulemaking. If you feel that a workgroup or other informal discussion on the rule is necessary, please contact Pat Troth, Rules Section, Office of Air Quality at (317) 233-5681 or (800) 451-6021 (in Indiana) extension 3-5681.

STATUTORY AND REGULATORY REQUIREMENTS

IC 13-14-8-4 requires the board to consider the following factors in promulgating rules:

(1) All existing physical conditions and the character of the area affected.
(2) Past, present, and probable future uses of the area, including the character of the uses of surrounding areas.
(3) Zoning classifications.
(4) The nature of the existing air quality or existing water quality, as the case may be.
(5) Technical feasibility, including the quality conditions that could reasonably be achieved through coordinated control of all factors affecting the quality.
(6) Economic reasonableness of measuring or reducing any particular type of pollution.
(7) The right of all persons to an environment sufficiently uncontaminated as not to be injurious to human, plant, animal, or aquatic life or to the reasonable enjoyment of life and property.

REQUEST FOR PUBLIC COMMENTS

At this time, IDEM solicits the following:
(1) The submission of alternative ways to achieve the purpose of the rule.
(2) The submission of suggestions for the development of draft rule language.
Mailed comments should be addressed to:
#03-201(APCB) [326 IAC 2-10; 326 IAC 2-11]
Pat Troth
c/o Rules Section Administrative Assistant
Rules Section
Office of Air Quality
Indiana Department of Environmental Management
P.O. Box 6015
Indianapolis, Indiana 46206-6015.

Hand delivered comments will be accepted by the IDEM receptionist on duty at the Tenth floor reception desk, Office of Air Quality, Indiana Government Center-North, 100 North Senate Avenue, Indianapolis, Indiana.

Comments may be submitted by facsimile at the IDEM fax number: (317) 233-2342, Monday through Friday, between 8:15 a.m. and 4:45 p.m. Please confirm the timely receipt of faxed comments by calling the Rules Section at (317) 233-0426.

COMMENT PERIOD DEADLINE

Comments must be postmarked, faxed, or hand delivered by September 1, 2003.

Additional information regarding this action may be obtained from Pat Troth, Rules Section, Office of Air Quality, (317) 233-5681 or (800) 451-6027 (in Indiana).

Janet G. McCabe
Assistant Commissioner
Office of Air Quality

INDIANA PROTECTION AND ADVOCACY SERVICES COMMISSION

Public Notice

Indiana Protection and Advocacy Services Commission (IPAS), a state agency which protects and promotes the rights of individuals with disabilities, is conducting a public meeting on Sat. Aug. 9, at 9:30 AM at its offices, 4701 N. Keystone Ave., Suite 222, Indianapolis, IN 46205. Comments from the public will be received concerning the IPAS priorities and objectives for federal fiscal year 2004, from 10:30 AM-11:30 AM. The proposed priorities and objectives may be viewed on the agency website, www.in.gov/ipas or can be requested by calling 1-800-622-4845, ext. 237. Individuals who wish to request the priorities in an alternate format may do so by calling the agency. Interested persons are invited to attend the meeting on Aug. 9 to offer comments about the proposed priorities and objectives. Individuals who wish to offer comments at the meeting, but who need some type of disability accommodation to do so, such as a sign language interpreter, are asked to notify IPAS of such need by Monday Aug. 4, 2003, so that arrangements can be made for the needed accommodations. Written comments can be mailed to the IPAS offices.

NATURAL RESOURCES COMMISSION
Information Bulletin #20
This information bulletin supersedes Information Bulletin #20 printed at 26 IR 3439.
(First Amendment)
Ratemaking Process for Resorts and Marinas under Lease with the Department of Natural Resources

1. Purpose

The purpose of this information bulletin is to implement an informal process for the administrative review of ratemaking recommendations for resorts and marinas under lease with the department of natural resources. The process was established by the natural resources commission during a meeting held March 24, 1998 and made applicable to rate increases to become effective in 1999 and in subsequent years. The process was published in the Indiana Register on May 1, 1998 at page 3209 as Information Bulletin #20. Amendments were made to the information bulletin during the commission meeting held on May 20, 2003, and amendments were made effective July 1, 2003. The timeframes established by the information bulletin are essential to its effective implementation.

2. Rate Increase Requests

A lessee shall submit its request for a guestroom, slip, or houseboat (if applicable) fee increase to the department of natural resources, division of state parks and reservoirs (the "department") in accordance with the existing lease agreement for the following year by April 1 of the preceding year. The lessee shall include justification for the increase request along with comparable rates from other marinas.

3. Processing Rate Increase Requests and Comments

(A) Upon receiving a request, the department will inform the division of hearings of the natural resources commission (the "hearings division"). The hearings division will assign a cause number and, in consultation with the department, select the date and time for a rate hearing to be held in Marion County. The department will advise the lessee of the date, time, and location of the rate hearing, at which time the lessee and affected persons will have the opportunity to provide comments to a hearing officer for the commission. This hearing will be held in early June or July of each year.

(B) By May 30, the lessee shall notify by must provide written notice, by personal delivery or U.S. first class mail, to each slip renter or buoy renter that the lessee is requesting a rate increase. The lessee shall include the time, date, and location of the rate hearing. This notice shall include the proposed new rates. The notice shall also advise the renter of the opportunity to provide comments to the hearing officer, either by U.S. first class mail or electronic mail. Before the public hearing, the lessee must provide the hearings division with a listing that includes the names and addresses of persons notified under this paragraph. The lessee shall, by affidavit or affirmation, authenticate that all addressees were served as indicated in the listing. If the lessee asserts the listing contains trade secrets, the Uniform Trade Secrets Act (IC 24-2-3) applies.

(C) Petitions, requests, documentation, exhibits, and other pertinent materials concerning the proposed rate increase request shall be made available for the public to review at the lessee's business office, during normal business hours. A copy will be available for review at the Division of State Parks and Reservoirs, 402 West Washington Street, Room W298, Indianapolis, IN 46204. The listing of persons notified required in paragraph (B) is not governed by this paragraph.

(D) Affected persons may send written comments concerning the proposed rate increase to the Division of Hearings, Natural Resources Commission, 402 West Washington Street, Room W272, Indianapolis, IN 46204. Email comments may also be submitted to the hearing officer. The email address will be provided in the letter sent by the lessee to the affected parties by May 30.

(E) In accordance with the existing lease agreements, the department will analyze comparable facilities to compare rates with those sought by the lessee. Results of that analysis will be presented at the rate hearing conducted by the hearing officer. Information used in this analysis will also be available for inspection at the division of state parks and reservoirs office in Indianapolis.

4. Public Hearing and Presentation to Commission

Affected persons may attend the rate hearing and provide oral or written statements.

The hearing officer shall conduct the hearing in an orderly and informal manner designed to develop a fair and complete agency record. The administrative orders and procedures act (IC 4-21.5) does not apply, but the commission delegates authority to the hearing officer under IC 14-11-1-3 to make any reasonable orders to implement this information bulletin.

The lessee's request and any supporting documentation, written comments provided by affected persons, the analysis by the department, and oral and written statements received during the rate hearing form the record upon which the hearing officer shall review the request for rate increase. Following the completion of the review, the hearing officer shall make a written report to the natural resources commission. The report shall include written findings with respect to the requested rate increase and a proposal to the commission for recommendations to the U.S. Army Corps of Engineers. The hearing officer shall also forward a copy of the report to the lessee, the department, and any other person who requests a copy.

The hearing officer shall present the findings and recommendations to the natural resources commission during a meeting to be held in August or September. During that meeting, the commission shall either recommend approval of the rate increase, disapproval of the rate increase, or approval of a rate increase in an amount less than requested by the lessee. Recommendation for

favorable consideration of a rate increase shall not be withheld unless, in the opinion of the commission, fees submitted exceed the fair market rates charged by operators of other similar privately-owned resort developments comparable to the project in the area.

5. Recommendation by Commission and Final Action by Army Corps

The commission's secretary shall memorialize the commission's recommendations in writing. Within seven (7) days after the commission meeting, the department shall forward the recommendation to the District Engineer of the U.S. Army Corps of Engineers for final action. No rate increase is effective until the lessee receives a letter of approval noting both the recommendation by the commission and the approval of a rate increase by the U.S. Army Corps of Engineers.

6. Interim Rate Adjustments or Clarifications

The commission delegates authority to the director of the division of state parks and reservoirs to approve interim rate adjustments for projects or slips not addressed in this process due to new construction or modification of existing facilities. The rates apply only until the next rate request cycle, however, when a lessee must present a petition for rate approval as provided in this information bulletin.

7. Index of Commission Findings and Recommendations

The hearings division is directed to index, and place on the commission's website, findings and recommendations made under this information bulletin after August 1, 2003. To promote equity and consistency, the department and the commission may consider these indexed findings and recommendations as precedents.

DEPARTMENT OF STATE REVENUE
COMMISSIONER'S DIRECTIVE #19
AUGUST 2003

DISCLAIMER: Commissioner's Directives are intended to provide nontechnical assistance to the general public. Every attempt is made to provide information that is consistent with the appropriate statutes, rules and court decisions. Any information that is not consistent with the law, regulations or court decisions is not binding on either the Department or the taxpayer. Therefore the information provided herein should only serve as a foundation for further investigation and study of the current law and procedures related to the subject matter covered herein.

SUBJECT: FEDERAL BONUS DEPRECIATION DEDUCTION AS APPLIED TO INDIANA ADJUSTED GROSS INCOME

INTRODUCTION

This Directive is intended to explain the proper method for removing federal bonus depreciation from federal adjusted gross income in arriving at Indiana taxable income.

House Enrolled Act 1728, (2003), effective retroactive to January 1, 2003, is the legislation that is traditionally passed which updates the Indiana definition of federal adjusted gross income to the definition that is currently applicable in the Internal Revenue Code. Federal changes to adjusted gross income that were passed in March of 2002 included retroactive provisions that were effective as early as September 11, 2001. None of these provisions were incorporated by reference as of January 1, 2002. HEA 1728 incorporated all of these changes into the calculation of Indiana taxable income except for federal bonus depreciation.

I. DEFINITION OF BONUS DEPRECIATION

Bonus depreciation is defined in IC 6-3-1-33 to be an amount equal to that part of any depreciation allowance allowed in computing the taxpayer's federal adjusted gross income or federal taxable income that is attributable to the additional first year special depreciation allowance (bonus depreciation) for qualified property allowed under Section 168(k) of the Internal Revenue Code.

II. MODIFICATION TO ADJUSTED GROSS AND TAXABLE INCOME

IC 6-3-1-3.5 is the section of the Indiana Code that defines adjusted gross income and taxable income. Both terms start with the federal definition and then are modified for Indiana purposes. The modification that has occurred for 2003 and thereafter provides an adjustment for any taxpayer that owns property for which bonus depreciation was allowed in the current or an earlier taxable year. The adjustment is equal to the amount that would have been computed if an election had not been made to apply the bonus depreciation to the property in the year that it was placed in service.

This provision along with language in HEA 1728 SECTION 6, also prohibits a taxpayer from deducting any part of a depreciation allowance used to compute the additional first-year special depreciation allowance for any taxable year that began before January 1, 2003.

The depreciation allowance that is permitted will be the same calculation and schedule that was in effect for taxable years beginning before 2001. This is done through a three step process.

1. Add-back the thirty percent (30%) bonus depreciation in the first year so that Indiana depreciable values are one hundred percent (100%) of acquisition cost.

2. An adjustment must be made to all additional years of the life of the asset. The federal depreciation basis is seventy percent (70%) of cost for those years. The adjustment is necessary to bring the original basis for Indiana depreciation to one hundred percent (100%) of cost.

3. When the asset is sold, bonus depreciation is added back to the value when calculating a capital gain or depreciation recapture. An Indiana adjustment is necessary to reflect the correct amount of Indiana depreciation.

(Note: The federal Jobs and Growth Tax Relief Reconciliation Act of 2003 has increased bonus depreciation from thirty percent (30%) to fifty percent (50%) for property acquired after May 5, 2003.)

III. OTHER FEDERAL CHANGES INCORPORATED INTO INDIANA ADJUSTED GROSS INCOME

HEA 1728 incorporates all other federal changes by updating the Indiana Code to coincide with the federal changes. The incorporated changes include all of those changes that had retroactive application including extending the carryback of net operating losses for 2001 and 2002. Non-code language in HEA 1728 SECTION 7 that states that the definitional changes apply only to years beginning after January 1, 2003 only prevents the application of those updated, but non-retroactive provisions, to fiscal years in progress as of January 1, 2003.

Kenneth L. Miller
Commissioner

DEPARTMENT OF STATE REVENUE
COMMISSIONER'S DIRECTIVE #20
AUGUST 2003

DISCLAIMER: Commissioner's Directives are intended to provide nontechnical assistance to the general public. Every attempt is made to provide information that is consistent with the appropriate statutes, rules and court decisions. Any information that is not consistent with the law, regulations or court decisions is not binding on either the Department or the taxpayer. Therefore the information provided herein should serve only as a foundation for further investigation and study of the current law and procedures related to the subject matter covered herein.

SUBJECT: COMPLIMENTARY ROOMS AND LODGINGS PROVIDED BY INNKEEPERS

INTRODUCTION

Effective July 1, 2003, House Enrolled Act 1001 (2003) SECTION 49 added IC 6-2.5-4-4.5 and SECTION 50 added IC 6-2.5-6-15 to provide that complimentary rooms and lodgings furnished by an innkeeper are subject to the sales tax. The amendment included mandatory reporting by the innkeeper at the same time that the innkeeper files a sales tax return.

The purpose of this directive is to outline the procedures to be followed in calculating the gross retail income that is attributed to providing complimentary rooms or lodgings by an innkeeper.

I. REPORTING REQUIREMENTS

A retail merchant that provides complimentary rooms or lodgings as part of doing business as an innkeeper shall report to the Department on a separate report the amount of complimentary lodgings provided by the innkeeper during the reporting period. The reporting period will coincide with the sales and use tax reporting time frame. If the taxpayer reports on a monthly basis, the report is due at the same time that the monthly report is due. If the taxpayer remits their sales tax via electronic funds transfer, the report is due at the same time that the quarterly recap is due.

II. CALCULATION OF SALES TAX DUE FOR COMPLIMENTARY ROOMS

IC 6-2.5-4-4.5 states that the gross retail income attributed to providing of a complimentary room will be the amount of gross retail income received by the retail merchant from renting a comparable room or lodging on the date the complimentary room is provided.

The Department will allow the following calculation to be made monthly on a facility wide basis. The retail merchant will determine the gross retail income from the rental of rooms or lodgings during the month. This amount will be divided by the total room rentals during the month.

EXAMPLE: During June, a hotel that has 100 rooms and an 85% paid *occupancy rate* will have 2,550 room rental days (100*30*.85=2,550). If the gross retail income was $247,350, and there were 2,550 room rental days, the average daily room rental rate in June was $97.00. The $97.00 will be multiplied by the number of *complimentary rooms* provided to arrive at the gross retail income from complimentary rooms.

The above calculation can also be done on a daily basis.

The method used in calculating the sales tax that is due from the complimentary rooms must be used during the entire reporting period.

III. MISCELLANEOUS

For those innkeepers who intend to collect the tax from their customers, they may collect based on the previous month's

average rate; however, they must remit the tax due based on the present rate, regardless of the method of calculation.

A room rented for a nominal amount will be considered to be complimentary.

The provisions contained in IC 6-2.5-4-4.5 do not apply to the innkeeper's taxes under IC 6-9.

Kenneth L. Miller

Commissioner

DEPARTMENT OF STATE REVENUE

02-970328.LOF

LETTER OF FINDINGS NUMBER: 97-0328
Gross Income Tax
For the Years 1993, 1994, 1995

NOTICE: Under IC 4-22-7-7, this document is required to be published in the Indiana Register and is effective on its date of publication. It shall remain in effect until the date it is superseded or deleted by the publication of a new document in the Indiana Register. The publication of this document will provide the general public with information about the Department's official position concerning a specific issue.

ISSUE

I. Corporate Income Tax - Indiana Source Income

Authority: IC 6-2.1-2-2(a)(2), IC 6-8.1-5-1, 45 IAC 1-1-29, 45 IAC 1-1-49(6). Bethlehem Steel Corporation v. Indiana Department of Revenue, 597 NE2d 1327 (1992), First National Leasing and Financial Corporation v. Indiana Department of Revenue, 598 NE2d 640 (1992)**.**

The taxpayer protests the assessment of tax on gross income that the taxpayer contends was not Indiana source income.

STATEMENT OF FACTS

The taxpayer is a subsidiary of a life insurance company and files as a regular corporation for Indiana income tax purposes. The taxpayer leases washers, dryers and other appliances to various customers in Indiana. The taxpayer reported some of the leases as operating leases and others as financing leases. The taxpayer reported the total payments on the operating leases as subject to the high rate of gross income tax on the entire payment. On financing leases, the taxpayer reported the interest earned as being subject to the high rate of gross income tax, but did not report any of that portion of the payment made by the customer which was related to the principle. In an audit, the Indiana Department of Revenue, hereinafter referred to as the "department," assessed gross income tax on the portion of the receipts related to the repayment of principle on the financing leases. The taxpayer protested the assessment and a hearing was held.

I. Corporate Income Tax- Indiana Source Income

DISCUSSION

Pursuant to IC 6-2.1-2-2(a)(2), Indiana imposes a gross income tax on, "the taxable gross income derived from activities or businesses or any other sources within Indiana by a taxpayer who is not a resident or domiciliary of Indiana." To be taxable under this statute, there must be gross income from a source within Indiana. 45 IAC 1-1-29, which was in effect at the time of the audit, clarifies that a taxpayer's "...gross receipts derived from leasing real or personal property..." in Indiana are from a source in Indiana and subject to the gross income tax if the seller had business activity in Indiana. The business activities in the state, viewed as a whole, must be more than minimal to subject the activities to gross income taxation. Bethlehem Steel Corporation v. Indiana Department of Revenue, 597 NE2d 1327 (Tax Court 1992), First National Leasing and Financial Corporation v. Indiana Department of Revenue, 598 NE2d 640 (Tax Court 1992). The general rule is, then, that income derived from the lease of tangible personal property by a nonresident lessor to an Indiana lessee is subject to the gross income tax only if the seller had business activity in Indiana.

The taxpayer argues that it had no significant business activity subjecting it to Indiana taxation on the protested lease income. The taxpayer alleged that it did not maintain an office, warehouse, inventory or employees within Indiana. The taxpayer also alleged that it performed no services in Indiana and merely leased equipment that was already located in Indiana when purchased from unrelated third parties. The fact that the taxpayer was leasing property already located in Indiana indicates that the taxpayer was acquiring property in Indiana and then leasing it to Indiana customers. The leasing and rental of income-producing property establishes an Indiana business situs pursuant to 45 IAC 1-1-49(6) that states in pertinent part, "business situs" arises where there is "ownership, leasing, or other business activities connected with income-producing property(real or personal)" in Indiana. The taxpayer was engaging in an Indiana transaction and had an Indiana business situs subjecting it to Indiana gross income taxation.

Pursuant to IC 6-8.1-5-1, all tax assessments are presumed to be accurate and the taxpayer bears the burden of proving that any assessment is incorrect. The taxpayer did not supply any documentation supporting its contentions concerning its activities in Indiana, the leases or the tangible personal property leased in Indiana.

FINDING

The taxpayer's protest is denied.

DEPARTMENT OF STATE REVENUE

04970462.LOF

LETTER OF FINDINGS NUMBER: 97-0462
SALES/USE TAX
For The Tax Periods: 1991 through 1995

NOTICE: Under IC 4-22-7-7, this document is required to be published in the Indiana Register and is effective on its date of publication. It shall remain in effect until the date it is superseded or deleted by the publication of a new document in the Indiana Register. The publication of this document will provide the general public with information about the Department's official position concerning a specific issue.

ISSUES

I. Use Tax –Labels

Authority: IC 6-2.5-3-2, IC 6-2.5-5-6, 45 IAC 2.2-5-14, 45 IAC 2.2-5-12.

The Taxpayer protests the Department's assessment of use tax on labels.

II. Use Tax – Sampling Method

Authority: IC 6-8.1-4-2, IC 6-8.1-4-1, IC 6-8.1-5-1.

The Taxpayer protests the Department's method of sampling for its assessment of use tax.

STATEMENT OF FACTS

Taxpayer was audited for sales/use tax for the periods of 1991 through 1995. Taxpayer manufactures zinc die cast electrical connectors. Although some parts are completed at the out-of-state plant, most of the production parts are transported to the Indiana plant where labor intensive assembly and packaging operations are performed. The castings move through chamfer, broach, assembly, and thread operations of the Bodine machines and proceed to hand assembly before storage in the finished goods storage area. Packaging operations later bulk-pack the parts into cartons and affix labels bearing customers' names and logos. More facts supplied as necessary.

I. Use Tax: Labels

"An excise tax, known as the use tax, is imposed on the storage, use, or consumption of tangible personal property in Indiana." IC 6-2.5-3-2. During the audit, the auditor assessed use tax on the labels placed on the cartons.

Taxpayer argues that the labels are part of the packaging process which is included in the production process, and are therefore exempt from taxation. They go on to state that the labels are not shipping labels, rather, they are customized labels with the reseller's name, a description of the parts contained within the package and other pertinent data.

IC 6-2.5-5-6 states:

Transactions involving tangible personal property are exempt from the state gross retail tax if the person acquiring the property acquires it for incorporation as a material part of other tangible personal property which the purchaser manufactures, assembles, refines, or processes for sale in his business….

More specifically, 45 IAC 2.2-5-14 states in relevant part:

(d) The purchase of tangible personal property which is to be incorporated by the purchaser as a material or an integral part is exempt from tax. "Incorporated as a material or an integral part into tangible personal property for sale by such purchaser" means:

(1) That the material must be physically incorporated into and become a component of the finished product;

(2) The material must constitute a material or an integral part of the finished product; and

(3) The tangible personal property must be produced for sale by the purchaser.

(e) Application of the general rule.

(1) Incorporation into the finished product. The material must be physically incorporated into and become a component part of the finished product.

(2) Integral or material part. The material must constitute a material or integral part of the finished product.

(3) The finished product must be produced for sale by the purchaser.

First, Taxpayer incorrectly states that the labels are consumed in the production process. 45 IAC 2.2-5-12(g) defines the terms "consumed" as; "the dissipation or expenditure by combustion, use, or application…." Consequently, the exemption provided by 45 IAC 2.2-5-12(c) for purchases of materials to be directly consumed in the production process does not apply.

Second, Taxpayer also contends that the labels are part of the product being resold pursuant to IC 6-2.5-5-6. Taxpayer states that the customized labels are clearly part of the product being sold and without the customer's name and specification of the box,

the items could not be resold. However, the finished goods are stored before packaging. Although the labels are customized, Taxpayer sells the fungible goods to the retailer, who in turn, sell the parts to the individual customer. Pursuant to IC 6-8.1-5-1, "[t]he burden of proving that the proposed assessment is wrong rests with the person against whom the proposed assessment is made." Here, Taxpayer has not demonstrated that the labels are incorporated as a material or integral part of the completed product pursuant to IC 6-2.5-5-6.

FINDING

The Taxpayer's protest is denied.

II. Use Tax: Sampling Method

DISCUSSION

Taxpayer protests the auditor's sampling method. The auditor made an adjustment for expenses by examining all the invoices for a particular month and calculating the amount that sales/use tax was not paid for each account examined. The auditor then divided that amount by the total of all invoices of each account for the sample month to determine the error percentage of each account. The auditor then applied that percentage for each selected account to the total for each account in each year included in the audit.

Taxpayer believes the month selected is not representative of the audit period as a whole. In addition, they state the month selected was at the end of the audit period and contend that the earlier years cannot be represented by one month several years later.

The Department may examine the books, records or other data bearing on the correctness of the returns. IC 6-8.1-4-2. Also, pursuant to IC 6-8.1-4-1(b)(2), the audit division may "annually audit a statistical sampling of the returns filed for the listed taxes that are not administered by the special tax division." The notice of proposed assessment is prima facie evidence that the department's claim for the unpaid tax is valid. The burden of proving that the proposed assessment is wrong rests with the person against whom the proposed assessment is made". IC 6-8.1-5-1.

Taxpayer has not provided any documentation to support their claim that the period selected was exceptional or provided any reasoning why a later period cannot be selected. The Department finds that the auditor acted within her authority to provide a statistical sampling for the audit periods in question.

FINDING

The Taxpayer's protest is denied.

DEPARTMENT OF STATE REVENUE

04970510.LOF

LETTER OF FINDINGS NUMBER: 97-0510
Sales and Use Tax
Calendar Years 1993, 1994, 1995

NOTICE: Under IC 4-22-7-7, this document is required to be published in the Indiana Register and is effective on its date of publication. It shall remain in effect until the date it is superseded or deleted by the publication of a new document in the Indiana Register. The publication of this document will provide the general public with information about the Department's official position concerning a specific issue.

ISSUE(S)

I. Gross Retail Tax – Sales Tax included in Audit Figures

Authority: IC 6-8.1-5-1

Taxpayer protests the inclusion of sales tax in its proposed audit assessment.

II. Use Tax – "Deposits"

Authority: IC 6-2.5-3-2

Taxpayer protests assessments of use tax on amounts characterized as "deposits."

III. Use Tax – Services

Authority: IC 6-2.5-3-2

Taxpayer protests proposed assessments of use tax on costs associated with its purchase of services.

IV. Use Tax – Catering Services

Authority: IC 6-2.5-5-20; 45 IAC 2.2-4-45

Taxpayer questions proposed assessments of use tax on its purchases of catered meals.

V. Gross Retail Tax—Rental of Tangible Personal Property

Authority: IC 6-2.5-3-4, IC 6-2.5-3-6, IC 6-2.5-4-10

Taxpayer questions proposed assessments of use tax on its rental of tangible personal property.

VI. Gross Retail Tax—Taxes Previously Paid

Authority: IC 6-2.5-3-4

Taxpayer questions proposed assessments of tax on purchases in which sales tax was previously paid.

VII. Gross Retail Tax—Items Purchased for Resale

Authority: IC 6-2.5-5-8

Taxpayer questions proposed assessments of use tax on items purchased for resale.

VIII. Gross Retail Tax—Credit Card Purchases

Authority: IC 6-8.1-5-1, IC 6-8.1-5-4

Taxpayer questions proposed assessments of use tax on credit card purchases in which sales tax was previously paid.

STATEMENT OF FACTS

Taxpayer, an Indiana corporation, owns a professional hockey team. In operating its hockey franchise, taxpayer derives business income from a variety of sources—e.g., ticket sales, advertising sales (display sign space and program ads), novelties, and program sales. Other business income is generated from concession commissions and expansion team fees. Taxpayer generates additional business income from its training camp operations.

In conjunction with its business operations, taxpayer purchased tangible personal property as well as services from a number of vendors—vendors located both within and without the state. Some purchases qualified for Indiana sales and use tax exemptions, others did not. Concerning those transactions in which taxpayer neither paid sales tax nor remitted use tax to the state, taxpayer failed (or was unable) to provide documentation in support of exempt status. Audit also noted taxpayer's failure in establishing a use tax accrual system.

Taxpayer's collective failures resulted in additional sales and use tax assessments. Taxpayer has protested many of these. An administrative hearing was held. The results of which now follow.

I. Gross Retail Tax – Sales Tax included in Audit Figures

DISCUSSION

For all years at audit, it was determined that the taxpayer's "sales subject to collection of sales or use tax as agent for the state" already included sales tax. The auditor had previously agreed to adjust the audit.

FINDING

Taxpayer's protest is sustained.

II. Use Tax –"Deposits"

DISCUSSION

Audit assessed use tax on taxpayer payments (transaction dates 09/12/95 and 11/17/95) made to an out-of-state vendor. (BE). Taxpayer has protested one of these assessments—specifically, the 09/12/95 assessment.

Taxpayer contends the September payment represented a refundable deposit rather than a payment for the rental of tangible personal property. Subsequent to audit, taxpayer submitted documentation to support its position. Audit now agrees. The Department, therefore, will remove the contested amount ($1,075.00) from the total sales figure that is subject to additional use tax assessments.

FINDING

Taxpayer's protest is sustained.

III. Use Tax—Services

DISCUSSION

In conducting its business activities, taxpayer has purchased tangible personal property and personal services from a number of vendors. At the time of audit, taxpayer was unable to provide documentation (primarily invoices) showing whether sales tax had been paid (or should have been paid) on many of these purchases. Audit, therefore, assessed use tax on each undocumented purchase. In response, taxpayer provided additional information to show that some of these "undocumented" purchases were for non-taxable services. To wit:

01/09/95	AM	1,721.56
09/28/95	AF	5,350.00
10/03/95	GP	5,500.00
09/12/95	"	850.00
11/03/95	"	850.00
01/31/95	KE	2,450.00
02/10/95	"	2,450.00
03/31/95	NE	900.00
03/31/95	UE	1,750.00
04/03/95	"	1,000.00
10/25/95	BI	1,300.00
02/21/95	NI	7,395.00

Taxpayer's outstanding use tax liabilities, therefore, will be adjusted accordingly.

Taxpayer also contests Audit's assessments of use tax on payments made to SG Productions— (10/18/95 6,500.00; 10/24/95 2,500.00; 01/13/95 3,500.00, and 11/13/95 2,500.00). Taxpayer has submitted a statement to the Department indicating that its payments to SG Productions represented non-taxable personal appearance fees. Taxpayer statement, without more, is insufficient. Taxpayer needs to forward source documents along with an explanation obtained from SG Productions that the payments in question were for personal appearances.

FINDING

Taxpayer's protest is sustained to the extent use tax was assessed on taxpayer's purchase of the aforementioned documented services. Taxpayer's protest is sustained, conditionally, with regard to the SG Productions purchases.

IV. Gross Retail Tax – Catering Services

DISCUSSION

During the audit period, taxpayer purchased catered meals. At the time of these purchases, sales tax was not paid. Subsequent to purchase, taxpayer also failed to self-assess and remit use tax on the purchase price of these catered meals. Audit, therefore, proposed additional assessments of use tax.

Sales of food for human consumption are exempt from Indiana sales tax. IC 6-2.5-5-20(a). However, the term "food for human consumption" does not include "meals served by a retail merchant off the merchant's premises." IC 6-2.5-5-20(c)(9). The Department has interpreted the language of IC 6-2.5-5-20(c)(9) as applying to those who provide catered meals.

The law provides that the sale of meals shall be taxable whether such meals are served on or of the premises of the retailer.

Accordingly[,] the sale of food or meals by caterers is subject to sales tax.

45 IAC 2.2-4-45(a). (Emphasis added.)

FINDING

Taxpayer's protest is denied.

V. Gross Retail Tax – Rental of Tangible Personal Property

DISCUSSION

On three separate occasions (02/21/95, 10/27/95, 11/29/95), taxpayer rented "music and sound equipment" from an in-state vendor (MA). Taxpayer did not pay sales tax to the vendor at the time of rental. Taxpayer did not self-assess and remit use tax on the rental transactions. Audit, therefore, proposed additional assessments of use tax.

The renting or leasing of tangible personal property in Indiana represents a taxable transaction for purposes of the Indiana gross retail tax. That is, "[a] person…is a retail merchant making a retail transaction when he rents or leases tangible personal property to another person." IC 6-2.5-4-10(a). Because sales tax was not collected at the time of these rental retail transactions, taxpayer should have self-assessed and remitted use tax on the rental payments. *(See IC 6-2.5-3-4 (exemption from use tax if the state gross retail tax has been paid) and IC 6-2.5-3-6 (person who uses…the tangible personal property acquired in a retail transaction is personally liable for the use tax).)* As the vendor did not require taxpayer to pay the former (i.e., sales tax to the vendor) and taxpayer failed to remit the latter (i.e., remit use tax to the Department), the assessments of use tax were proper.

FINDING

Taxpayer's protest is denied.

VI. Gross Retail Tax – Tax Previously Paid

DISCUSSION

Taxpayer acquired office equipment in a retail transaction. (02/10/95, SO, $587.32.) During audit, taxpayer was unable to produce an invoice (or other documentation) to support its contention that sales tax had been paid (i.e., collected by the vendor) at the time of the transaction. Subsequently, the vendor (SO) submitted a one-sentence facsimile to the Department: "Please be advised that [Taxpayer] is charged sales tax."

Taxpayer's burden of production is incomplete. In order for the Department to sustain taxpayer's protest of this issue, taxpayer must acquire and submit the appropriate source documents from the vendor which were used to support the assertion that the vendor charged taxpayer sales tax on its 02/10/95 purchase.

FINDING

Taxpayer's protest is sustained if at the time of supplemental audit, taxpayer can produce the requested source documents.

VII. Gross Retail Tax – Items Purchased for Resale

DISCUSSION

Taxpayer, in retail transactions, purchased tangible personal property. At the time of purchase, taxpayer did not pay sales tax. Taxpayer argues that its purchases were exempt from Indiana's gross retail tax because the items in question were purchased for resale.

Taxpayer is correct. If the items were purchased for subsequent resale, the purchase transactions qualify for an exemption from the state's gross retail tax (i.e., sales tax). IC 6-2.5-5-8 states in part:

Transactions involving tangible personal property are exempt from the state gross retail tax if the person acquiring the property acquires it for resale, rental or leasing in the ordinary course of his business….

The question then becomes one of proof. That is, can taxpayer show the disputed items were subsequently "resold" in the ordinary course of taxpayer's business? The transactions at issue involve purchases of tangible personal property from (AGS), (CP), (IHL), (TF). Taxpayer classified the expenses associated with the purchase of items from these four vendors as "Miscellaneous General & Administrative Expenses." Nothing has been brought to the Department's attention to suggest, prove, or establish that such items have been resold.

FINDING

Taxpayer's protest is denied.

VIII. Gross Retail Tax –Credit Card Purchases

DISCUSSION

Taxpayer purchased a variety of items. Taxpayer paid for some of these items with a credit card—specifically, a Visa credit card. Other than the credit card payment receipts, no other documentation exists (or has been provided to the Department) regarding these purchases. Taxpayer contends the amount entered on each credit card receipt represents the purchase price inclusive of sales tax. Audit, on the other hand, reasons that since sales tax was not explicitly stated on the credit card receipts, use tax was due.

In order for the Department to administer the state's tax laws in an manner consistent with its statutory mandate, a taxpayer "must keep books and records so that the department can determine the amount, if any, of the person's liability…." IC 6-8.1-5-4. Similarly, with regard to tax assessments, "[t]he burden of proving that the proposed assessment is wrong rests with the person against whom the proposed assessment is made." IC 6-8.1-5-1(b).

The Department has invited taxpayer to submit documentation showing that the amounts reported on taxpayer's credit card receipts represented both the purchase price paid as well as sales tax paid. Such proof has not been forthcoming. Consequently, the assessments must stand.

FINDING

Taxpayer's protest is denied.

DEPARTMENT OF STATE REVENUE

02-980590.LOF

LETTER OF FINDINGS NUMBER: 98-0590
GROSS INCOME TAX
For Years 1994 and 1995

NOTICE: Under IC 4-22-7-7, this document is required to be published in the Indiana Register and is effective on its date of publication. It shall remain in effect until the date it is superseded or deleted by the publication of a new document in the Indiana Register. The publication of this document will provide the general public with information about the Department's official position concerning a specific issue.

ISSUES

I. Gross Income Tax –Freight Allowance

Authority: 45 IAC 1-1-33; IC § 6-8.1-5-4

Taxpayer protests the addition of delivery charges to its gross income.

II. Gross Income Tax –Freight Allowance

Taxpayer requests an adjustment to its sales factor based on addition of delivery charges to its gross income.

III. Gross Income Tax –Deduction for Income Taxes

Taxpayer requests an adjustment to its gross income for other income taxes paid by taxpayer.

STATEMENT OF FACTS

Taxpayer operation at issue involves various sand and gravel sites in Indiana selling and arranging delivery of materials to customers. As part of an audit, the auditor was given several different answers to the same question regarding delivery charges for the materials, and concluded the charges were borne by the taxpayer and this income was attributable to the taxpayer's operations. Taxpayer maintains the materials were shipped Free on Board and that the delivery income was not attributable to the taxpayer's operation.

I. Gross Income Tax –Freight Allowance

DISCUSSION

The overlying issue for the taxpayer's protest is the audit's assessment of tax based on statements by taxpayer's staff and inferences drawn from the documentation available to the auditor. Auditor made adjustments based on discrepancies in the amounts reported on the taxpayer's ST-103's, and the amounts on the taxpayer's gross income return for the year. Taxpayer contends that the inferences resulting in assessment were not properly drawn; inasmuch as the ST-103's included amounts for the accrued haul charges, representing charges for freight that are arranged by the taxpayer on behalf of the purchaser and which were reimbursed

by the purchaser. Taxpayer alleges that the selling terms of taxpayer's aggregate products is that the purchaser takes title to the aggregate materials at the sales location and that the shipping terms are Free on Board at the point of origin. Taxpayer then maintains 45 IAC 1-1-33 exempts a seller's reimbursement for buyer's shipping expenses from gross income tax and consequently this adjustment was incorrect. This provision states in relevant part:

> If freight is at the purchaser's expense and it is advanced on his behalf by the seller, the seller's reimbursement for such expense by the buyer is not subject to gross income tax. If there is an F.O.B. point mentioned in the contract and it is at the origin of shipment, this indicates that any further expense of delivery is an expense of the purchaser….The terms "freight paid" and "freight prepaid" disclose the payment of freight by the seller which, dependent on the stated delivery terms, may or may not be the seller's expense. The term "freight collect" discloses the payment of freight by the purchaser which also, dependent upon the stated delivery terms, may or may not be the purchaser's expense.

The exemption which is granted by this regulation is dependent on sufficient and specific documentation to confirm the structure of the transaction. Thus, this issue revolves around the burden of proof in an audit situation, which IC § 6-8.1-5-4 defines as:

> Every person subject to a listed tax must keep books and records so that the department can determine the amount, if any, of the person's liability for that tax by reviewing those books and records. The records in this subsection include *all source documents necessary to determine the tax*, including invoices, register tapes, receipts, and canceled checks. *(Emphasis added)*

Taxpayer admits the auditor received conflicting statements at the time of the audit. Furthermore, the record does not demonstrate any contemporaneous documentation supporting taxpayer's position either made available to the auditor or presented at the hearing. Taxpayer did present a current invoice demonstrating that all shipments are presently free on board at the origin and the charges are borne by the customer, not the taxpayer. Taxpayer has not provided information that overrides the initial adjustment, which was based on taxpayer's contemporaneous filings, statements by taxpayer's staff, and contemporaneous documentation available to the auditor.

FINDINGS

Taxpayer's protest is denied.

II. Gross Income Tax –Freight Allowance

DISCUSSION

Taxpayer requests that if the Department determines that the shipments were FOB, they not be added to the numerator of the taxpayer's sales factor. Taxpayer concurs that the resolution of the preceding issue is dispositive of this issue. Taxpayer also requests that if the Department does include the freight charges in the numerator of the sales factor, they should be included in the denominator as well, to correctly reflect the apportionment proportions.

FINDINGS

Taxpayer's protest is denied as to the removal of the charges from the sales factor numerator and sustained as to the inclusion of the freight charges in the denominator.

III. Gross Income Tax –Deduction for Income Taxes

DISCUSSION

The auditor added back to income an item described as "other taxes" on the basis that the taxpayer did not provide any details and therefore the amount deducted was assumed to be income taxes. Taxpayer has now provided details related to these other taxes, and to the extent that they establish these taxes as income taxes, taxpayer protest is sustained.

FINDINGS

Taxpayer's protest is sustained pending audit verification.

DEPARTMENT OF STATE REVENUE

04990127.LOF

LETTER OF FINDINGS NUMBER: 99-0127
SALES AND USE TAX
FOR TAX PERIODS: 1995-1997

NOTICE: Under IC 4-22-7-7, this document is required to be published in the Indiana Register and is effective on its date of publication. It shall remain in effect until the date it is superseded or deleted by the publication of a new document in the Indiana Register. The publication of this document will provide the general public with information about the Department's official position concerning a specific issue.

I. Sales and Use Tax: Manufacturing Exemptions

Authority: IC 6-2.5-3-2 (a), IC 6-2.5-5-3, IC 6-2.5-5-5.1, 45 IAC 2.2-5-10 (c), 45 IAC 2.2-5-10 (h)(2), 45 IAC 2.2-5-12, *Indiana Department of Revenue v. Cave Stone*, 457 N.E. 2d 520, (Ind. 1983). *Rotation Products v. Indiana Department of State Revenue*, 690 N.E.2d 795, 803 (Ind. Tax. Ct. 1998), 2003 Indiana LEXIS 117.

The taxpayer protests the assessment of use tax on certain items of tangible personal property.

II. Tax Administration: Abatement of Penalty

Authority: IC 6-8.1-10-2.1, 45 IAC 15-11-2 (b).

The taxpayer protests the assessment of the penalty.

STATEMENT OF FACTS

The taxpayer is in the business of selling, servicing, and rebuilding electrical motors, pumps, and gearboxes. After an audit, the Indiana Department of Revenue, hereinafter referred to as the "department," assessed additional sales and use tax, interest, and penalty. The taxpayer protested a portion of the assessment and a hearing was held to determine the sales and use taxability of certain items used in the taxpayer's rebuilding process.

I. Sales and Use Tax: Manufacturing Exemptions

The taxpayer agrees that some of its activities constitute repair. Materials used in the provision of a repair service are subject to the use tax pursuant to IC 6-2.5-3-2 (a). The taxpayer's protest to the assessment of tax on property used in the provision of repair services is denied.

The remainder of the taxpayer's protest concerns its tax liability in the rebuilding or remanufacturing of certain pumps and motors. In this process, the taxpayer typically picks up the non-working or poorly performing electric motors and pumps of its customers and transports them to its production facility. Such non-functioning or unusable motors and pumps are visually inspected and often tested by the taxpayer using a test panel in order to determine the mechanical problem at issue. The taxpayer then makes a determination as to the problem(s) involved and whether the electric motor or pump is salvageable. Customers are then given a choice of purchasing a new motor or having the old motor remanufactured. Unsalvageable motors and pumps are discarded by the taxpayer.

If the motor or pump is salvageable and the customer desires remanufacture, the taxpayer's documentation indicates that ownership of the equipment transfers to the taxpayer. Then the taxpayer will disassemble the item down to its castings. Often heavy equipment is used to assist the taxpayer in the disassembly process. If the windings (windings are copper wires that are coiled to produce the proper magnetic field for the motor or pump) of the motor or pump need to be replaced, such windings will be removed. Removal of windings requires baking the motor in an oven to loosen the varnish on the windings, which is stripped after the baking process. The windings are then torn out of the slot in the motor frame. New windings are inserted and new paper insulation is added. Then varnish is applied to the windings and the windings are baked in the oven to harden the varnish. The new windings are often of similar design, or the taxpayer will install upgraded windings in order to make the motor or pump more efficient than when it was purchased. Often ball bearings, lubricants, lubricant meters and tubing, hydraulic pumps and systems, and other parts are replaced, as needed. Also, all gears, shafts and end bells (the part that holds shafts in place) will be inspected and realigned. If the shafts are bent or warped then they will be realigned using special equipment. Often a realignment or machining of a motor or its parts will require the motor to be rebalanced. If necessary, the end bells and pump shafts will be machined on metal lathes. Next, all welds will be redone as needed and the items will be varnished and painted. Finally, upon reassembly of the motor or pump, such remanufactured item will be retested on the test panel to determine its performance and capacity and if such performance and capacity has changed from its original specifications when the motor was newly purchased. Also, a new nameplate describing the item's amps and capacity is affixed to such item. Skilled technicians provide these functions. The taxpayer provides its customers with a one-year warranty on all remanufactured motors and pumps. The department's audit assessed use tax on many items used in this process. The taxpayer protested the assessment of use tax on the items it used in the rebuilding process. After the hearing, the taxpayer withdrew its protest to a portion of the items originally protested.

Pursuant to IC 6-2.5-3-2 (a), Indiana imposes an excise tax on tangible personal property stored, used, or consumed in Indiana. There is no exemption available for tangible personal property used in the provision of a service.

A number of exemptions are available from use tax, including those collectively referred to as the manufacturing exemptions. IC 6-2.5-5-3 provides for the exemption of "manufacturing machinery, tools and equipment which is to be directly used by the purchaser in the direct production, manufacture, fabrication... of tangible personal property." (the equipment exemption) In *Indiana Department of Revenue v. Cave Stone,* 457 N.E. 2d 520, (Ind. 1983) the Indiana Supreme Court found that a piece of equipment qualifies for the manufacturing exemption if it is essential and integral to the production process. 45 IAC 2.2-5-10 (c) describes manufacturing machinery and tools as exempt if they have an immediate effect on the property in production. 45 IAC 2.2-5-10 (h)(2) further clarifies the exemption by allowing the exemption of "Replacement parts, used to replace worn, broken, inoperative or missing parts or accessories on exempt machinery and equipment..." IC 6-2.5-5-5.1 provides for the exemption of tangible personal property "... if the person acquiring the property acquires it for the direct consumption as a material to be consumed in the direct production of other tangible personal property in the person's business of manufacturing,..." (the consumption exemption) Pursuant to 45 IAC 2.2-5-12, consumption of tangible personal property in the direct production process means "dissipation or expenditure by combustion, use, or application..." of the tangible personal property in an "essential and integral part of an integrated process which produces tangible personal property."

Both the equipment and consumption manufacturing exemptions require that the subject item be used in a production process.

The taxpayer contends that the protested items qualify for either the equipment or consumption exemption. The department assessed use tax on the protested items because the department determined that the items were used in the service of repairing engines and pumps rather than a true production process. The first issue to be determined here is whether the protested items were actually used in the provision of a service or in a production process as the taxpayer contends.

To support its contention that the taxpayer is actually remanufacturing the engines and pumps in a production process rather than providing a repair service, the taxpayer cites *Rotation Products v. Indiana Department of State Revenue*, 690 N.E.2d 795, 803 (Ind. Tax. Ct. 1998). In that case, Rotation Products Corporation successfully argued that it took raw materials in the form of unusable roller bearings and created an entirely new product, i.e., the remanufactured roller bearings. The Court found that this was a production process and not the provision of a service. To reach this conclusion, the Court instituted the following four-prong test to distinguish a production process from the provision of a service. First, a production process must be complex and substantial and produce a different end product. Secondly, the property must become more valuable in the process. Thirdly, the end product of the process must compare favorably with newly manufactured articles of its kind. Finally, the process must not be part of the normal life cycle of the original product.

First, like the taxpayer in Rotation Products, the taxpayer performs substantial and complex work and significantly changes the electric motors and pumps that it remanufactures. The taxpayer tests non-working or poorly working electric motors and pumps to determine the mechanical problem at issue. The taxpayer then determines the problems involved and whether the electric motor or pump is salvageable. If it is salvageable and the customer prefers remanufacture to the purchase of new equipment, the taxpayer disassembles the item. In a complicated multi-step process, the taxpayer then removes the old windings, discards the old windings, and installs new and often improved windings in the motor. This process is similar to the Rotation Products Corporation enhancing the bearings by adding new rolling elements and cages. *Id*. at 803-04. The new windings must then be varnished and the varnish baked in an oven. The taxpayer also replaces ball bearings, lubricants, lubricant meters and tubing, hydraulic pumps and systems as needed. This is also similar to the Rotation Products Corporation enhancing the bearings by adding new rolling elements and cages. *Id*. at 803-04. Next the taxpayer inspects and realigns as necessary all gears, shafts and end bells. Finally, the end bells are grounded, machined, and polished on metal lathes and joints are rewelded. The reassembled and remanufactured motor or pump is then tested to determine its capacity and output. After testing, a new nameplate describing the amps and capacity of the motor or pump is affixed to the item. The taxpayer issues a one-year warranty with the remanufactured AC and DC wound motors or pumps and a two-year warranty on 3 phase motors similar to the warranty offered by the Rotation Products Corporation. *Id*. at 803.

Secondly, the property must become more valuable in the process. The taxpayer takes nonusable motors and pumps and transforms them into marketable motors and pumps. Before the remanufacturing process, the only value of the motors and pumps is as scrap metal. After the remanufacturing process, the motors and pumps are functional and oftentimes more powerful than the original item.

The remanufactured motors and pumps also compare favorably with similar new items. The remanufactured items sell for approximately 80% of the price of a new motor or pump.

Finally, the taxpayer's remanufacturing of the electric motors and pumps is not part of such property's normal life cycle. In *Rotation Products*, the Court noted that even if the cleaning and polishing of bearings is routine maintenance that is a normal part of such bearings' lifecycle; grinding bearing surfaces and replacing roller cages and elements are not. *Id.* at 803-04. Similarly, even if the taxpayer's cleaning, painting, and polishing the motors and pumps is routine maintenancein the normal lifecycle; the rewinding process, the shaft realignment, and the machining of end bells is not.

Application of the Court's test to the taxpayer's situation indicates that the taxpayer is engaged in the process of production of motors and pumps rather than the provision of a service.

Recently, the Indiana Supreme Court determined that to qualify for the manufacturing exemptions, a taxpayer must be involved in the production of a "distinct marketable good." Indiana Department of Revenue v. Interstate Warehousing, Inc., 2003 Indiana LEXIS 117. Further, the Court indicated that in order to be engaged in the production of a marketable good, the taxpayer must be producing something that will be sold. Id. at 9. The taxpayer meets this requirement as the documentation indicates that the taxpayer takes title to the motors prior to rebuilding and the taxpayer's customers purchase the motors back after rebuilding. It does not even appear that the customer will get the same motor back.

Since it has been determined that the taxpayer actually produces a marketable product in a production process, the second issue is to determine whether the protested items actually qualify for the equipment and consumption manufacturing exemptions. The taxpayer's explanations of the use of the items in the production process indicate that they qualify for either the equipment or consumption manufacturing exemption.

FINDING

The taxpayer's protest as to portion of materials used in the provision of the repair service is denied. The taxpayer's protest as to the materials used in the remanufacture of pumps and motors is sustained subject to a supplemental audit.

II. Tax Administration: Abatement of Penalty

The taxpayer's final point of protest concerns the imposition of the ten per cent negligence penalty pursuant to IC 6-8.1-10-2.1.

Indiana Regulation 45 IAC 15-11-2 (b) clarifies the standard for the imposition of the negligence penalty as follows:

"Negligence", on behalf of a taxpayer is defined as the failure to use such reasonable care, caution, or diligence as would be expected of an ordinary reasonable taxpayer. Negligence would result from a taxpayer's carelessness, thoughtlessness, disregard or inattention to duties placed upon the taxpayer by the Indiana Code or department regulations. Ignorance of the listed tax laws, rules and/or regulations is treated as negligence. Further, failure to read and follow instructions provided by the department is treated as negligence.

During the audit period, the taxpayer failed to pay sales or use tax on several types of items such as cleaning supplies, office supplies, and magazine subscriptions. The department's publications clearly indicate that purchase and use of these items is subject to the tax. The taxpayer's failure to pay tax according to the departmental instructions constitutes negligence.

FINDING

The taxpayer's final point of protest is denied.

DEPARTMENT OF STATE REVENUE

04990158.LOF

LETTER OF FINDINGS NUMBER: 99-0158
Use Tax
Calendar Years 1995, 1996, and 1997

NOTICE: Under IC 4-22-7-7, this document is required to be published in the Indiana Register and is effective on its date of publication. It shall remain in effect until the date it is superseded or deleted by the publication of a new document in the Indiana Register. The publication of this document will provide the general public with information about the Department's official position concerning a specific issue.

ISSUE(S)

I. Use Tax – Taxable purchases

Authority: 45 IAC 2.2-3-20

Taxpayer protests the use tax on items that have sales tax assessed and paid.

II. Tax Administration – Penalty

Authority: I C 6-8.1-10-2.1; 45 IAC 15-11-4

Taxpayer protests the penalty assessed.

STATEMENT OF FACTS

Taxpayer is an accounting/consulting firm that has no sales of tangible personal property. Taxpayer failed to pay tax on the purchase of computer components, software, office supplies, publications, and other taxable items. At audit, taxpayer disagreed with the auditor on several items but failed to provide proof. In a letter dated March 18, 1999 taxpayer stated it could produce invoices showing tax paid, that the dinner party and lawn application were service items and, therefore, not subject to sales tax, and the software, publications, and supplies were purchased out of state, therefore exempt. After many cancelled hearings and attempts in resolving the issue, a hearing was held on May 7, 2003.

I. Use Tax – Taxable purchases

DISCUSSION

At audit taxpayer was assessed use tax for items that did not include sales tax and items on its depreciation list where no invoices were presented. At hearing, taxpayer stated he would supply copies of invoices by May 14, 2003.

Taxpayer has not provided the department with proof that the audit is in error.

FINDING

Taxpayer's protest is respectfully denied.

II. Tax Administration – Penalty

DISCUSSION

Taxpayer did not protest the penalty. The department addresses the penalty issue as a matter of courtesy.

Taxpayer failed to remit use tax as required under 45 IAC 2.2-3-20, which is clearly negligent.

Taxpayer is a certified public accountant and aware of the use tax laws of the State of Indiana.

FINDING

Taxpayer's protest is respectfully denied.

DEPARTMENT OF STATE REVENUE

0420000287.LOF

LETTER OF FINDINGS: 00-0287
Gross Retail Tax
For the Years 1997 and 1998

NOTICE: Under IC 4-22-7-7, this document is required to be published in the Indiana Register and is effective on its date of publication. It shall remain in effect until the date it is superseded or deleted by the publication of a new document in the Indiana Register. The publication of the document will provide the general public with information about the Department's official position concerning a specific issue.

ISSUE

I. Transactions Subject to Sales Tax – Sale for Resale or Lease.

Authority: IC 6-2.5-2-1; IC 6-2.5-5-8; IC 6-8.1-5-1(d); Monarch Steel v. State Bd. of Tax Comm'rs, 699 N.E.2d 809 (Ind. Tax Ct. 1998); Trinity Episcopal Church v. State Bd. of Tax Comm'rs, 694 N.E.2d 816 (Ind. Tax Ct. 1998); 45 IAC 2.2-8-12(a); 45 IAC 2.2-8-12(b); 45 IAC 2.2-8-12(c); 45 IAC 2.2-8-12(d).

Taxpayer argues that transactions involving the sale of car washing equipment to three of its customers were not subject to the gross retail (sales) tax because those same three customers later resold or leased the equipment.

STATEMENT OF FACTS

Taxpayer is an S corporation in the business of operating car wash establishments. Taxpayer is also in the business of selling and distributing car washing equipment and supplies to various gas stations and convenience stores. Occasionally, taxpayer will arrange for installation of the equipment at the customer's location.

The Department conducted an audit of taxpayer's financial records and tax returns. The audit determined that taxpayer owed additional sales and use tax. Among other reasons, the audit found taxpayer owed the additional tax because it collected sales tax but failed to remit it to the state and because the audit determined that certain transactions were not exempt.

In addition, the audit noted that taxpayer had either not received, or had not retained, exemption certificates from certain customers. After taxpayer was unable to obtain the missing exemption certificates during the time permitted, the audit assessed additional tax on those particular sales for which no exemption certificate was provided.

Taxpayer submitted a protest of the additional assessment believing it could demonstrate that the source transactions were exempt from sales tax. An administrative hearing was held, and this Letter of Finding follows.

DISCUSSION

I. Transactions Subject to Sales Tax – Sale for Resale or Lease.

Taxpayer agrees that it sold car washing equipment to the three customers but argues that the transactions with each of these particular customers were not subject to sales tax.

Pursuant to IC 6-2.5-2-1, a sales tax is imposed on retail transactions which occur within the state unless a valid exemption is applicable.

IC 6-2.5-5-8 provides a sales tax exemption for transactions involving the sale of tangible personal property acquired by the customer for resale, rental, or leasing. Specifically, the statute reads as follows:

> Transactions involving tangible personal property are exempt from the state gross retail tax if the person acquiring the property acquires it for resale, rental or leasing in the ordinary course of his business without changing the form of the property.

Typically, a purchaser of personal property exempt under IC 6-2.5-5-8 issues an "exemption certificate" to establish that the personal property being acquired will be used in an exempt manner. 45 IAC 2.2-8-12(a) reads in part that, "Retail merchants, manufacturers, wholesalers and others who must register with the Department of Revenue and who qualify to purchase exempt from tax under this Act may issue exemption certificates with respect to exempt transactions."

Because the taxpayer was engaging in retail transactions by selling its car washing equipment and supplies, its initial obligation was to collect the sales tax. 45 IAC 2.2-8-12(b) states, "Retail merchants are required to collect the sales and use tax on each sale which constitutes a retail transaction unless the merchant can establish that the item purchased will be used by the purchaser for an exempt purpose."

The Department presumes that every intra-state sale of tangible of personal property is subject to sales tax; it is the buyer's and the seller's obligation to establish that the particular transaction is exempt. The simplest way to meet this burden is for the buyer to issue an exemption certificate. 45 IAC 2.2-8-12(c) provides that, "All retail sales of tangible personal property for delivery in the state of Indian shall be presumed to be subject to sales or use tax until the contrary is established. The burden of proof is on the buyer and also on the seller unless the seller received an exemption certificate."

Because the taxpayer was unable to supply copies of the missing exemption certificates, the audit correctly assumed that the transactions with the three customers were subject to the gross retail tax. However, taxpayer now asserts that it can demonstrate the sales to the three customers were exempt. 45 IAC 2.2-8-12(d) provides the taxpayer two alternative means of doing so. "Unless the seller receives a properly completed exemption certificate the merchant must prove that sales tax was collected and remitted to the state or that the purchaser actually used the item for an exempt purpose."

Because the audit determined the transactions with the three customers were not exempt, the taxpayer now has "[t]he burden

of proving that the proposed assessment is wrong." IC 6-8.1-5-1(d). In determining whether a taxpayer is entitled to an exemption, such as that provided for in IC 6-2.5-5-8, the courts have held that the exemption is to be strictly construed against the taxpayer and in favor of taxation. Monarch Steel v. State Bd. of Tax Comm'rs, 699 N.E.2d 809, 811 (Ind. Tax Ct. 1998); Trinity Episcopal Church v. State Bd. of Tax Comm'rs, 694 N.E.2d 816, 818 (Ind. Tax Ct. 1998).

Because the circumstances surrounding the sales to the three customers vary and because taxpayer's efforts to demonstrate the various transactions with the three customers also vary, the transactions with three customers are addressed individually.

A. Customer One:

In the case of Customer One, taxpayer has been able to provide a copy of an exemption certificate. The exemption certificate was signed on January 12, 2000, was prepared by Customer One's vice-president, and states that "all purchases of tangible personal property from [taxpayer] dating from 3/31/98 to 3/31/98 by the undersigned on which sales or use tax was not paid at time of purchase were used for a purpose which is exempt under provisions of the Indiana Gross Retail Tax Act." Therefore, in regard to Customer One, taxpayer has plainly met its burden of demonstrating that it was not required to collect sales tax on the sales of tangible personal property to Taxpayer One which occurred on "3/31/98."

B. Customer Two:

According to taxpayer, Customer Two is a financing agent. Although taxpayer negotiates with the end-user of the car washing equipment – such as a gas station or a convenience store – the typical end-user has neither the means nor the inclination to purchase the equipment directly from taxpayer. Instead, once the end-user expresses an interest in obtaining the equipment, taxpayer introduces the prospective end-user to a financing agent, such as Customer Two, which can provide the necessary financing. Thereafter, taxpayer sells the equipment to the financing agent, the financing agent pays taxpayer the total cost of the equipment, the equipment is delivered directly to the end-user, and the end-user makes successive payments to the financing agent.

Taxpayer argues that its sales to Customer Two – now no longer in business – were exempt from sales tax because Customer Two was in the business of leasing the equipment to the end-user. Taxpayer relies on IC 6-2.5-5-8, which exempts sales "if the person acquiring the property acquires it for resale, rental, or *leasing in the ordinary course of his business...."* (*Emphasis added*). Taxpayer was not able to obtain an exemption certificate from Customer Two. Instead, taxpayer has provided a copy of an invoice taxpayer sent Customer Two. The invoice lists Customer Two's out-of-state address and indicates that the equipment is to be delivered to a third-party – presumably the end-user – located at an in-state address. In addition, the invoice states that, "Any applicable taxes are responsibility of [Customer Two]." Presumably, this last statement is a stipulation between the two contracting parties requiring Customer Two to collect sales tax from the individual end-user.

Insofar as the sales transactions with Customer Two, taxpayer has failed to "prove that sales tax was collected and remitted to the state or that the purchaser [Customer Two] actually used the item for an exempt purpose." 45 IAC 2.2-8-12(d). Standing alone, the invoice sent Customer Two is insufficient to establish Customer Two purchased the car wash equipment for an exempt purpose or that the gross retail tax was ever paid to the state.

C. Customer Three:

Taxpayer indicates that Customer Three was also a financing agent. As a result, taxpayer maintains its sales of equipment to Customer Three were exempt from sales tax under IC 6-2.5-5-8 because Customer Three acquired the equipment in order to lease it to third-party end-users. Because taxpayer has not submitted a copy of the relevant exemption certificates, the transactions are presumably subject to sales tax, and taxpayer has the burden of proving that the transactions were exempt. IC 6-8.1-5-1(d); 45 IAC 2.2-8-12(c).

As in the case with Customer Two, taxpayer has submitted a copy of an invoice it sent to Customer Three indicating Customer Three was located at an out-of-state location and that the equipment was delivered to a third-party which had a different, in-state address. In addition, taxpayer has submitted a copy of what purports to be Taxpayer Three's standard lease agreement form. The lease agreement form states that the "[Third-Party Lessee] shall pay all charges and taxes (local, state, and federal) which now be imposed upon the ownership, leasing, rental, sale, purchase possession, or use of the Equipment...."

In further support of its argument, taxpayer has provided a copy of a letter dated December 1997 and received from Customer Three. In that letter, Customer Three indicates that the Named End-User has "entered into a lease agreement with [Named End-User] covering equipment purchased from your firm." The letter also requests taxpayer to, "[p]lease be sure no tax appears on the invoice."

Insofar as its transactions with Customer Three, taxpayer has met its burden of proving that Customer Three purchased the car wash equipment – which it subsequently transferred to the Named End-User indicated in the December 1997 letter – "for an exempt purpose." 45 IAC 2.2-8-12(d). Accordingly, taxpayer is entitled to the sales tax exemption set out in IC 6-2.5-5-8 for the sale of equipment made to Customer Three and which was subsequently leased to the Named End-User.

FINDING

Taxpayer's protest is sustained in part and respectfully denied in part. Taxpayer is entitled to the exemption on sales made to Customer One on "3/31/98." Taxpayer is not entitled to an exemption on sales made to Customer Two. Taxpayer is entitled to the exemption on sales of equipment made to Customer Three and thereafter leased to the Named End-User identified in the December 1997 letter.

DEPARTMENT OF STATE REVENUE

0420010143.LOF

LETTER OF FINDINGS NUMBER: 01-0143
State Gross Retail Tax—Burden of Proof for Exemptions
Tax Administration—Penalty
For Tax Year 1997

NOTICE: Under Ind. Code § 4-22-7-7, this document is required to be published in the Indiana Register and is effective on its date of publication. It shall remain in effect until the date it is superseded or deleted by the publication of a new document in the Indiana Register. The publication of this document will provide the general public with information about the Department's official position concerning a specific issue.

ISSUES

I. State Gross Retail Tax—Burden of Proof for Exemptions

Authority: IC § 6-2.5-2-1, 45 IAC 2.2-2-1, IC § 6-2.5-3-2, 45 IAC 2.2-2-2, IC § 6-8.1-5-1, 45 IAC 2.2-5-53, 45 IAC 2.2-8-2, 45 IAC 2.2-8-12

Taxpayer protests the state gross retail tax assessment on items for which taxpayer claims to have valid exemptions.

II. Tax Administration—Penalty

Authority: IC § 6-8.1-10-2.1, 45 IAC 15-11-2

Taxpayer protests the assessment of the 10% negligence penalty.

STATEMENT OF FACTS

Taxpayer was a wholesale distributor of consumer electronics (satellite dishes). In addition, taxpayer sold C-Band programming through its programming operation, and a maintenance service department to repair various pieces of equipment sold to customers. Effective in January of 1998, taxpayer merged into another satellite dish corporation. Further facts will be added as necessary.

I. State Gross Retail Tax—Burden of Proof for Exemptions

DISCUSSION

Taxpayer protests the assessment of state gross retail tax on items for which taxpayer claims to have sold subject to valid exemptions. The auditor reviewed sales invoices for satellite equipment sales for October 1997, stating that this month was closest to the average monthly sales for 1997. At the hearing, taxpayer took issue with the selection, arguing that October, part of taxpayer's fourth quarter sales, was highly inflated due to an increase in purchases of high-ticket items in anticipation of the holidays. While there is a projection agreement form in the file, it was not signed by taxpayer's representative. The auditor indicates that the taxpayer's representative at the time of the audit was aware that the sales invoices for October 1997 would be used as the time frame for projecting taxpayer's 1997's gross retail tax liability. Taxpayer argued at the hearing that to use the company's most productive month as the basis for the projection was unjust. However, there is nothing in the statutes or regulations circumscribing an auditor's choice of time frames for projecting results.

Taxpayer's major argument is that the Department did not give taxpayer credit on all certificates and affidavits sent to the auditor as proof that taxpayer was selling satellite dishes to purchasers for resale. In as much as some of taxpayer's out-of-state customers, who are not registered to do business in Indiana, are within a short enough driving distance to a distribution center that they prefer driving for pick-up rather than paying shipping charges, a brief examination of the applicable statutes and regulations is in order.

Under IC § 6-8.1-5-1(b), a "notice of proposed assessment is *prima facie* evidence that the department's claim for the unpaid tax is valid. The burden of proving that the proposed assessment is wrong rests with the person against whom the proposed assessment is made. IC § 6-2.5-2-1 imposes an "excise tax, known as the state gross retail tax... on retail transactions made in Indiana." Second, IC § 6-2.5-3-2 also imposes an excise tax, "known as the use tax," "on the storage, use, or consumption of tangible personal property in Indiana if the property was acquired in a retail transaction." *See also*, 45 IAC 2.2-2-1, 45 IAC 2.2-2-2, and 45 IAC 2.2-3-4, regulations defining terms in the statute imposing the state gross retail tax, and setting forth the retail merchant's duty to collect the tax.

The above statutes and regulations clearly state that tax is assessed and the retail merchant collects and remits the tax to the State of Indiana *unless* the retail merchant—taxpayer—supplies proof sufficient to either avoid the liability in the first instance, or defend against the liability during an audit.

45 IAC 2.2-8-2 states that "a retail merchant may not make a retail transaction in Indiana" without a retail merchant's certificate. Out-of-state merchants "*may* register with the Indiana Department of Revenue to collect and remit Indiana *use* tax on sales to Indiana purchasers." (Emphasis added). This regulation applies to use tax, not the state's gross retail tax, and applies to sales from outside Indiana to customers within Indiana. This regulation does not apply to out-of-state merchants buying products in Indiana to sell to their own customers in their own states.

For example: a Kentucky retail merchant orders satellite dishes from taxpayer, and taxpayer, instead of shipping the items, makes them available for pick-up at the Kentucky merchant's request. When an out of state customer comes into the state, they are

no longer from out of state; they are no longer a retail merchant, but a customer. But for the Kentucky merchant's desire to avoid shipping charges, these types of sales would fall into the category of interstate commerce and would therefore be exempt pursuant to 45 IAC 2.2-8-12(e). However, when the taxpayer acquires physical possession and title to goods in Indiana, this is fully an Indiana transaction. Absent valid Indiana exemption certificates from these customers, taxpayer must establish that these sales were indeed exempt purchases.

FINDING

Taxpayer's protest concerning state gross retail taxes assessed for sales where taxpayer's proof consists of affidavits and out-of-state exemption certificates is sustained to the extent the Audit Division can determine exempt transactions from the affidavits and information contained in out of state exemption certificates.

II. Tax Administration—Penalty

DISCUSSION

Taxpayer protests the imposition of the 10% negligence penalty. Taxpayer argues that its failure to pay the appropriate amount of tax due was based solely on taxpayer's interpretation of the relevant statutes, regulations, and case law.

Indiana Code Section 6-8.1-10-2.1(d) states that if a taxpayer subject to the negligence penalty imposed under this section can show that the failure to file a return, pay the full amount of tax shown on the person's return, timely remit tax held in trust, or pay the deficiency determined by the department was due to reasonable cause and not due to willful neglect, the department shall waive the penalty. Indiana Administrative Code, Title 45, Rule 15, section 11-2 defines negligence as the failure to use reasonable care, caution, or diligence as would be expected of an ordinary reasonable taxpayer. Negligence results from a taxpayer's carelessness, thoughtlessness, disregard or inattention to duties placed upon the taxpayer by Indiana's tax statutes and administrative regulations.

In order for the Department to waive the negligence penalty, taxpayer must prove that its failure to pay the full amount of tax due was due to reasonable cause. Taxpayer may establish reasonable cause by "demonstrat[ing] that it exercised ordinary business care and prudence in carrying or failing to carry out a duty giving rise to the penalty imposed...." In determining whether reasonable cause existed, the Department may consider the nature of the tax involved, previous judicial precedents, previous department instructions, and previous audits.

In this instance, taxpayer attempted to maintain records of out-of-state purchases, and to substantiate them during the audit procedure. Taxpayer had reasonable cause to believe it had fully complied with Indiana's gross retail tax statutes and regulations.

FINDING

Taxpayer's protest concerning the abatement of the 10% negligence penalty is sustained.

DEPARTMENT OF STATE REVENUE

0220010282P.LOF

LETTER OF FINDINGS NUMBER: 01-0282P
Gross and Adjusted Gross Income Tax
Calendar Years 1992, 1993, 1994, and 1995

NOTICE: Under IC 4-22-7-7, this document is required to be published in the Indiana Register and is effective on its date of publication. It shall remain in effect until the date it is superseded or deleted by the publication of a new document in the Indiana Register. The publication of this document will provide the general public with information about the Department's official position concerning a specific issue.

ISSUE(S)

I. Tax Administration – Penalty

Authority: IC 6-8.1-10-2.1(d); 45 IAC 15-11-2

Taxpayer protests the penalty assessed.

STATEMENT OF FACTS

Taxpayer has an ownership interest in an Indiana domiciled partnership and is a holding company whose sole asset and activity is the partnership interest. Taxpayer failed to file income tax returns. In 1996, the Taxpayer was merged into the parent company.

The auditor found that the taxpayer had distributive shares of partnership income subject to Gross and Adjusted Gross Income in all years of the audit.

Taxpayer filed a penalty protest letter dated October 17, 2001.

I. Tax Administration – Penalty

DISCUSSION

Taxpayer protests the penalty assessed, states it is a Delaware Corporation with a commercial domicile entirely in Illinois, and was a wholly owned subsidiary of its parent company. Taxpayer states that its taxable income was included in the Illinois unitary filing of its parent. The parent is responsible for the state income tax filing of its own tax liability as well as that of its subsidiaries.

It was an unintentional oversight that the income tax filing of the taxpayer was treated as 100% Illinois. Taxpayer requests an abatement of the penalty. Taxpayer further states that it did not intentionally disregard the tax regulations but that the error was merely an oversight as to the proper filing jurisdiction.

45 IAC 15-11-2(b) states, "Negligence, on behalf of the taxpayer is defined as the failure to use such reasonable care, caution, or diligence as would be expected of an ordinary reasonable taxpayer. Negligence would result from a taxpayer's carelessness, thoughtlessness, disregard or inattention to duties placed upon the taxpayer by the Indiana code or department regulations. Ignorance of the listed tax laws, rules and/or regulations is treated as negligence. Further, failure to read and follow instructions provided by the department is treated as negligence. Negligence shall be determined on a case by case basis according to the facts and circumstances of each taxpayer."

Taxpayer failed to file Indiana tax returns when it consisted of an Indiana domiciled partnership. A nonfiler is subject to a negligence penalty that the department finds proper. Taxpayer has not provided reasonable cause to allow the department to waive the penalty.

FINDING

Taxpayer's protest is denied.

DEPARTMENT OF STATE REVENUE

0420020168.LOF

LETTER OF FINDINGS: 02-0168
Indiana Sales and Use Tax
For the Tax Years 1998, 1999, and 2000

NOTICE: Under IC 4-22-7-7, this document is required to be published in the Indiana Register and is effective on its date of publication. It shall remain in effect until the date it is superseded or deleted by the publication of a new document in the Indiana Register. The publication of the document will provide the general public with information about the Department's official position concerning a specific issue.

ISSUES

I. Natural Gas Utility Exemption – Sales and Use Tax.

Authority: IC 6-2.5-2-1(a); IC 6-2.5-4-5(b); IC 6-2.5-4-5(c); IC 6-2.5-4-5(c)(3); Dept. of State Revenue v. Kimball International, Inc., 520 N.E.2d 454 (Ind. Ct. App. 1988); 45 IAC 2.2-4-13(e).

Taxpayer argues that its purchase of natural gas should be exempt from the state's gross retail tax because the natural gas is "predominately used" in the production of tangible personal property.

II. Abatement of the Ten-Percent Negligence Penalty.

Authority: IC 6-8.1-10-2.1; IC 6-8.1-10-2.1(d); 45 IAC 15-11-2(b); 45 IAC 15-11-2(c).

Taxpayer maintains that it is justified in requesting that the Department of Revenue (Department) exercise its discretion to abate the ten-percent negligence penalty assessed at the time of the audit report.

STATEMENT OF FACTS

Taxpayer is in the business of manufacturing and selling truck parts. Taxpayer manufacturers truck beds, tailgates, and suspension systems. The Department conducted a sales and use tax audit during which taxpayer's financial and utility consumption records were examined. The audit resulted in the assessment of additional use tax. The taxpayer disagreed with portions of the assessment and submitted a protest to that effect. In that initial protest letter, taxpayer challenged the audit's determination that taxpayer was not entitled to a sales and use tax exemption on the purchase of electricity used in taxpayer's Building Three and Building Four. This first issue was subsequently considered during a field audit. After reviewing the electrical use in Buildings Three and Four, the field audit agreed that "the meters are predominately exempt" and should be "allowed as 100 [percent] exempt rather than the calculations included in the audit." According to that field audit, "This issue should be adjusted in a supplemental audit after the [natural] gas issue is settled in hearing." The remaining portions of taxpayer's protest were discussed during an administrative hearing, and this Letter of Findings follows.

DISCUSSION

I. Natural Gas Utility Exemption – Sales and Use Tax.

Taxpayer maintains that it is entitled to a sales tax exemption on the purchase of natural gas used to heat four of its buildings. Each of the four buildings has a separate natural gas meter, taxpayer uses each of the four buildings for somewhat different purposes, and each of the four buildings will be considered here in turn.

Indiana imposes a gross retail (sales) tax on certain sales made within the state. IC 6-2.5-2-1(a). The tax is not imposed on all transactions but only those which constitute "retail transactions."

Sales of public utilities are specifically designated as "retail transactions." IC 6-2.5-4-5(b) states that, "A power subsidiary

or a person engaged as a public utility is a *retail merchant* making a *retail transaction* when the subsidiary or person furnishes or sells electrical energy, natural or artificial gas, water, steam, or steam heating service to a person for commercial or domestic consumption." (*Emphasis added*).

However, the legislature has seen fit to allow a number of specific exemptions. *See* IC 6-2.5-5-1 et seq. The statute, designating utility transactions as "retail sales," refers to one of those exemptions. IC 6-2.5-4-5(c) states:

> Notwithstanding subsection (b), a power subsidiary or a person engaged as a public utility is not a retail merchant making a retail transaction when... (3) the power subsidiary or person sells the services or commodities listed in subsection (b) to a person for use in manufacturing, mining, production, refining, oil extraction, mineral extraction, irrigation, agriculture, or horticulture. However, this exclusion for sales of the services and commodities only applies if the services are consumed as an essential and integral part of an integrated process that produces tangible personal property and those sales are *separately metered* for the excepted uses listed in this subdivision. (*Emphasis added*).

Therefore, if a widget manufacturer purchases electricity to operate its widget stamping machine, it is entitled to claim the sales tax exemption as long as there is a way of directly measuring (i.e. "metering') the electricity used by the particular widget stamper. However, taxpayer does not use its natural gas in a directly measurable way to produce its truck parts. Rather, taxpayer buys natural gas in order to provide heat for the four buildings. Instead, taxpayer relies on the language contained within IC 6-2.5-4-5(c)(3). That language permits a manufacturer of tangible personal property to claim the utility exemption "if those [utility] sales are not separately metered but are predominately used by the purchaser for the excepted uses listed in this subdivision."

Therefore, in order to successfully claim the exemption, taxpayer must demonstrate that the natural gas is "predominately used" to manufacture truck parts.

The Department has defined "predominantly used" as follows: "Where public utility services are sold from a single meter and the services or commodities are utilized for both exempt and nonexempt uses, the entire gross receipts will be subject to tax unless the services or commodities are predominantly used for excepted purposes. Predominant use shall mean that more than fifty percent (50%) of such utility services are consumed for excepted use." 45 IAC 2.2-4-13(e).

Building One:

Taxpayer accepts initial delivery of various grades of steel in Building One. In addition, the steel is cut in this building. According to taxpayer, the heat in this building must be maintained at an optimum temperature in order to assure that the temperature of both the steel and the cutting equipment remains consistent. Taxpayer offered a written statement from its steel supplier recommending that the temperature of the steel be maintained in order to "maintain the physical characteristics and dimensional stability of the steel."

Taxpayer also maintains that heating Building One to a consistent level is necessary because the cutting equipment is computer-controlled, and temperature variations will affect the performance of the cutting equipment. Taxpayer supplied a letter from the manufacturer of the computer-controlled cutting equipment. In that letter, the manufacturer states that, "We recommend the area in which our [computer-controlled equipment] is installed be maintained at a temperature no lower than 50 degrees." The letter goes on to state that, "testing has shown the accuracy of the unit to be outside the operational limits [manufacturer] requires for your specific application."

Taxpayer's argument – so far is it concerns Building One – is that taxpayer is entitled to the utility exemption for the natural gas measured at this building's meter because the natural gas is "predominately used" for an exempt purpose.

Building Two:

Taxpayer transfers the cut steel to Building Two. In that building, the steel is bent and wire-welded. According to taxpayer, both the "bending" and wire-welding are computer-controlled activities. If the temperature is not maintained, the steel cannot be consistently bent to the required specification. In other words, if a piece of steel having a temperature of 50 degrees was bent and a piece of steel having a temperature of 70 degrees was bent by the same automated machinery, the resulting two units of formed steel would be inconsistent. In addition, taxpayer states that the wire-welding process also requires that temperature in Building Two be maintained a constant level. According to taxpayer, variations in temperature would affect the steel's electrical resistance, and the resulting weld would be faulty.

Building Three:

After the steel is bent, formed, and welded, it is moved to Building Three where the partially-finished truck equipment is painted. According to taxpayer, its painting process requires that the temperature in Building Three be maintained at approximately 80 degrees. Taxpayer provided information from its paint supplier specifying that a temperature between 65 and 75 degrees be maintained. According to the paint supplier, "At this temperature range the most favorable paint flow and processing is provided." In addition, the paint supplier states that, "Too low workshop temperatures (under 60F/15C) and high humidity are detrimental to the result." Taxpayer states that if the ambient building temperature is too low, the paint will not "cure" properly.

Taxpayer bolsters its claim to the exemption for Building Three on the ground that the painting process requires that the air in Building Three be constantly exchanged with outside air. In its protest letter, taxpayer states that, "The large amount of gas usage [in Building Three] is required because IDEM requires that the air change every 48 seconds for the health of the employees." In

addition, taxpayer offered information from its paint supplier indicating that – in order to properly apply the paint – that, "Fresh air is constantly sucked in from the atmosphere and the used air is exhausted at another point."

The audit report rejected taxpayer's claim that it was entitled to the utility exemption for Building Three. In arriving at that conclusion, the audit report compared gas consumption during June, July, and August with gas consumption during the remainder of the year. Because the Building Three gas consumption during the summer months was extremely low – 2 cubic feet of gas – the audit concluded that taxpayer purchased the natural gas merely for general heating purposes. It is undisputed that the purchase of natural gas simply for the purpose of heating a building – even a building in which manufacturing takes place – is a non-exempt transaction under IC 6-2.5-4-5(b). However, taxpayer counters the audit's conclusion stating that a comparison of the amount of gas consumed in Building Three with the amount of gas consumed in two of its other buildings – in which the inside air is not exchanged with outside air – demonstrates that amount of gas consumed in Building Three is largely attributable to the painting activities which occur in that building. Taxpayer's otherwise unverified analysis concludes that the gas consumption in Building Three is approximately three times the amount consumed in a building having a comparable ceiling height and floor area. According to taxpayer, this comparison purports to demonstrate that approximately 87 percent of the gas used in Building Three is attributable to its exempt manufacturing activities.

Taxpayer adds a third argument stating that the computer-controlled painting equipment requires maintaining a certain temperature in order for the equipment to function properly.

Building Four:

The activities in Building Four are similar to the activities occurring in Building One and Building Two except that smaller items of equipment – such as suspension systems – are assembled in Building Four. In Building Four, taxpayer cuts, bends, and wire-welds steel. Again, computer-controlled fabricating equipment directs these activities. Again, taxpayer asserts that the proper functioning of the computer control devices requires the maintenance of a consistent, minimum temperature.

The Department concludes that taxpayer, under IC 6-2.5-4-5(c)(3), is entitled to the "predominately used" exemption for the natural gas metered for use in Building Three because taxpayer has demonstrated that the natural gas consumed in that particular building is "an essential and integral part of an integrated process that produces tangible personal property." Dept. of State Revenue v. Kimball International, Inc., 520 N.E.2d 454, 456 (Ind. Ct. App. 1988). In Kimball, given the size of the size of the objects being painted, the manufacturer was able to limit its exempt painting activities within the confines of paint (or spray) booths. In this case, taxpayer has demonstrated that Building Three is acting as the taxpayer's own "paint booth." Given the large and unwieldy size of truck components being painted, taxpayer's decision to treat Building Three as an oversize paint booth and to heat and exchange the inside air accordingly, is entirely justifiable. Without natural gas heat and the constant exchange of room air, taxpayer's painting activities would not occur. Id. at 457. Similar to the manufacturer in Kimball, taxpayer has demonstrated that – but for the natural gas consumed in heating Building Three – the painting of taxpayer's truck parts could not and would not occur unless the entire building was heated to the degree and to the extent that it is. As in Kimball, taxpayer has demonstrated that, "from an operational standpoint," without the heating of Building Three – and the natural gas consumed thereby – the taxpayer's painting process would be not be possible. Id.

FINDING

Taxpayer's protest is sustained in part and denied in part. Taxpayer is entitled to the predominate use exemption for natural gas used in Building Three. Taxpayer is denied the predominate use exemption for Buildings One, Two, and Four.

II. Abatement of the Ten-Percent Negligence Penalty.

In its protest letter, taxpayer stated that it was entitled to abatement of the ten-percent negligence penalty on the ground that it "did not willfully disregard the law," that "[t]he omissions were due to error," and a "deficiency of.05% is hardly material."

IC 6-8.1-10-2.1 requires that a ten-percent penalty be imposed if the tax deficiency results from the taxpayer's negligence. Departmental regulation 45 IAC 15-11-2(b) defines negligence as "the failure to use such reasonable care, caution, or diligence as would be expected of an ordinary reasonable taxpayer." Negligence is to "be determined on a case-by-case basis according to the facts and circumstances of each taxpayer." Id.

IC 6-8.1-10-2.1(d) allows the Department to waive the penalty upon a showing that the failure to pay the deficiency was based on "reasonable cause and not due to willful neglect." Departmental regulation 45 IAC 15-11-2(c) requires that in order to establish "reasonable cause," the taxpayer must demonstrate that it "exercised ordinary business care and prudence in carrying out or failing to carry out a duty giving rise to the penalty imposed...."

The audit concluded that the ten-percent negligence penalty was appropriate because taxpayer substantially underpaid use tax in 1998 and 1999 and paid no use tax during 2000. Although – as taxpayer contends – the amount of the additional assessment may have been "negligible," the failure to calculate, self-assess, and pay the accrued use tax does not demonstrate the "ordinary business care and prudence" sufficient to warrant abating the penalty.

FINDING

Taxpayer's protest is respectfully denied.

DEPARTMENT OF STATE REVENUE

0420020169.LOF

LETTER OF FINDINGS NUMBER: 02-0169
Sales/Use Tax
For the Years 1998-2000

NOTICE: Under IC 4-22-7-7, this document is required to be published in the Indiana Register and is effective on its date of publication. It shall remain in effect until the date it is superseded or deleted by the publication of a new document in the Indiana Register. The publication of this document will provide the general public with information about the Department's official position concerning a specific issue.

ISSUE

I. Sales and Use Tax- Tanning Beds

Authority: IC 6-8.1-5-1 (b), IC 6-2.5-2-1, IC 6-2.5-3-2.

The taxpayer protests the assessment of use tax on certain tanning beds.

II. Sales and Use Tax-Sign

Authority: IC 6-2.5-3-2, IC 6-8.1-5-1 (b).

The taxpayer protests the tax assessed on a sign.

III. Sales and Use Tax- Miscellaneous Expenditure

Authority: IC 6-2.5-3-2, IC 6-8.1-5-1 (b).

The taxpayer protests the assessment of tax on a miscellaneous expenditure.

STATEMENT OF FACTS

The taxpayer is a tanning salon. After an audit, the Indiana Department of Revenue, hereinafter referred to as the "department," assessed additional sales and use tax on the taxpayer. The taxpayer protested several assessments. The issues concerning the sales tax assessments for July 1999, October 2000, November 2000 and December 2000 were resolved prior to hearing. At the telephone hearing, the taxpayer protested three assessments.

I. Sales and Use Tax- Tanning Beds

DISCUSSION

The taxpayer protests the assessment of use tax on two tanning beds listed on page 18 of the audit as Asset #84 and Asset #85. The taxpayer considered this transaction a non-taxable profit sharing contract. The department considered this transaction a purchase subject to the use tax.

The department's auditor examined the documentation surrounding the taxpayer's payment. All tax assessments are presumed to be accurate and the taxpayer bears the burden of proving that any assessment is incorrect. IC 6-8.1-5-1 (b). Although given ample opportunity, the taxpayer did not provide any documentation to substantiate its opinion that the transaction constituted a profit sharing agreement. Therefore, the taxpayer did not sustain its burden of proving that the transaction constituted a profit sharing plan.

Indiana imposes a sales tax on retail transactions made in Indiana. IC 6-2.5-2-1. A complementary use tax is imposed on personal property purchased in a retail transaction and used in Indiana when no sales tax has been paid. IC 6-2.5-3-2. The subject transaction was subject to the use tax.

FINDING

The taxpayer's protest is denied.

II. Sales and Use Tax-Sign

DISCUSSION

In 2000, the taxpayer purchased a sign to advertise its business. No sales tax was collected or remitted on the sale of this sign. Therefore, the department assessed the complementary use tax pursuant to IC 6-2.5-3-2. The taxpayer contends that the payment was actually for a non-taxable intangible "right" to use the sign. The taxpayer did not present any documentation before, during, or after the hearing to substantiate its contention. Therefore, pursuant to IC 6-8.1-5-1 (b), the taxpayer did not sustain its burden to prove that the department made an incorrect assessment.

FINDING

The taxpayer's protest is denied.

III. Sales and Use Tax- Miscellaneous Expenditure

DISCUSSION

The department assessed use tax based upon the November15, 1998 check # 7854 for which no detail was provided pursuant to IC 6-2.5-3-2. The taxpayer contends that this check was written to make a non-taxable payment for a bank loan rather than the taxable purchase and use of tangible personal property. The taxpayer did not offer any evidence to substantiate its contention. Pursuant to IC 6-8.1-5-1 (b) the taxpayer did not sustain its burden of proof that the use tax was improperly imposed.

FINDING

The taxpayer's protest is denied.

DEPARTMENT OF STATE REVENUE

0220020261.LOF

LETTER OF FINDINGS: 02-0261
Indiana Corporate Income Tax
For the Tax Years 1995, 1996, and 1997

NOTICE: Under IC 4-22-7-7, this document is required to be published in the Indiana Register and is effective on its date of publication. It shall remain in effect until the date it is superseded or deleted by the publication of a new document in the Indiana Register. The publication of the document will provide the general public with information about the Department's official position concerning a specific issue.

ISSUES

I. Sale of Wood Products to Out-of-State Customers – Gross Income Tax.

Authority: IC 6-2.1-2-2; IC 6-2.1-3-3; 45 IAC 1-1-119(1)(a); 45 IAC 1-1-119(2)(b).

Taxpayer argues that the Department of Revenue (Department) erred when it concluded that the receipt of money from the sale of wood products to out-of-state customers was subject to gross income tax.

II. Classification & Computational Errors.

Authority: IC 6-8.1-5-1(b).

Taxpayer maintains that the audit erred in categorizing exempt and non-exempt sales of wood products; as a result, the amount of the gross income tax assessment is purportedly incorrect.

III. Abatement of the Ten-Percent Negligence Penalty.

Authority: IC 6-8.1-10-2.1; IC 6-8.1-10-2.1(d); 45 IAC 15-11-2(b); 45 IAC 15-11-2(c).

Taxpayer requests that the Department exercise its discretion to abate the ten-percent negligence penalty because no reason was ever provided taxpayer for imposition of the penalty.

STATEMENT OF FACTS

Taxpayer is in the business of selling specialized wood products. Taxpayer has both foreign and domestic customers. Some of taxpayer's out-of-state customers place an order for a particular type or grade of wood product, taxpayer chooses which of its products conforms to the customer's requirements, and the item is then shipped to that out-of-state customer. Other out-of-state customers send a representative to taxpayer's Indiana location, the representative selects a particular item of wood, and that particular item is set aside and later delivered to the out-of-state customer by means of common carrier.

The Department conducted an audit of taxpayer's records. The audit concluded that money taxpayer received from certain transactions with out-of-state customers was subject to the state's gross income tax. Taxpayer disagreed, submitted a protest, an administrative hearing was held, and this Letter of Findings results.

FINDINGS

I. Sale of Wood Products to Out-of-State Customers – Gross Income Tax.

Taxpayer maintains that receipts derived from sales made to certain of its out-of-state customers are not subject to the gross income tax. The transactions at issue are those in which an out-of-state customer travels to Indiana, chooses a particular item, arranges for taxpayer to ship that item, and thereafter awaits receipt of the selected wood product at the foreign destination. The audit determined that these transactions were intra-state, and the money received was subject to gross income tax. Taxpayer characterizes these particular transactions as inter-state and the receipts not subject to gross income tax.

Indiana imposes a tax on "the entire taxable gross income of a taxpayer who is a resident or a domiciliary of Indiana." IC 6-2.1-2-2. However, not all income is not subject to the tax. IC 6-2.1-3-3 provides that, "Gross income derived from business conducted in commerce between the state of Indiana and either another state or a foreign country is exempt from gross income tax to the extent the state of Indiana is prohibited from taxing that gross income by the United States Constitution."

Pursuant to IC 6-2.1-3-3, the Department has promulgated rules which distinguish between "nontaxable outshipments" and "taxable outshipments." In particular, taxpayer cites to 45 IAC 1-1-119(1)(a) which defines certain sales as exempt. The regulation – in effect at the time of the subject transactions – states that "nontaxable outshipments" include:

> Sales to nonresidents where the seller, upon receipt of a prior order and as part of the contract, ships the goods from a point within or without Indiana to an out-of-state destination. Such sales are exempt from taxation whether shipment is made by the seller in his own conveyance, by his contract carrier or by common carrier, and whether the shipment is made on bills of lading showing the seller, buyer or a third party as the shipper of record.

In the transactions here at issue, the out-of-state customer sends a representative to taxpayer's location before placing an order. The representative selects a particular item it wishes to purchase. That item is labeled and segregated. Taxpayer and out-of-state customer sign a sales agreement for the item in which the taxpayer is required to ship the item to the customer's location. Taxpayer then sends a bill to the out-of-state customer.

Taxpayer maintains that – for purposes of the gross income tax – these particular transactions are not complete until the out-of-state customer physically takes delivery of the selected item at the customer's out-of-state location. Thus, although the customer's

representative has chosen the item it wishes to purchase and has signed an agreement to that effect, the transaction is not complete until the item has traveled to taxpayer's site and has been accepted by the customer. In support, taxpayer points out that under basic principles of commercial law, the customer – under certain circumstances – is entitled to refuse delivery of the item and require taxpayer to accept return of that item. Taxpayer asserts that the audit's conclusion "mischaracterizes the facts and mistakes principles of commercial law."

However, the question raised is not one of commercial law or whether or not the out-of-state customer may or may not justifiably renege on the deal it struck with taxpayer in Indiana. For purposes of determining the applicability of the gross income tax, the regulation is squarely on point. 45 IAC 1-1-119(2)(b) states that taxable outshipments include "Sales to nonresidents where the goods are accepted by the buyer or he takes actual delivery within the state. Sales will also be taxable if the goods are shipped out of state on bills of lading showing the seller, buyer or a third party as shipper if the goods were *inspected and accepted*, or when any other evidence shows that the sales were completed prior to shipment in interstate commerce." (*Emphasis added*).

Presumably the out-of-state customer could – justifiably or unjustifiably – eventually refuse to accept delivery of the item. The out-of-state customer could determine that the item shipped was not identical to the item chosen in Indiana; the customer could determine that the item was damaged in transit; the customer could determine it no longer had a need for the item; the customer could simply arbitrarily decide it no longer wanted the item, decline acceptance, and refuse to pay the bill. All of these possibilities raise various questions of commercial, contract, and insurance law, but all of these consequent legal issues are irrelevant to the gross income tax question. Customer came to Indiana, customer inspected and selected a particular item it wanted to purchase, and customer agreed to purchase that item. The transaction was completed in Indiana, and the proceeds from the transactions are subject to the state's gross income tax.

FINDING

Taxpayer's protest is respectfully denied.

II. Classification & Computational Errors.

Given the conclusion that receipts from "inspection sales" are subject to gross income tax, taxpayer maintains that the audit erred in categorizing taxable and nontaxable sales to out-of-state customers. As a result, taxpayer argues that it is entitled to have the Department reexamine the records of its transactions and reclassify a number those transactions.

At the time of the audit, the Department determined the money taxpayer received from "inspection sales" customers was subject to gross income tax. The audit was initially informed that it was not possible to determine which of its transactions were or were not "inspection sales." Subsequently, one of taxpayer's representatives – its export manager – reviewed a listing of all of taxpayer's customers and specified which of the customers did and which did not participate in "inspection sales" of taxpayer's goods. Taxpayer later indicated that this classification was incorrect. Thereafter, taxpayer solicited, received, and supplied "certification letters" from a limited number of its customers indicating that these customers did not – in all cases – enter into "inspection sales." The audit determined that this customer information was inconclusive, one-sided, and did not reasonably or accurately distinguish between those customers which conducted "inspection sales" and those customers which did not. The taxpayer was asked if there was additional information which would assist in distinguishing "inspection sales" customers and "non-inspection sales" customers. Taxpayer responded that that there was no further information which would be of assistance. The audit report was completed based on the information initially supplied by the taxpayer's export manager.

Taxpayer argues that it is entitled to further consideration of the matter. It argues that – upon reexamination of the customers lists – it can now more precisely distinguish between "inspection sales" customers and "non-inspection sales" customers.

The taxpayer was provided with a notice of proposed adjustment indicating that it was liable for additional gross income tax on the money it received from "inspection sales" customers. "The notice of proposed assessment is prima facie evidence that the department's claim for the unpaid tax is valid. The burden of proving that the proposed assessment is wrong rests with the person against whom the proposed assessment is made." IC 6-8.1-5-1(b).

Taxpayer has provided extensive documentation by which it proposes to demonstrate that a number of sales to out-of-state customers were not entered into based upon an in-state inspection and acceptance of the taxpayer's wood products. However, there is nothing in this lengthy documentation which specifically refutes the audit's original determination. Having relied upon the taxpayer's initial information and having been provided with considerable opportunity to refute or supplement that information, it would appear that little can be gained from yet another go-around of the same records available at the time the audit report was prepared. Taxpayer's suggestion that the audit report is flawed does not meet taxpayer's burden of proving the initial assessment is wrong.

FINDING

Taxpayer's protest is respectfully denied.

III. Abatement of the Ten-Percent Negligence Penalty.

Taxpayer requests that the Department exercise its discretion to abate the ten-percent negligence penalty.

IC 6-8.1-10-2.1 requires that a ten-percent penalty be imposed if the tax deficiency results from the taxpayer's negligence. Departmental regulation 45 IAC 15-11-2(b) defines negligence as "the failure to use such reasonable care, caution, or diligence as

would be expected of an ordinary reasonable taxpayer." Negligence is to "be determined on a case-by-case basis according to the facts and circumstances of each taxpayer." Id.

IC 6-8.1-10-2.1(d) allows the Department to waive the penalty upon a showing that the failure to pay the deficiency was based on "reasonable cause and not due to willful neglect." Departmental regulation 45 IAC 15-11-2(c) requires that in order to establish "reasonable cause," the taxpayer must demonstrate that it "exercised ordinary business care and prudence in carrying out or failing to carry out a duty giving rise to the penalty imposed...."

Taxpayer's protest was based upon the additional assessment of gross income tax on receipts from sales to out-of-state customers in which the out-of-state customer sent its representatives into the state to inspect and acquire taxpayer's wood products. Taxpayer may have initially been under the impression that these were inter-state transactions and that the receipts were not subject to gross income tax. However, this same issue was addressed during a previous audit, and gross income tax was assessed on virtually identical transactions upon completion of that prior audit. Taxpayer is protesting an issue which had been addressed and resolved during one of its previous state audits. Nonetheless, taxpayer chose not to pay gross income tax on the receipts from similar transactions. Its decision to do so was not indicative of the "reasonable care, caution, or diligence... expected of an ordinary reasonable taxpayer" that would warrant abatement of the ten-percent penalty.

FINDING

Taxpayer's protest is respectfully denied.

DEPARTMENT OF STATE REVENUE

0420020303.LOF

LETTER OF FINDINGS NUMBER: 02-0303
Sales and Use Tax
For the Years 1998-2001

NOTICE: Under IC 4-22-7-7, this document is required to be published in the Indiana Register and is effective on its date of publication. It shall remain in effect until the date it is superseded or deleted by the publication of a new document in the Indiana Register. The publication of this document will provide the general public with information about the Department's official position concerning a specific issue.

ISSUE

I. Sales and Use Tax- Imposition

Authority: IC 6-2.5-2-1, IC 6-2.5.3.2, IC 6-2.5-4-10, IC 6-2.5-3-3, IC 6-2.5-6-1.

The taxpayer protests the assessment of use tax on certain equipment leases.

STATEMENT OF FACTS

The taxpayer was formed as an S corporation on January 1, 1997 to provide medical and chiropractic services to patients. The primary chiropractic service provider had previously provided chiropractic services under another S corporation wholly owned by him. The chiropractor wholly owned the taxpayer in 1997.

To improve his billings and collections, the chiropractor was advised by an outside consulting firm to provide his services in conjunction with a medical doctor. Following the consultant's recommendation, the chiropractor transferred the stock in the corporation to a medical doctor at the beginning of 1998.

The medical doctor performed services for the corporation on a very limited basis and was compensated on an hourly basis for those limited services. He was not given a set salary, nor did he participate in any management activities of the corporation. Instead, whatever income that was generated by the corporation was paid to the chiropractor.

For business planning purposes, the chiropractor formed a second wholly owned corporation. The second corporation owned primarily all of the equipment required to provide chiropractic services to the chiropractor's patients. An equipment lease was entered into between the taxpayer and the second corporation beginning in 1998. The taxpayer agreed to lease the equipment for $3,500 per month or $42,000 per year even though the actual cost of the equipment approximated only $70,000. Sales tax was paid on the acquisition of this equipment. The rental amount was accrued on each company's books at $42,000 per year, or $168,000 for the four years in question, but no rent was ever paid by the taxpayer to the second corporation.

Both the taxpayer and the second corporation were cash basis taxpayers for income tax purposes. The taxpayer never recognized any equipment lease expense for tax reporting purposes. The second corporation never recognized any equipment lease income for tax reporting purposes. The equipment lease agreement stated that the taxpayer was responsible as the lessee for all required taxes such as sales or use taxes. No sales or use taxes were ever paid with respect to the lease because no rent was ever actually paid in cash.

As of December 31, 2001, the taxpayer had accrued an equipment lease payable to the second corporation of $168,000 for book, not tax, reporting purposes. The second corporation had a corresponding equipment lease receivable on its books. On

December 31, 2001, the chiropractor purchased 100 % of the stock of the taxpayer from the medical doctor. A moment after the ownership changed hands, the taxpayer entered into a plan of merger with the second corporation and two other corporations owned by the chiropractor. The taxpayer became the surviving corporation. As a result of these actions, the equipment lease receivable and payable were cancelled, without any funds changing hands, and these accrued entries were removed from the books of the newly merged entity. The chiropractor resumed his prior method of doing business and just charged for chiropractic services without any medical doctor referrals.

In an audit for the years 1998-2001, the Indiana Department of Revenue, hereinafter referred to as the "department," assessed use tax on the equipment. The taxpayer protested the imposition of the use tax and a hearing was held.

I. Sales and Use Tax- Imposition

DISCUSSION

Indiana imposes a sales tax on retail transactions made in Indiana. IC 6-2.5-2-1. A complementary use tax is imposed on personal property purchased in a retail transaction and used in Indiana when no sales tax has been paid. IC 6-2.5-3-2. For the purposes of the sales and use tax, retail transactions include lease transactions. IC 6-2.5-4-10. The amount of the use tax is measured by the gross retail income received. IC 6-2.5-3-3.

The taxpayer agrees that the situation was set up as a lease transaction subject to the sales and use taxes. Pursuant to the lease agreement submitted at the hearing, the taxpayer was to pay any state retail taxes imposed on the taxpayer's use or the other corporation's acquisition of the leased equipment. Therefore, as the corporations were set up and pursuant to the signed lease, the taxpayer should have reported and remitted use tax on the use of the leased equipment each month as required by IC 6-2.5-6-1.

The taxpayer argues that since it never actually collected any money, it never had any actual gross income from the leases to measure the amount of use tax due to the state. The taxpayer errs in this conclusion. The taxpayer observed the formalities of a lease in every respect but one. The fact that the taxpayer failed to make any lease payments does not abrogate the existence of a lease, which is a retail transaction. The taxpayer's assertion that it was a cash basis taxpayer is contradicted by the fact that it recorded the lease amounts in accounts payable. It is not relevant that the lessor did not insist on payment.

FINDING

The taxpayer's protest is denied.

DEPARTMENT OF STATE REVENUE

1820020305.LOF

LETTER OF FINDINGS: 02-0305
Financial Institutions Tax
For the Tax Years 1995 through 2000

NOTICE: Under 4-22-7-7, this document is required to be published in the Indiana Register and is effective on its date of publication. It shall remain in effect until the date it is superseded or deleted by the publication of a new document in the Indiana Register. The publication of the document will provide the general public with information about the Department's official position concerning a specific issue.

ISSUES

I. Constitutionality of the Financial Institutions Tax.

Authority: Complete Auto Transit, Inc. v. Brady, 430 U.S. 274 (1977); IC 6-5.5-1-12, 13; IC 6-5.5-1-17(a); IC 6-5.5-2-1(a); IC 6-5.5-2-2; IC 6-5.5-2-3; IC 6-5.5-3-1(6); 45 IAC 17-3-5(a).

Taxpayer argues that because it is an out-of-state entity having only minimal contacts with Indiana, the imposition of the Financial Institutions Tax (FIT) violates the Commerce Clause.

II. Abatement of the Ten-Percent Negligence Penalty.

Authority: IC 6-8.1-10-2.1; IC 6-8.1-10-2.1(d); 45 IAC 15-11-2(b); 45 IAC 15-11-2(c).

Taxpayer maintains that its failure to file FIT returns was not due to negligence and that it is entitled to request an abatement of the ten-percent negligence penalty imposed at the conclusion of the audit examination.

STATEMENT OF FACTS

Taxpayer and its subsidiaries (hereinafter collectively "taxpayer") are financial institutions. Taxpayer is incorporated in a state outside Indiana and maintains its commercial domicile in another state outside Indiana. Taxpayer earns money from Indiana customers by issuing credit cards, collecting interest on charges made to those cards, and by financing the purchase of automobiles.

The Department of Revenue (Department) conducted an audit review of taxpayer's various business operations and determined that it came within the purview of the state's Financial Institutions Tax (FIT). Taxpayer had not filed a FIT return for any of the years considered during the audit review.

The Department concluded that taxpayer owed FIT taxes during the years 1995 through 2000. A proposed assessment of those

taxes was issued to the taxpayer. In response, taxpayer challenged the assessment, an administrative hearing was held during which taxpayer explained the grounds for its protest, and this Letter of Findings results.

DISCUSSION

I. Constitutionality of the Financial Institutions Tax.

Four of taxpayer's business divisions were included in the proposed FIT assessment. Taxpayer maintains that three of those divisions do not have "nexus" with Indiana and that the assessment rendered against those three divisions was inappropriate. The fourth division – the car finance company – maintained a salesman within this state. The salesman's job was to encourage Indiana car dealerships to offer the car finance company's services to individual car customers. However, taxpayer argues that this fourth division is also not subject to the state's FIT because the 'salesman's activity in the state was restricted to mere solicitation of customers."

For all four of its business divisions, taxpayer's argument is that its contact with Indiana is so attenuated that imposition of FIT violates the Commerce Clause (U.S. Const. art. I, § 8).

Within Indiana, "There is imposed on each taxpayer a franchise tax measured by the taxpayer's adjusted gross income or apportioned income for the privilege of exercising its franchise or the corporate privilege of transacting the business of a financial institution in Indiana." IC 6-5.5-2-1(a).

For purposes of the FIT, a "'[t]axpayer' means a corporation that is transacting the business of a financial institution, including any of the following:

(1) A holding company.

(2) A regulated financial corporation.

(3) A subsidiary of a holding company or regulated financial corporation.

(4) Any other corporation organized under the laws of the United States, this state, another taxing jurisdiction, or a foreign government that is carrying on the business of a financial institution." IC 6-5.5-1-17(a).

The FIT is imposed on both "nonresident taxpayers" and "resident taxpayers" transacting business within this state. IC 6-5.5-1-12, 13. The statute defines a "nonresident taxpayer" as "a taxpayer that (1) is transacting business within Indiana as provided in IC 6-5.5-3; and (2) has its commercial domicile outside Indiana." A resident taxpayer, not filing a combined return, determines its FIT liability based on the resident taxpayer's adjusted gross income from whatever source derived. IC 6-5.5-2-2. In contrast, a nonresident taxpayer determines its FIT liability based on its apportioned income consisting of the taxpayer's adjusted gross income "multiplied by the quotient of (1) the taxpayer's total receipts attributable to transacting business in Indiana... divided by (2) the taxpayer's total receipts from transacting business in all jurisdictions...." IC 6-5.5-2-3.

The FIT definition of "transacting business" within this state includes the activities of a company which "regularly engages in transactions with customers in Indiana that involve intangible property, including loans... [that] result in receipts flowing to the taxpayer from within Indiana." IC 6-5.5-3-1(6).

Taxpayer challenges the FIT assessment on the ground that it does not have a substantial nexus with Indiana. In Complete Auto Transit, Inc. v. Brady, 430 U.S. 274 (1977), the Supreme Court stated that a tax will not be deemed to interfere with interstate commerce when it is "applied to an activity with a substantial nexus within the taxing State, is fairly apportioned, does not discriminate against interstate commerce, and is fairly related to the services provided by the state." Id. at 279. Taxpayer's protest is based on the assertion that it does not have the minimum connection with the state necessary to establish the requisite "substantial nexus."

To the extent taxpayer maintains that Indiana's FIT is – on its face – inapplicable, the Department must disagree. Under IC 6-5.5-3-1, IC 6-5.5-1-12, and IC 6-5.5-1-17, taxpayer falls squarely within the definition of a non-resident entity conducting the business of a financial institution within this state; consequently, taxpayer is liable for FIT on the income derived from sources within Indiana. Because the four divisions are part of a "unitary business," the audit correctly determined that taxpayer was required to "file a combined return covering all the operations of the unitary business...." 45 IAC 17-3-5(a).

To the extent taxpayer facially challenges the constitutionality of the FIT as applied to non-resident businesses having only an economic nexus with Indiana, the Department declines to address the question raised.

FINDING

Taxpayer's protest is respectfully denied.

II. Abatement of the Ten-Percent Negligence Penalty.

Taxpayer requests that the Department exercise its discretion to abate the ten-percent negligence penalty.

IC 6-8.1-10-2.1 requires that a ten-percent penalty be imposed if the tax deficiency results from the taxpayer's negligence. Departmental regulation 45 IAC 15-11-2(b) defines negligence as "the failure to use such reasonable care, caution, or diligence as would be expected of an ordinary reasonable taxpayer." Negligence is to "be determined on a case-by-case basis according to the facts and circumstances of each taxpayer." Id.

IC 6-8.1-10-2.1(d) allows the Department to waive the penalty upon a showing that the failure to pay the deficiency was based on "reasonable cause and not due to willful neglect." Departmental regulation 45 IAC 15-11-2(c) requires that in order to establish

"reasonable cause," the taxpayer must demonstrate that it "exercised ordinary business care and prudence in carrying out or failing to carry out a duty giving rise to the penalty imposed...."

Taxpayer did not file FIT tax returns, was audited during 2002, and was assessed for six years of unpaid taxes. Taxpayer is a substantial, sophisticated business receiving large amounts of money from sources within Indiana. Taxpayer's larger constitutional question aside, the decision to ignore its actual or potential liability under the state's FIT is not the evidence of the "ordinary business care and prudence" expected of an "ordinary reasonable taxpayer" that would warrant abatement of the ten-percent negligence penalty.

FINDING

Taxpayer's protest is respectfully denied.

DEPARTMENT OF STATE REVENUE

0420020319.LOF

LETTER OF FINDINGS: 02-0319
Gross Retail Tax
For the Years 1991 through 2000

NOTICE: Under IC 4-22-7-7, this document is required to be published in the Indiana Register and is effective on its date of publication. It shall remain in effect until the date it is superseded or deleted by the publication of a new document in the Indiana Register. The publication of the document will provide the general public with information about the Department's official position concerning a specific issue.

ISSUES

I. Taxpayer Acting in an Agency Capacity – Gross Retail Tax.

Authority: IC 6-2.5-1-2; IC 6-2.5-1-8; IC 6-2.5-2-1(a); IC 6-2.5-4-10(a); 45 IAC 2.2-4-27(c); Black's Law Dictionary (7th ed. 1999).

Taxpayer argues that it was not required to collect gross retail (sales) tax on the price it charged its customers when the customers acquired copies of tax survey maps because taxpayer was merely acting as an agent for the county which retained ownership of the original map information.

II. Land Survey Maps as Tangible Personal Property – Gross Retail Tax.

Authority: IC 6-2.5-1-1; IC 6-2.5-1-2; 45 IAC 2.2-4-1.

Taxpayer maintains that because the land survey maps did not constitute tangible personal property, taxpayer was not required to collect sales tax on the price it charged its customers to acquire the maps.

STATEMENT OF FACTS

Taxpayer is in the mapmaking business. Taxpayer developed land survey maps for an Indiana county. In turn, taxpayer entered into a "marketing agreement" with that county allowing taxpayer to "lease" collections of the land survey maps to the public. In exchange for the right to transfer this proprietary information, taxpayer paid the county a royalty fee for each set of maps transferred. Taxpayer's customers included governmental entities, libraries, realtors, land developers, attorneys, and other commercial enterprises. In acquiring these map compilations, each customer signed a "lease agreement" in which the customer agreed to not to copy the map information and to return to taxpayer the compilation after twelve months.

The Department of Revenue (Department) conducted an audit of taxpayer's business records. The Department decided that taxpayer should have been collecting sales tax on the price it charged individual customers for the right to use the map compilations. The Department sent taxpayer notices of "Proposed Assessment." Taxpayer disagreed with the basis for the assessments, submitted a protest to that effect, an administrative hearing was held in which taxpayer explained the basis for its protest, and this Letter of Findings results.

DISCUSSION

I. Taxpayer Acting in an Agency Capacity – Sales Tax.

Taxpayer argues that the money it received from transferring land survey books to individual customers was not subject to sales tax because taxpayer was merely acting as an agent for the county which retained control and ownership of the map information. According to taxpayer, the county "retains its ownership [of the maps] and the information contained therein." Taxpayer's argument is that it is merely providing a service on behalf of the county, and the money it receives is not subject to sales tax.

Each time a customer acquires a land survey book from taxpayer, the customer signs a "Lease Agreement." In that agreement, taxpayer is referred to as the "lessor." The customer is called the "lessee." The object of the transaction – the land survey book – is referred to as the "edition," the "volume," and the "items delivered." In signing the agreement, the customer (lessee) agrees to pay a fixed "rental fee."

In Indiana, "An excise tax, known as the state gross retail tax, is imposed on retail transactions made in Indiana." IC 6-2.5-2-1(a). The state requires that all "retail merchants" collect the sales tax on "retail transactions" that occur within the state. IC 6-2.5-1-2; IC 6-2.5-1-8.

The gross retail tax is also applicable to certain lease and rental transactions. IC 6-2.5-4-10(a) states that "A person, other than a public utility, is a retail merchant making a retail transaction when he rents or leases tangible personal property to another person."

The regulation helps explain the statute. 45 IAC 2.2-4-27(c) states as follows:

> In general, the gross receipts from renting or leasing tangible personal property are subject to tax. The rental or leasing of tangible personal property constitutes a retail transaction, and every lessor is a retail merchant with respect to such transactions. The lessor must collect and remit the gross retail tax or use tax on the amount of actual receipts as agents for the state of Indiana. The tax is borne by the lessee, except when the lessee is otherwise exempt from taxation.

It would appear from the face of the parties' agreement, that the object of each particular transaction is the transfer – albeit temporary – of a land survey book from taxpayer to the customer. In consideration for that transfer, the customer pays taxpayer a rental fee. Taxpayer's expertise may be in the assembling of information and the preparation of maps, but in the transactions here at issue, the customer is not buying taxpayer's services – the customer is renting a book of maps. The character and nature of its "Lease Agreement" brings these transactions within the purview of the state's gross retail tax. Taxpayer – in providing the land survey books – is acting as a "retail merchant" entering into "retail transactions" when it collects money from its customers in exchange for the right to possess and use the books for twelve months. The fact that each customer is obligated to return the land survey books after one year is irrelevant; such a stipulation is inherent in the nature of any rental or lease arrangement.

Taxpayer's agency argument is somewhat underdeveloped. Presumably, taxpayer maintains that it is merely acting as an agent for the county when it collects the rental fees. However, there is no indication that taxpayer and the county ever intended to enter into such a relationship. The agreement between the taxpayer and the county simply states that "[taxpayer] will pay [county] a royalty fee of ten percent (10%) of the commercial sale price on all commercial sales made by [taxpayer] from the County's tax map master and aerial photos." In contrast, an agency agreement is characterized as a "fiduciary relationship created by express or implied contract or by law in which one party (the *agent*) may act on behalf of another party (the *principal*) and bind that other party by words or actions." Black's Law Dictionary 62 (7th ed. 1999) (*Emphasis in original*). The agreement between taxpayer and the county is not an agency agreement because taxpayer is not authorized to act on behalf of the county, taxpayer is not authorized to bind the county, and the county is not made responsible for the acts of the taxpayer. Instead, the agreement is simply a royalty contract which requires taxpayer to pay the county a set portion of the money taxpayer receives for leasing the land survey books.

Taxpayer is a retail merchant receiving money from leasing land survey books. The audit was correct in determining that taxpayer should have been collecting sales tax from its customers.

FINDING

Taxpayer's protest is respectfully denied.

II. Land Survey Maps as Tangible Personal Property – Sales Tax.

Taxpayer challenges the assessment on the ground that it was not leasing "tangible personal property," but it was merely providing services to its customers. Taxpayer supports that argument by pointing out that it could have delivered this same intangible information to customers by other means than providing customers with a book of paper maps. For example, taxpayer states that this information could have been provided by means of a fax machine or that the information could have been distributed over the internet.

The preparation of the land survey books is – of course – heavily dependent on taxpayer's skill and expertise in assembling and compiling information into a tangible form. The land survey books are themselves simply an assemblage of paper, ink, and bindings. However, when taxpayer rents the land survey books to a customer, it is entering into a "unitary transaction" under 45 IAC 2.2-4-1. The regulation states as follows:

> (a) Where ownership of tangible personal property is transferred for a consideration, it will be considered a transaction of a retail merchant constituting selling at retail unless the seller is not acting as a "retail merchant."
>
> (b) All elements of consideration are included in gross retail income subject to tax. Elements of consideration include, but are not limited to:
>
> (1) The price arrived at between purchaser and seller.
>
> (2) Any additional bona fide charges added to or included in such price for preparation, fabrication, alteration, modification, finishing, completion, delivery, or other services performed in respect to or labor charges for work done with respect to such property prior to transfer.
>
> (3) No deduction from gross receipts is permitted for services performed or work done on behalf of the seller prior to the transfer of such property at retail.

The regulation derives from IC 6-2.5-1-1 which states that a "'unitary transaction' includes all items of personal property and services which are furnished under a single order or agreement and for which a total combined charge or price is calculated." A "retail unitary transaction" occurs when a retail merchant purchases tangible personal property in his ordinary course of business and then sells that property along with services as a unitary transaction. IC 6-2.5-1-2.

The object of the lease transaction is the temporary transfer of a land survey book from taxpayer to customer. Although taxpayer's services were necessary to initially assemble and prepare the book, the customer is not leasing taxpayer's services; the

customer is merely leasing the book for a fixed price for a fixed term. Taxpayer's lease of its land survey books is analogous to the consumer rental of a video tape. In the same way that a video store is responsible for collecting sales tax on each rental of a DVD or video tape, taxpayer is responsible for collecting sales tax each time it leases one of its land survey books. Although the originator of both the DVD and the land survey books may have expended considerable effort (services) in preparing both items, nonetheless, the subsequent rental of both the DVD and the land survey book is subject to the sales tax.

FINDING

Taxpayer's protest is respectfully denied.

DEPARTMENT OF STATE REVENUE

0320020522P.LOF

LETTER OF FINDINGS NUMBER: 02-0522P
Withholding Tax
For December 31, 2001

NOTICE: Under IC 4-22-7-7, this document is required to be published in the Indiana Register and is effective on its date of publication. It shall remain in effect until the date it is superseded or deleted by the publication of a new document in the Indiana Register. The publication of this document will provide the general public with information about the Department's official position concerning a specific issue.

ISSUE(S)

I. Tax Administration – Penalty

Authority: IC 6-8.1-10-2.1(d); 45 IAC 15-11-2

Taxpayer protests the penalty assessed.

STATEMENT OF FACTS

Taxpayer filed its DB020W-NR and payment late and was assessed a late payment penalty. In a letter dated June 14, 2002, taxpayer protests the penalty assessed because it had "paid an extension payment for 2001 for composite tax of $8,000 on April 15, 2002" and subsequently realized the extension payment was actually due on March 15, 2002. Taxpayer states that it estimated the composite tax for 2001 to be $8,000, however, since the 2001 Form IT-65 had not been prepared (on extension until October 15, 2002), the taxpayer did not know the exact amount of tax due for 2001. Taxpayer requests a penalty waiver because it should not have been issued a notice for late payment of the extension until the actual tax was determined.

I. Tax Administration – Penalty

DISCUSSION

Taxpayer was assessed a ten percent (10%) late payment penalty because it paid its tax after the due date of the return.

Taxpayer argues that it remitted $8,000 in withholding taxes and found that the tax was actually less when it filed its IT-65 return. The total composite tax on Schedule IT-65COMP was less than the $8,000 remitted.

Form DB020W-NR is used when a taxpayer has not established a separate nonresident withholding account to remit Indiana state income tax withholding on annual income distributions to nonresident shareholders. If an entity pays or credits amounts to its nonresident shareholders, partners or beneficiaries on time each year, the withholding payment is due on or before the fifteenth day of the third month after the end of the taxable year; i.e. March 15. It is noted that this form establishes a separate nonresident withholding account.

Form WH-3 (annual withholding reconciliation and transmittal form) and state copies of Form WH-18 (Indiana miscellaneous withholding tax statement) must be filed annually on or before February 28. The Department permits an entity paying or crediting amounts to its nonresidents only one time each year, an extension of time to file Form WH-3 until March 15. However, the payment of withholding tax on the one time annual distribution is required to have been remitted (and the withholding statement provided to the payee) 2 ½ months after the end of the entity's taxable year. An extension of time to file Form WH-3 may be requested if the information on the distributive share of income reportable on Form WH-18 is not available by the due date. However, an extension of time to file Form WH-3 does not extend the time to pay withholding tax due on Form DB020W-NR. Taxpayer has not submitted the WH-3 or WH-18 forms to date.

Taxpayer states that it estimated the composite tax for 2001 to be $8,000, however, since the 2001 Form IT-65, Indiana Partnership Return, has not been prepared (on extension until October 15, 2002), the taxpayer does not know the exact amount of tax due for 2001.

DBO20W-NR is not an estimated payment voucher but a tax return. The tax return is used to report withholding on annual income distributions to nonresident shareholders and is due no later than March 15. The payment in the amount of $8000 was clearly late.

The taxpayer credited the $8,000 on its IT-65 (Indiana Partnership Return) which resulted in a refund because it overpaid its DB020W-NR account. Any payment made after the original due date must include penalty and interest because the filing due date

for the partnership return is different than the payment due date of the income tax withholding and composite adjusted gross income tax on nonresident partners.

Taxpayer has not provided reasonable cause for its late filing and payment.

FINDING

Taxpayer's protest is denied.

DEPARTMENT OF STATE REVENUE

0220030045P.LOF

LETTER OF FINDINGS NUMBER: 03-0045P
Gross and Adjusted Gross Income Tax
For Fiscal Years Ended 03/31/99, 03/31/00, and 03/31/01

NOTICE: Under IC 4-22-7-7, this document is required to be published in the Indiana Register and is effective on its date of publication. It shall remain in effect until the date it is superseded or deleted by the publication of a new document in the Indiana Register. The publication of this document will provide the general public with information about the Department's official position concerning a specific issue.

ISSUE(S)

I. Tax Administration – Penalty

Authority: IC 6-8.1-10-2.1(d); 45 IAC 15-11-2

Taxpayer protests the penalty assessed.

STATEMENT OF FACTS

Taxpayer was assessed a penalty at audit for failing to report gross income to the state of Indiana and a penalty for the underpayment of estimated income taxes. Taxpayer protests the proposed penalty assessments for the underpayment of estimated taxes and the audit penalty.

I. Tax Administration – Penalties

DISCUSSION

Taxpayer is a general contractor with ongoing contracts in numerous states. The contract that gave rise to the tax assessment was entered into on June 1, 1999, representing taxpayer's initial entrance into the state of Indiana. Taxpayer has no other physical presence in the state of Indiana. Taxpayer protests the penalties assessed for the underpayment of estimated income taxes and the audit penalty.

Taxpayer states that it has an internal Tax department and outsources its income tax compliance to an accounting firm based out of state. Taxpayer states that the gross income tax was inadvertently overlooked and to further exacerbate this problem, its outside accounting firm encountered an input error with its software that was made in the initial Indiana income tax return in a year when there were no gross receipts (1999). This error carried forward to subsequent filings and suppressed the computation of the Indiana gross income tax when it should not have been suppressed.

Taxpayer failed to report gross income subject to tax and has not provided reasonable cause to allow a penalty waiver. Taxpayer also failed to pay estimated income taxes. To avoid the penalty, the quarterly estimated payments must equal at least twenty percent (20%) of the total income tax liability for the current taxable year or twenty-five percent (25%) of the final income tax liability for the prior taxable year. Taxpayer failed to make the quarterly estimated payments and has not provided reasonable cause to allow a penalty waiver. Procedures should have been in effect to assure that taxes were timely paid.

FINDING

Taxpayer's protest is denied.

DEPARTMENT OF STATE REVENUE

0420030156P.LOF

LETTER OF FINDINGS NUMBER: 03-0156P
Use Tax
Calendar Years 1998, 1999, 2000, and 2001

NOTICE: Under IC 4-22-7-7, this document is required to be published in the Indiana Register and is effective on its date of publication. It shall remain in effect until the date it is superseded or deleted by the publication of a new document in the Indiana Register. The publication of this document will provide the general public with information about the Department's official position concerning a specific issue.

ISSUE(S)

I. Tax Administration – Penalty

Authority: IC 6-8.1-10-2.1(d); 45 IAC 15-11-2

Taxpayer protests the penalty assessed.

STATEMENT OF FACTS

Taxpayer is a national specialty retailer and cataloger of women's and children's apparel, accessories, and shoes. At audit, it was determined that the taxpayer failed to self assess and remit use tax for operating expense items such as form tabs, display hangers, hangers, masks, cleaning items, shipping records, envelopes, and other miscellaneous items.

I. Tax Administration – Penalty

DISCUSSION

Taxpayer protests the penalty assessed and states that the tax due represents manual errors or incorrect interpretation of Indiana sales tax requirements with respect to selling versus non-selling expenses. Taxpayer states that records will indicate a consistent pattern of timely and accurate filings of its sales tax returns and requests that the penalty be waived.

45 IAC 15-11-2(b) states, "Negligence, on behalf of the taxpayer is defined as the failure to use such reasonable care, caution, or diligence as would be expected of an ordinary reasonable taxpayer. Negligence would result from a taxpayer's carelessness, thoughtlessness, disregard or inattention to duties placed upon the taxpayer by the Indiana code or department regulations. Ignorance of the listed tax laws, rules and/or regulations is treated as negligence. Further, failure to read and follow instructions provided by the department is treated as negligence. Negligence shall be determined on a case by case basis according to the facts and circumstances of each taxpayer."

The taxpayer failed to self-assess and remit tax on 18.67%, 14.22%, 19.88%, and 03.05% (calendar years 1998, 1999, 2000, and 2001 respectively) of its untaxed taxable purchases and has not provided reasonable cause to allow the department to waive the penalty.

FINDING

Taxpayer's protest is denied.

DEPARTMENT OF STATE REVENUE

0220030162P.LOF

LETTER OF FINDINGS NUMBER: 03-0162P
Gross Income Tax
For Calendar Year 2001

NOTICE: Under IC 4-22-7-7, this document is required to be published in the Indiana Register and is effective on its date of publication. It shall remain in effect until the date it is superseded or deleted by the publication of a new document in the Indiana Register. The publication of this document will provide the general public with information about the Department's official position concerning a specific issue.

ISSUE(S)

I. Tax Administration – Penalty

Authority: IC 6-8.1-10-2.1(d); 45 IAC 15-11-2

Taxpayer protests the penalties assessed.

STATEMENT OF FACTS

Taxpayer was assessed a penalty for failing to remit its tax by the due date of the return. Taxpayer protested the proposed penalty assessment in a letter dated April 7, 2003.

I. Tax Administration – Penalty

DISCUSSION

Taxpayer protests the penalty assessed and states that it satisfied the conditions under IC 6-8.1-10-2.1(e). Taxpayer believes it also satisfied the more complicated test that at least 90% of the tax reasonably expected to be due was paid by the original due date. Taxpayer states that it is a partner in a partnership that generated losses since inception. Additionally, gross receipts earned by the partnership are interstate receipts not subject to the Indiana Gross Receipts Tax. However, the partnership sold some of its assets, which were located in Indiana, the sale of which was an unusual, nonrecurring event. Taxpayer states it was not aware of any unusual transaction that had occurred during the year until the K-1 from the partnership was received.

Taxpayer failed to remit its tax by the due date of the return. One hundred percent (100%) of the tax was paid on October 1, 2002, which is clearly late.

Taxpayer should have made itself aware of the tax consequences by the due date of the return. Taxpayer has not provided reasonable cause to allow a penalty waiver.

FINDING

Taxpayer's protest is denied.

DEPARTMENT OF STATE REVENUE

0420030168P.LOF

LETTER OF FINDINGS NUMBER: 03-0168P
Use Tax
Calendar Years 1999 and 2000

NOTICE: Under IC 4-22-7-7, this document is required to be published in the Indiana Register and is effective on its date of publication. It shall remain in effect until the date it is superseded or deleted by the publication of a new document in the Indiana Register. The publication of this document will provide the general public with information about the Department's official position concerning a specific issue.

ISSUE(S)

I. Tax Administration – Penalty

Authority: IC 6-8.1-10-2.1(d); 45 IAC 15-11-2

Taxpayer protests the penalty assessed.

STATEMENT OF FACTS

Taxpayer is a manufacturer. Upon audit it was discovered that the taxpayer failed to remit use tax on clearly taxable items such as office computers, shop supplies, material handling equipment, and other miscellaneous items.

I. Tax Administration – Penalty

DISCUSSION

Taxpayer requests that the penalty assessed be waived because the additional liability was not due to a deliberate or negligent failure on its part to assess tax. Taxpayer states that the omission related to the more complex application of the M&E exemption to various aspects of its manufacturing operations, rather than more easily ascertainable omissions.

45 IAC 15-11-2(b) states, "Negligence, on behalf of the taxpayer is defined as the failure to use such reasonable care, caution, or diligence as would be expected of an ordinary reasonable taxpayer. Negligence would result from a taxpayer's carelessness, thoughtlessness, disregard or inattention to duties placed upon the taxpayer by the Indiana code or department regulations. Ignorance of the listed tax laws, rules and/or regulations is treated as negligence. Further, failure to read and follow instructions provided by the department is treated as negligence. Negligence shall be determined on a case by case basis according to the facts and circumstances of each taxpayer."

The taxpayer failed to self-assess and remit tax on more than fifty percent (50%) of items it should have self-assessed tax upon. Most items in the audit are clearly taxable and taxpayer has not provided reasonable cause to allow the department to waive the penalty.

FINDING

Taxpayer's protest is denied.

DEPARTMENT OF STATE REVENUE

0420030169P.LOF

LETTER OF FINDINGS NUMBER: 03-0169P
Sales Tax
Calendar Year 2001

NOTICE: Under IC 4-22-7-7, this document is required to be published in the Indiana Register and is effective on its date of publication. It shall remain in effect until the date it is superseded or deleted by the publication of a new document in the Indiana Register. The publication of this document will provide the general public with information about the Department's official position concerning a specific issue.

ISSUE(S)

I. Tax Administration – Penalty

Authority: IC 6-8.1-10-2.1(d); 45 IAC 15-11-2

Taxpayer protests the penalty assessed.

STATEMENT OF FACTS

Taxpayer is a restaurant in Indiana. At audit, it was determined that the taxpayer failed to register and remit sales tax collected.

I. Tax Administration – Penalty

DISCUSSION

Taxpayer requests that the penalty assessed be waived because it has no income with which to pay. Taxpayer states that it can begin making monthly payments of the original tax if the Department can settle the matter for penalty and interest.

45 IAC 15-11-2(b) states, "Negligence, on behalf of the taxpayer is defined as the failure to use such reasonable care, caution, or diligence as would be expected of an ordinary reasonable taxpayer. Negligence would result from a taxpayer's carelessness, thoughtlessness, disregard or inattention to duties placed upon the taxpayer by the Indiana code or department regulations. Ignorance of the listed tax laws, rules and/or regulations is treated as negligence. Further, failure to read and follow instructions provided by the department is treated as negligence. Negligence shall be determined on a case by case basis according to the facts and circumstances of each taxpayer."

The taxpayer failed to register with the Department and failed to remit sales tax collected as required. Taxpayer has not provided reasonable cause to allow the department to waive the penalty and the Department has no authority to waive interest.

FINDING

Taxpayer's protest is denied.

DEPARTMENT OF STATE REVENUE

02990248.SLOF

SUPPLEMENTAL LETTER OF FINDINGS NUMBER 99-0248
Gross Income Tax
For the Years 1995, 1996, 1997

NOTICE: Under IC 4-22-7-7, this document is required to be published in the Indiana Register and is effective on its date of publication. It shall remain in effect until the date it is superseded or deleted by the publication of a new document in the Indiana Register. The publication of this document will provide the general public with information about the Department's official position concerning a specific issue.

ISSUE

I. Gross Income Tax- Gross Receipts

Authority: 26 USC Sec.61 (a), IC 6-2.1-2-2, IC 6-2.1-4-2, 45 IAC 1-1-17, Indiana Department of State Revenue v. Northern Indiana Steel Supply Company, 388 N.E. 2nd 596 (Ind. App.) 1979.

The taxpayer protests the inclusion of certain income in gross receipts.

II. Tax Administration –Abatement of Penalty

Authority: IC 6-8.1-10-2.1, IC 6-8.1-10-2.1(d), 45 IAC 15-11-2(b), 45 IAC 15-11-2(c).

The taxpayer protests the imposition of the negligence penalty.

STATEMENT OF FACTS

The taxpayer owned and operated an Indiana television station. After a routine audit, the Indiana Department of Revenue, hereinafter referred to as the "department," assessed additional income tax. The taxpayer protested the assessment and a hearing was held on the taxpayer's alleged constructive receipt of income and penalty. A Letter of Findings was issued on October 24, 2002 denying the protest. The taxpayer requested a rehearing and the rehearing was granted.

I. Gross Income Tax: Gross Receipts

DISCUSSION

The taxpayer owned and operated an Indiana television station. When the taxpayer agreed to sell an advertisement or commercial, it sent an invoice to the advertising agency involved. That invoice showed the gross cost of the advertisement, the advertising agency commission of fifteen per cent (15%) and the net billing for the commercial. The advertising agent paid the taxpayer by check. The advertisers pay the advertising agency's percentage of the bill directly to the advertising agency. The taxpayer never received a check or other monetary compensation for the advertising agency commission. Due to its accrual accounting method, the taxpayer recorded the total price of the advertisement in its books, with separate entries for the advertising agency commission and the actual cost for the airing of the commercial. The taxpayer reported the entire amount of the income as income on its federal income tax return and deducted the amount of the commissions under "other income." The department imposed gross income tax on the advertising agency commissions. The taxpayer protested this assessment.

IC 6-2.1-2-2 imposes a gross income tax on the gross income or gross receipts of taxpayers domiciled in Indiana. The term "gross receipts" is clarified in the applicable 1988 Regulations at 45 IAC 1-1-17 as follows:

> Gross Income Defined. "Gross income" and "gross receipts" mean the entire amount of gross income received by a taxpayer. This includes all income actually or constructively received, i.e., monies credited to the taxpayer by his creditors, or paid to his creditors on his behalf by a third party.

Amounts received or credited include not only cash and checks but notes or other property of any value or kind, services of any value or kind and receipts in any form received by or credited to the taxpayer in lieu of cash.

The taxpayer is required to report his entire gross income in order to determine its taxability. From this amount he may take deductions as allowed under the Act.

The taxpayer contends that it never actually or constructively received the money or any other services, receipts in kind or any other type of credit for the advertising agency's fifteen per cent (15%) of the total billing. Therefore, the advertising agency fee did not qualify as gross receipts subject to gross income tax.

In accordance with its accrual accounting method, the taxpayer actually recorded the total amount as a receipt. Clearly, this income was credited to the taxpayer and the taxpayer received the benefits of income in its books and balance sheets. The taxpayer also held both the advertiser and the agency jointly and severally liable for any outstanding bill. The taxpayer's statement that it would forbear from attempting to collect the commission does not negate the fact that based upon the invoice, it has the right to collect the commission. Further, the taxpayer reported the total amount on its federal adjusted gross income tax return as "gross income" and took a deduction for commissions paid to advertising agencies.

For purposes of the federal adjusted gross income tax, "gross income" is defined at 26 USC Sec.61 (a) that states in part:

Except as otherwise provided in this subtitle, gross income means all income from whatever source derived, including (but not limited to) the following items:

(1) Compensation for services, including fees, commissions, fringe benefits, and similar items...

The taxpayer analyzed the subject income for federal adjusted gross income tax purposes and determined that its gross income included the protested amounts. It is clear that the protested amounts were not actually received, therefore they must have been constructively received. The taxpayer was not subject to federal or state adjusted gross income tax on these constructive receipts because those laws allow a deduction under "business expenses" for commissions.

The definitions of the term "gross income" for both the Indiana gross income tax and the federal and state adjusted gross income tax include "all income" received. It is disingenuous for the taxpayer to argue that "all income" for gross income tax purposes doesn't include income that is included in "all income" for adjusted gross income tax purposes. The credited amounts are either part of "all income" or they aren't. The difference appears to be that the protested income is deductible for adjusted gross income tax purposes and not deductible for gross income tax purposes. That is not a valid method for determining if monies were constructively received.

The taxpayer cites the case Indiana Department of State Revenue v. Northern Indiana Steel Supply Company, 388 N.E. 2nd 596 (Ind. App.) 1979 in support of its contention that the contested receipts did not constitute income subject to the gross income tax. In the cited case, the Northern Indiana Steel Supply Company sold two cranes, magnets, and a mobile office with furniture to another company. The cranes and magnets were subject to liabilities. The negotiated purchase price was $405,319.80. The purchaser satisfied the total purchase price by assuming the liabilities in the amount of $383,163.50 and paid the seller cash in the amount of $22,156.30. The Indiana Department of Revenue attempted to assess gross income tax on the value of the assumption of the liabilities. In holding that only the cash received was subject to the gross income tax, the Court stated at page 599 as follows:

The taxing statute empowers the Department to tax payment of a taxpayer's debts by a third party *for his direct benefit*. In this case, the purchaser paid the liens for its own direct benefit. The fact that Northern was thereupon freed as surety on the obligations constituted at most an incidental or indirect benefit under the taxing statute.

This case is distinguishable from the taxpayer's situation. The taxpayer does receive direct benefits from this method of accounting for the funds. For example, the taxpayer is still liable for the amounts paid to the advertising agency at the time they are to be paid by the third party.

The advertising agency fees recorded in the taxpayer's books were constructively received gross income since a third party satisfied the taxpayer's obligation to the advertising agency and the taxpayer declared them as such for federal and state adjusted gross income tax purposes. As such, the recorded amounts were gross income as contemplated by the law and regulation. The law provided for certain deductions from gross income for tax purposes such as a deduction for bad debts pursuant to IC 6-2.1-4-2. However, the gross income tax law provides no deduction for commissions.

The department properly imposed gross income tax on the commissions.

FINDING

The taxpayer's protest is denied.

II. Tax Administration: Abatement of Penalty

DISCUSSION

The taxpayer also protests the imposition of the ten percent (10%) negligence penalty pursuant to IC 6-8.1-10-2.1. Negligence is defined at 45 IAC 15-11-2(b) as "the failure to use such reasonable care, caution, or diligence as would be expected of an ordinary reasonable taxpayer." Negligence is to "be determined on a case-by-case basis according to the facts and circumstances of each taxpayer." Id.

IC 6-8.1-10-2.1(d) allows the department to waive the penalty upon a showing that the failure to pay the deficiency was based

on "reasonable cause and not due to willful neglect." Departmental regulation 45 IAC 15-11-2 (c) requires that in order to establish "reasonable cause," the taxpayer must demonstrate that it "exercised ordinary business care and prudence in carrying out or failing to carry out a duty giving rise to the penalty imposed..."

The legal issue involved in this protest is a difficult and fact sensitive one. The taxpayer sustained its burden in establishing that it was not negligent in failing to pay the assessed gross income tax.

FINDING

The taxpayer's protest to the imposition of the penalty is sustained.

DEPARTMENT OF STATE REVENUE
REVENUE RULING #2003-01 ARE
June 11, 2003

Notice: Under IC 4-22-7-7, this document is required to be published in the Indiana Register and is effective on its date of publication. It shall remain in effect until the date it is superceded or deleted by publication of a new document in the Indiana Register. The publication of this document will provide the general public with information about the Department's official position concerning a specific issue.

ISSUES

Auto Rental Excise Tax – Recreational Vehicles

Authority: IC 6-6-9-7, IC 6-6-9-3, IC 9-13-2-123, IC 9-13-2-105, IC 6-6-9-6, IC 9-13-2-188, IC 9-13-2-150

The taxpayer requests the Department to rule whether or not:

1. Rental travel trailers; and
2. Rental recreational vehicles are subject to auto rental excise tax.

STATEMENT OF FACTS

The taxpayer is in the business of renting travel trailers that are pulled behind vehicles and recreational vehicles that are self-propelled.

DISCUSSION – ISSUE #1

Whether or not rental travel trailers are subject to auto rental excise tax.

IC 6-6-9-7(a) states:

An excise tax, known as the auto rental excise tax, is imposed upon the rental of passenger motor vehicles and trucks in Indiana for periods of less than thirty (30) days.

IC 6-6-9-3 references IC 9-13-2-123(a) for the definition of "passenger motor vehicle". IC 9-13-2-123(a) provides that a "passenger motor vehicle" means a motor vehicle designed for carrying passengers. IC 9-13-2-105 defines "motor vehicle" as a vehicle that is self-propelled.

IC 6-6-9-6 references IC 9-13-2-188(a) for the definition of "truck". IC 9-13-2-188(a) provides that a "truck" means a motor vehicle designed, used, or maintained primarily for the transportation of property.

A travel trailer does not fall within the above definitions of a passenger motor vehicle or a truck, therefore, the rental of same is not subject to auto rental excise tax.

RULING – ISSUE #1

The Department rules that travel trailers rented for periods of less than thirty (30) days are not subject to auto rental excise tax.

DISCUSSION – ISSUE #2

Whether or not rental recreational vehicles are subject to auto rental excise tax.

IC 9-13-2-150 defines "recreational vehicle" as a vehicle with or without motive power equipped exclusively for living quarters for persons traveling upon the highways.

As established in Issue #1, IC 9-13-2-123 provides that a "passenger motor vehicle" is a motor vehicle designed for carrying passengers.

Notwithstanding the definition of recreational vehicle, a recreational vehicle with motive power, in fact, is not only a vehicle equipped with living quarters for persons traveling upon the highways, but, is also a motor vehicle designed for carrying passengers, i.e., a passenger motor vehicle.

This being the case, a recreational vehicle with motive power falls within the ambit of IC 6-6-9-7, hence, the rental of same is subject to auto rental excise tax.

RULING – ISSUE #2

The Department rules that recreational vehicles with motive power rented for periods of less than thirty (30) days are subject to auto rental excise tax.

CAVEAT

This ruling is issued to the taxpayer requesting it on the assumption that the taxpayer's facts and circumstances, as stated herein are correct. If the facts and circumstances given are not correct, or if they change, then the taxpayer requesting this ruling may not rely on it. However, other taxpayers with substantially identical factual situations may rely on this ruling for informational purposes in preparing returns and making tax decisions. If a taxpayer relies on this ruling and the Department discovers, upon examination, that the fact situation of the taxpayer is different in any material respect from the facts and circumstances given in this ruling, then the ruling will not afford the taxpayer any protection. It should be noted that subsequent to the publication of this ruling, a change in statute, regulation, or case law could void the ruling. If this occurs, the ruling will not afford the Taxpayer any protection.

TITLE 10 OFFICE OF ATTORNEY GENERAL FOR THE STATE

10 IAC 1.5	RA	03-102	26 IR 3425	
10 IAC 1.5-1-2				*ERR (26 IR 3046)
10 IAC 1.5-1-7				*ERR (26 IR 3046)
10 IAC 1.5-2-2				*ERR (26 IR 3046)
10 IAC 1.5-2-3				*ERR (26 IR 3046)
10 IAC 1.5-2-5				*ERR (26 IR 3046)
10 IAC 1.5-3-5				*ERR (26 IR 3046)
10 IAC 1.5-3-7				*ERR (26 IR 3046)
10 IAC 1.5-3-8				*ERR (26 IR 3046)
10 IAC 1.5-4-7				*ERR (26 IR 3046)
10 IAC 1.5-6	N	03-101	26 IR 3374	

TITLE 11 CONSUMER PROTECTION DIVISION OF THE OFFICE OF THE ATTORNEY GENERAL

11 IAC 1-1-3.5	N	02-238	26 IR 420	*AROC (26 IR 883)
				26 IR 2300
11 IAC 2-5-4				*ERR (26 IR 35)
11 IAC 2-5-5	N	02-324	26 IR 1598	*AROC (26 IR 2134)
11 IAC 2-6-1	A	02-110	25 IR 3213	**26 IR 6**
11 IAC 2-6-5	A	02-110	25 IR 3213	**26 IR 6**
11 IAC 2-6-6	N	02-110	25 IR 3213	**26 IR 6**

TITLE 25 INDIANA DEPARTMENT OF ADMINISTRATION

25 IAC 2-19	R	02-150	26 IR 86	*ARR (26 IR 3047)
				26 IR 3313
25 IAC 2-20	R	02-150	26 IR 86	*ARR (26 IR 3047)
				26 IR 3313
25 IAC 5	N	02-150	26 IR 67	*ARR (26 IR 3047)
				26 IR 3296

TITLE 31 STATE PERSONNEL DEPARTMENT

31 IAC 1-9-3	A	02-10	25 IR 3214
31 IAC 1-9-4	A	02-10	25 IR 3215
31 IAC 1-9-4.5	A	02-10	25 IR 3215
31 IAC 1-12.1	R	02-10	25 IR 3219
31 IAC 2-11-3	A	02-10	25 IR 3216
31 IAC 2-11-4	A	02-10	25 IR 3217
31 IAC 2-11-4.5	A	02-10	25 IR 3217
31 IAC 2-17.1	R	02-10	25 IR 3219
31 IAC 4	R	02-10	25 IR 3219
31 IAC 5	N	02-10	25 IR 3218

TITLE 35 BOARD OF TRUSTEES OF THE PUBLIC EMPLOYEES' RETIREMENT FUND

35 IAC 8-1-1	A	02-163	25 IR 4134
35 IAC 8-1-2	A	02-163	25 IR 4134
35 IAC 8-2-1	A	02-163	25 IR 4135
35 IAC 9-1-1	A	02-163	25 IR 4136
35 IAC 9-1-2	A	02-163	25 IR 4136
35 IAC 9-1-3	A	02-163	25 IR 4136
35 IAC 9-1-4	A	02-163	25 IR 4136
35 IAC 10	N	02-163	25 IR 4137
35 IAC 11	N	03-131	26 IR 3678

TITLE 45 DEPARTMENT OF STATE REVENUE

45 IAC 3.1-1-99.1	N	02-305	26 IR 817	*ARR (26 IR 2376)
45 IAC 18-1-2	R	02-40	25 IR 3238	*CPH (25 IR 4129)
				*ARR (26 IR 2376)
				26 IR 2313
				*AROC (26 IR 2472)
45 IAC 18-1-3	R	02-40	25 IR 3238	*CPH (25 IR 4129)
				*ARR (26 IR 2376)
				26 IR 2313
				*AROC (26 IR 2472)
45 IAC 18-1-4	R	02-40	25 IR 3238	*CPH (25 IR 4129)
				*ARR (26 IR 2376)
				26 IR 2313
				*AROC (26 IR 2472)
45 IAC 18-1-5	R	02-40	25 IR 3238	*CPH (25 IR 4129)
				*ARR (26 IR 2376)
				26 IR 2313
				*AROC (26 IR 2472)
45 IAC 18-1-6	R	02-40	25 IR 3238	*CPH (25 IR 4129)
				*ARR (26 IR 2376)
				26 IR 2313
				*AROC (26 IR 2472)
45 IAC 18-1-7	R	02-40	25 IR 3238	*CPH (25 IR 4129)
				*ARR (26 IR 2376)
				26 IR 2313
				*AROC (26 IR 2472)
45 IAC 18-1-8	R	02-40	25 IR 3238	*CPH (25 IR 4129)
				*ARR (26 IR 2376)
				26 IR 2313
				*AROC (26 IR 2472)
45 IAC 18-1-9	N	02-40	25 IR 3220	*CPH (25 IR 4129)
				*ARR (26 IR 2376)
				26 IR 2300
				*AROC (26 IR 2472)
45 IAC 18-1-10	N	02-40	25 IR 3220	*CPH (25 IR 4129)
				*ARR (26 IR 2376)
				26 IR 2301
				*AROC (26 IR 2472)
45 IAC 18-1-11	N	02-40	25 IR 3220	*CPH (25 IR 4129)
				*ARR (26 IR 2376)
				26 IR 2301
				*AROC (26 IR 2472)
45 IAC 18-1-12	N	02-40	25 IR 3220	*CPH (25 IR 4129)
				*ARR (26 IR 2376)
				26 IR 2301
				*AROC (26 IR 2472)
45 IAC 18-1-13	N	02-40	25 IR 3220	*CPH (25 IR 4129)
				*ARR (26 IR 2376)
				26 IR 2301
				*AROC (26 IR 2472)
45 IAC 18-1-14	N	02-40	25 IR 3221	*CPH (25 IR 4129)
				*ARR (26 IR 2376)
				26 IR 2301
				*AROC (26 IR 2472)
45 IAC 18-1-15	N	02-40	25 IR 3221	*CPH (25 IR 4129)
				*ARR (26 IR 2376)
				26 IR 2301
				*AROC (26 IR 2472)
45 IAC 18-1-16	N	02-40	25 IR 3221	*CPH (25 IR 4129)
				*ARR (26 IR 2376)
				26 IR 2302
				*AROC (26 IR 2472)
45 IAC 18-1-17	N	02-40	25 IR 3221	*CPH (25 IR 4129)
				*ARR (26 IR 2376)
				26 IR 2302
				*AROC (26 IR 2472)
45 IAC 18-1-18	N	02-40	25 IR 3221	*CPH (25 IR 4129)
				*ARR (26 IR 2376)
				26 IR 2302
				*AROC (26 IR 2472)
45 IAC 18-1-19	N	02-40	25 IR 3221	*CPH (25 IR 4129)
				*ARR (26 IR 2376)
				26 IR 2302
				*AROC (26 IR 2472)
45 IAC 18-1-20	N	02-40	25 IR 3221	*CPH (25 IR 4129)
				*ARR (26 IR 2376)
				26 IR 2302
				*AROC (26 IR 2472)
45 IAC 18-1-21	N	02-40	25 IR 3222	*CPH (25 IR 4129)
				*ARR (26 IR 2376)
				26 IR 2302
				*AROC (26 IR 2472)

45 IAC 18-1-22	N	02-40	25 IR 3222	*CPH (25 IR 4129) *ARR (26 IR 2376) **26 IR 2302** *AROC (26 IR 2472)
45 IAC 18-1-23	N	02-40	25 IR 3222	*CPH (25 IR 4129) *ARR (26 IR 2376) **26 IR 2303** *AROC (26 IR 2472)
45 IAC 18-1-24	N	02-40	25 IR 3222	*CPH (25 IR 4129) *ARR (26 IR 2376) **26 IR 2303** *AROC (26 IR 2472)
45 IAC 18-1-25	N	02-40	25 IR 3222	*CPH (25 IR 4129) *ARR (26 IR 2376) **26 IR 2303** *AROC (26 IR 2472)
45 IAC 18-1-26	N	02-40	25 IR 3222	*CPH (25 IR 4129) *ARR (26 IR 2376) **26 IR 2303** *AROC (26 IR 2472)
45 IAC 18-1-27	N	02-40	25 IR 3222	*CPH (25 IR 4129) *ARR (26 IR 2376) **26 IR 2303** *AROC (26 IR 2472)
45 IAC 18-1-28	N	02-40	25 IR 3223	*CPH (25 IR 4129) *ARR (26 IR 2376) **26 IR 2303** *AROC (26 IR 2472)
45 IAC 18-1-29	N	02-40	25 IR 3223	*CPH (25 IR 4129) *ARR (26 IR 2376) **26 IR 2304** *AROC (26 IR 2472)
45 IAC 18-1-30	N	02-40	25 IR 3223	*CPH (25 IR 4129) *ARR (26 IR 2376) **26 IR 2304** *AROC (26 IR 2472)
45 IAC 18-1-31	N	02-40	25 IR 3223	*CPH (25 IR 4129) *ARR (26 IR 2376) **26 IR 2304** *AROC (26 IR 2472)
45 IAC 18-1-32	N	02-40	25 IR 3223	*CPH (25 IR 4129) *ARR (26 IR 2376) **26 IR 2304** *AROC (26 IR 2472)
45 IAC 18-1-33	N	02-40	25 IR 3224	*CPH (25 IR 4129) *ARR (26 IR 2376) **26 IR 2305** *AROC (26 IR 2472)
45 IAC 18-1-34	N	02-40	25 IR 3224	*CPH (25 IR 4129) *ARR (26 IR 2376) **26 IR 2305** *AROC (26 IR 2472)
45 IAC 18-1-35	N	02-40	25 IR 3224	*CPH (25 IR 4129) *ARR (26 IR 2376) **26 IR 2305** *AROC (26 IR 2472)
45 IAC 18-1-36	N	02-40	25 IR 3224	*CPH (25 IR 4129) *ARR (26 IR 2376) **26 IR 2305** *AROC (26 IR 2472)
45 IAC 18-1-37	N	02-40	25 IR 3224	*CPH (25 IR 4129) *ARR (26 IR 2376) **26 IR 2305** *AROC (26 IR 2472)
45 IAC 18-1-38	N	02-40	25 IR 3224	*CPH (25 IR 4129) *ARR (26 IR 2376) **26 IR 2305** *AROC (26 IR 2472)
45 IAC 18-1-39	N	02-40	25 IR 3224	*CPH (25 IR 4129) *ARR (26 IR 2376) **26 IR 2305** *AROC (26 IR 2472)
45 IAC 18-1-40	N	02-40	25 IR 3225	*CPH (25 IR 4129) *ARR (26 IR 2376) **26 IR 2306** *AROC (26 IR 2472)
45 IAC 18-1-41	N	02-40	25 IR 3225	*CPH (25 IR 4129) *ARR (26 IR 2376) **26 IR 2306** *AROC (26 IR 2472)
45 IAC 18-1-42	N	02-40	25 IR 3225	*CPH (25 IR 4129) *ARR (26 IR 2376) **26 IR 2306** *AROC (26 IR 2472)
45 IAC 18-1-43	N	02-40	25 IR 3225	*CPH (25 IR 4129) *ARR (26 IR 2376) **26 IR 2306** *AROC (26 IR 2472)
45 IAC 18-2-1	A	02-40	25 IR 3225	*CPH (25 IR 4129) *ARR (26 IR 2376) **26 IR 2306** *AROC (26 IR 2472)
45 IAC 18-2-2	A	02-40	25 IR 3226	*CPH (25 IR 4129) *ARR (26 IR 2376) *AROC (26 IR 2472)
45 IAC 18-2-3	A	02-40	25 IR 3227	*CPH (25 IR 4129) *ARR (26 IR 2376) *AROC (26 IR 2472)
45 IAC 18-2-4	A	02-40	25 IR 3228	*CPH (25 IR 4129) *ARR (26 IR 2376) *AROC (26 IR 2472)
45 IAC 18-3-1	A	02-40	25 IR 3228	*CPH (25 IR 4129) *ARR (26 IR 2376) *AROC (26 IR 2472)
45 IAC 18-3-2	A	02-40	25 IR 3229	*CPH (25 IR 4129) *ARR (26 IR 2376) *AROC (26 IR 2472)
45 IAC 18-3-3	R	02-40	25 IR 3238	*CPH (25 IR 4129) *ARR (26 IR 2376) **26 IR 2313** *AROC (26 IR 2472)
45 IAC 18-3-4	N	02-40	25 IR 3231	*CPH (25 IR 4129) *ARR (26 IR 2376) **26 IR 2307** *AROC (26 IR 2472)
45 IAC 18-3-5	N	02-40	25 IR 3232	*CPH (25 IR 4129) *ARR (26 IR 2376) **26 IR 2307** *AROC (26 IR 2472)
45 IAC 18-3-6	N	02-40	25 IR 3232	*CPH (25 IR 4129) *ARR (26 IR 2376) **26 IR 2308** *AROC (26 IR 2472)
45 IAC 18-3-7	N	02-40	25 IR 3232	*CPH (25 IR 4129) *ARR (26 IR 2376) **26 IR 2308** *AROC (26 IR 2472) *ERR (26 IR 2375)
45 IAC 18-3-8	N	02-40	25 IR 3233	*CPH (25 IR 4129) *ARR (26 IR 2376) **26 IR 2308** *AROC (26 IR 2472)
45 IAC 18-4-1	A	02-40	25 IR 3233	*CPH (25 IR 4129) *ARR (26 IR 2376) **26 IR 2309** *AROC (26 IR 2472)

45 IAC 18-4-2	A	02-40	25 IR 3234	*CPH (25 IR 4129)
				*ARR (26 IR 2376)
				26 IR 2309
				*AROC (26 IR 2472)
45 IAC 18-5-2	A	02-40	25 IR 3235	*CPH (25 IR 4129)
				*ARR (26 IR 2376)
				26 IR 2310
				*AROC (26 IR 2472)
45 IAC 18-6-1	R	02-40	25 IR 3238	*CPH (25 IR 4129)
				*ARR (26 IR 2376)
				26 IR 2313
				*AROC (26 IR 2472)
45 IAC 18-6-2	R	02-40	25 IR 3238	*CPH (25 IR 4129)
				*ARR (26 IR 2376)
				26 IR 2313
				*AROC (26 IR 2472)
45 IAC 18-6-3	A	02-40	25 IR 3235	*CPH (25 IR 4129)
				*ARR (26 IR 2376)
				26 IR 2310
				*AROC (26 IR 2472)
45 IAC 18-7	N	02-40	25 IR 3236	*CPH (25 IR 4129)
				*ARR (26 IR 2376)
				*AROC (26 IR 2472)
45 IAC 18-8	N	02-40	25 IR 3236	*CPH (25 IR 4129)
				*ARR (26 IR 2376)
				26 IR 2311
				*AROC (26 IR 2472)

TITLE 50 DEPARTMENT OF LOCAL GOVERNMENT FINANCE

50 IAC 2.3-1-1	A	01-305	25 IR 835	**26 IR 6**
	A	01-402	26 IR 86	*AROC (26 IR 183)
				*AROC (26 IR 184)
				26 IR 2314
	A	02-240	26 IR 88	**26 IR 2315**
50 IAC 2.3-1-2	A	01-366	25 IR 1200	*ARR (25 IR 3760)
				*AWR (26 IR 39)
	A	01-402	26 IR 87	*AROC (26 IR 183)
				*AROC (26 IR 184)
				26 IR 2314
50 IAC 3.1-1	R	01-367	25 IR 2550	**26 IR 328**
50 IAC 3.1-2-1	R	01-367	25 IR 2550	**26 IR 328**
50 IAC 3.1-2-5	R	01-367	25 IR 2550	**26 IR 328**
50 IAC 3.1-2-6	R	01-367	25 IR 2550	**26 IR 328**
50 IAC 3.1-2-7	R	01-367	25 IR 2550	**26 IR 328**
50 IAC 3.1-2-8	R	01-367	25 IR 2550	**26 IR 328**
50 IAC 3.1-2-9	R	01-367	25 IR 2550	**26 IR 328**
50 IAC 3.2	N	01-367	25 IR 2548	**26 IR 326**
				*ERR (26 IR 382)
50 IAC 12-16-30				*ERR (26 IR 793)
50 IAC 14-3-1				*ERR (26 IR 3046)
50 IAC 14-4-1				*ERR (26 IR 382)
				*ERR (26 IR 3046)
50 IAC 14-5-1				*ERR (26 IR 3046)
50 IAC 14-5-3				*ERR (26 IR 3046)
50 IAC 14-6-1				*ERR (26 IR 382)
50 IAC 14-7-1				*ERR (26 IR 382)
50 IAC 14-8-1				*ERR (26 IR 3046)
50 IAC 15-1-1.5	N	01-266		††**26 IR 1516**
50 IAC 15-1-2.5	N	01-266	25 IR 410	*AROC (25 IR 2591)
				26 IR 1516
50 IAC 15-1-2.6	N	01-266	25 IR 410	*AROC (25 IR 2591)
				26 IR 1516
50 IAC 15-1-3	R	01-266	25 IR 416	*AROC (25 IR 2591)
				26 IR 1522
50 IAC 15-1-5	R	01-266	25 IR 416	*AROC (25 IR 2591)
				26 IR 1522
50 IAC 15-1-6	N	01-266	25 IR 410	*AROC (25 IR 2591)
50 IAC 15-3-1	A	01-266	25 IR 410	*AROC (25 IR 2591)
				26 IR 1516
50 IAC 15-3-2	A	01-266	25 IR 410	*AROC (25 IR 2591)
				26 IR 1516
50 IAC 15-3-3	A	01-266	25 IR 411	*AROC (25 IR 2591)
				26 IR 1517
50 IAC 15-3-4	A	01-266	25 IR 411	*AROC (25 IR 2591)
				26 IR 1517
50 IAC 15-3-5	A	01-266	25 IR 411	*AROC (25 IR 2591)
				26 IR 1517
50 IAC 15-3-6	N	01-266	25 IR 411	*AROC (25 IR 2591)
				26 IR 1518
50 IAC 15-4-1	A	01-266	25 IR 412	*AROC (25 IR 2591)
				26 IR 1518
50 IAC 15-5-1	A	01-266	25 IR 413	*AROC (25 IR 2591)
				26 IR 1519
50 IAC 15-5-2	A	01-266	25 IR 414	*AROC (25 IR 2591)
				26 IR 1520
50 IAC 15-5-4	A	01-266	25 IR 414	*AROC (25 IR 2591)
				26 IR 1520
50 IAC 15-5-5	A	01-266	25 IR 414	*AROC (25 IR 2591)
				26 IR 1520
50 IAC 15-5-6	A	01-266	25 IR 415	*AROC (25 IR 2591)
				26 IR 1521
50 IAC 15-5-7	A	01-266	25 IR 415	*AROC (25 IR 2591)
				26 IR 1521
50 IAC 15-5-8	A	01-266	25 IR 415	*AROC (25 IR 2591)
				26 IR 1521
50 IAC 18	N	02-81	26 IR 1117	*AROC (26 IR 1263)
50 IAC 19	N	02-342	26 IR 2397	

TITLE 52 INDIANA BOARD OF TAX REVIEW

52 IAC 1	N	02-206	26 IR 89	**26 IR 2316**

TITLE 60 OVERSIGHT COMMITTEE ON PUBLIC RECORDS

60 IAC 2-1-1	A	02-261	26 IR 1118	**26 IR 2604**
60 IAC 2-1-2	R	02-261	26 IR 1121	**26 IR 2607**
60 IAC 2-1-3	R	02-261	26 IR 1121	**26 IR 2607**
60 IAC 2-2-1	A	02-261	26 IR 1118	**26 IR 2604**
60 IAC 2-2-2	A	02-261	26 IR 1118	**26 IR 2604**
60 IAC 2-2-3	A	02-261	26 IR 1119	**26 IR 2605**
60 IAC 2-2-3.1	N	02-261	26 IR 1120	**26 IR 2605**
60 IAC 2-2-4	A	02-261	26 IR 1120	**26 IR 2605**
60 IAC 2-2-5	A	02-261	26 IR 1120	**26 IR 2606**
60 IAC 2-2-5.1	N	02-261	26 IR 1121	**26 IR 2606**
60 IAC 2-2-6	R	02-261	26 IR 1121	**26 IR 2607**
60 IAC 2-2-7	R	02-261	26 IR 1121	**26 IR 2607**

TITLE 65 STATE LOTTERY COMMISSION

65 IAC 3-3-3	A	02-252	*ER (26 IR 40)
65 IAC 3-3-10	A	02-252	*ER (26 IR 40)
65 IAC 3-4-4	A	02-252	*ER (26 IR 41)
65 IAC 3-4-5	A	02-252	*ER (26 IR 42)
65 IAC 4-2-4	A	02-253	*ER (26 IR 42)
65 IAC 4-2-8	A	02-253	*ER (26 IR 43)
65 IAC 4-206	N	03-121	*ER (26 IR 3348)
65 IAC 4-319	N	03-148	*ER (26 IR 3360)
65 IAC 4-452	N	02-353	*ER (26 IR 1585)
65 IAC 4-453	N	02-350	*ER (26 IR 1580)
65 IAC 5-2-4	A	02-253	*ER (26 IR 43)
65 IAC 5-2-8	A	02-253	*ER (26 IR 43)
65 IAC 5-5-5	A	03-113	*ER (26 IR 3057)
65 IAC 5-12-2	A	02-254	*ER (26 IR 44)
65 IAC 5-12-3	A	02-254	*ER (26 IR 45)
65 IAC 5-12-4	A	02-254	*ER (26 IR 45)
65 IAC 5-12-5	A	02-254	*ER (26 IR 46)
65 IAC 5-12-6	A	02-254	*ER (26 IR 46)
65 IAC 5-12-7	A	02-254	*ER (26 IR 47)
65 IAC 5-12-9	A	02-254	*ER (26 IR 47)
65 IAC 5-12-10	A	02-254	*ER (26 IR 47)
65 IAC 5-12-11	A	02-254	*ER (26 IR 48)

65 IAC 5-12-12	A	02-254		*ER (26 IR 49)
65 IAC 5-12-12.5	A	02-254		*ER (26 IR 49)
65 IAC 5-12-14	A	02-254		*ER (26 IR 51)
65 IAC 5-15-10	N	03-14		*ER (26 IR 1946)
65 IAC 5-15-11	N	03-14		*ER (26 IR 1946)
65 IAC 6-1-1.1	N	02-255		*ER (26 IR 51)
65 IAC 6-1-1.2	N	02-255		*ER (26 IR 51)
65 IAC 6-1-2.1	N	02-255		*ER (26 IR 51)
65 IAC 6-1-2.2	N	02-255		*ER (26 IR 51)
65 IAC 6-1-4.1	N	02-255		*ER (26 IR 51)
65 IAC 6-1-10	N	02-255		*ER (26 IR 52)
65 IAC 6-2-3	A	02-255		*ER (26 IR 52)
65 IAC 6-2-4	A	02-255		*ER (26 IR 52)
65 IAC 6-2-5	A	02-255		*ER (26 IR 52)
65 IAC 6-2-8	A	02-255		*ER (26 IR 53)
65 IAC 6-2-9	A	02-255		*ER (26 IR 53)
65 IAC 6-3-2	A	02-255		*ER (26 IR 53)
65 IAC 6-3-3	R	02-255		*ER (26 IR 54)
65 IAC 6-4-6	R	02-255		*ER (26 IR 54)
65 IAC 6-4-7	R	02-255		*ER (26 IR 54)
65 IAC 6-4-8	R	02-255		*ER (26 IR 54)
65 IAC 6-4-9	R	02-255		*ER (26 IR 54)
65 IAC 6-4-10	R	02-255		*ER (26 IR 54)
65 IAC 6-4-11	R	02-255		*ER (26 IR 54)
65 IAC 6-4-12	R	02-255		*ER (26 IR 54)

TITLE 68 INDIANA GAMING COMMISSION

68 IAC 3	RA	01-418	25 IR 2589	*CPH (25 IR 3208)
				26 IR 1261
68 IAC 4	RA	01-418	25 IR 2589	*CPH (25 IR 3208)
68 IAC 4-1-1	RA	03-132	26 IR 3750	
68 IAC 4-1-2	RA	03-132	26 IR 3751	
68 IAC 4-1-3	RA	03-132	26 IR 3751	
68 IAC 4-1-4	RA	03-132	26 IR 3751	
68 IAC 4-1-5	RA	03-132	26 IR 3752	
68 IAC 4-1-6	RA	03-132	26 IR 3752	
68 IAC 4-1-7	RA	03-132	26 IR 3752	
68 IAC 4-1-8	RA	03-132	26 IR 3753	
68 IAC 4-1-9	RA	03-132	26 IR 3753	
68 IAC 4-1-10	RA	03-132	26 IR 3754	
68 IAC 5	RA	01-418	25 IR 2589	*CPH (25 IR 3208)
				26 IR 1261
68 IAC 10	RA	01-418	25 IR 2589	*CPH (25 IR 3208)
				26 IR 1261
68 IAC 11	RA	01-418	25 IR 2589	*CPH (25 IR 3208)
				26 IR 1261
68 IAC 12	RA	01-418	25 IR 2589	*CPH (25 IR 3208)
				26 IR 1261
68 IAC 13	RA	01-418	25 IR 2589	*CPH (25 IR 3208)
				26 IR 1261
68 IAC 14	RA	01-418	25 IR 2589	*CPH (25 IR 3208)
				26 IR 1261
68 IAC 15	RA	01-418	25 IR 2589	*CPH (25 IR 3208)
				26 IR 1261
68 IAC 16	RA	01-418	25 IR 2589	*CPH (25 IR 3208)
				26 IR 1261
68 IAC 17	RA	01-418	25 IR 2589	*CPH (25 IR 3208)
				26 IR 1261
68 IAC 18	RA	01-418	25 IR 2589	*CPH (25 IR 3208)
				26 IR 1261
68 IAC 19	RA	01-418	25 IR 2589	*CPH (25 IR 3208)
				26 IR 1261

TITLE 71 INDIANA HORSE RACING COMMISSION

71 IAC 1-1-41.5	N	02-282		*ER (26 IR 394)
71 IAC 1.5-1-37.5	N	02-282		*ER (26 IR 394)
				*ERR (26 IR 793)
71 IAC 3-2-9	A	03-52		*ER (26 IR 2380)
71 IAC 3.5-2-9	A	03-52		*ER (26 IR 2380)
71 IAC 4-2-4	A	03-52		*ER (26 IR 2380)
71 IAC 4-2-5	A	03-52		*ER (26 IR 2381)
71 IAC 4-3-1	A	03-52		*ER (26 IR 2381)
71 IAC 4.5-2-4	A	03-52		*ER (26 IR 2381)
71 IAC 4.5-2-5	A	03-52		*ER (26 IR 2382)
71 IAC 4.5-3-1	A	03-52		*ER (26 IR 2382)
71 IAC 5.5-4-4	A	03-52		*ER (26 IR 2382)
71 IAC 5.5-5-3	A	02-250		*ER (26 IR 55)
71 IAC 6.5-1-4	A	02-250		*ER (26 IR 55)
71 IAC 7-1-15	A	03-52		*ER (26 IR 2383)
71 IAC 7-1-28	A	03-52		*ER (26 IR 2383)
71 IAC 7-1-37	R	03-52		*ER (26 IR 2388)
71 IAC 7.5-1-4	A	03-52		*ER (26 IR 2383)
71 IAC 7.5-1-14	N	03-52		*ER (26 IR 2383)
71 IAC 7.5-6-1	A	03-52		*ER (26 IR 2384)
71 IAC 7.5-10	N	02-250		*ER (26 IR 56)
71 IAC 8-1-1	A	03-52		*ER (26 IR 2384)
71 IAC 8-4-1	A	03-52		*ER (26 IR 2385)
71 IAC 8-6-2	N	03-52		*ER (26 IR 2385)
71 IAC 8.5-1-1	A	03-52		*ER (26 IR 2385)
71 IAC 8.5-3-1	A	03-52		*ER (26 IR 2386)
71 IAC 8.5-4-8	N	02-250		*ER (26 IR 57)
71 IAC 8.5-5-2	N	02-250		*ER (26 IR 57)
	N	03-52		*ER (26 IR 2386)
71 IAC 8.5-10-6	A	02-250		*ER (26 IR 58)
71 IAC 10-2-9	A	03-52		*ER (26 IR 2387)
71 IAC 12-2-15	A	02-251		*ER (26 IR 58)
	A	02-282		*ER (26 IR 394)
	A	03-52		*ER (26 IR 2387)
71 IAC 12-2-18	A	03-52		*ER (26 IR 2388)
71 IAC 12-2-19	A	02-251		*ER (26 IR 59)
				*ERR (26 IR 382)
71 IAC 12-2-20	A	02-282		*ER (26 IR 395)
71 IAC 13.5-3-3	A	03-25		*ER (26 IR 1952)
71 IAC 14.5-1-3	A	03-25		*ER (26 IR 1952)

TITLE 80 STATE FAIR COMMISSION

80 IAC 4-3-3	A	02-200	26 IR 420	**26 IR 3536**
80 IAC 4-3-5	A	02-200	26 IR 420	**26 IR 3536**
80 IAC 4-4	N	02-243	26 IR 2398	**26 IR 3537**

TITLE 105 INDIANA DEPARTMENT OF TRANSPORTATION

105 IAC 9-1-1	A	03-17	26 IR 2400
105 IAC 9-1-2	A	03-17	26 IR 2400
105 IAC 9-2-1	A	02-231	26 IR 421
105 IAC 12-1-2	A	03-58	26 IR 3077
105 IAC 12-1-5	A	03-58	26 IR 3077
105 IAC 12-1-14.5	N	03-58	26 IR 3077
105 IAC 12-1-14.6	N	03-58	26 IR 3077
105 IAC 12-1-18	A	03-58	26 IR 3077
105 IAC 12-1-22	A	03-58	26 IR 3077
105 IAC 12-1-23	A	03-58	26 IR 3078
105 IAC 12-2-4	A	03-58	26 IR 3078
105 IAC 12-2-6	A	03-58	26 IR 3078
105 IAC 12-2-7	A	03-58	26 IR 3078
105 IAC 12-2-10	A	03-58	26 IR 3078
105 IAC 12-2-11	A	03-58	26 IR 3078
105 IAC 12-2-13	A	03-58	26 IR 3079
105 IAC 12-2-14	A	03-58	26 IR 3079
105 IAC 12-2-16	A	03-58	26 IR 3079
105 IAC 12-2-17	A	03-58	26 IR 3080
105 IAC 12-2-18	N	03-58	26 IR 3080
105 IAC 12-2-19	N	03-58	26 IR 3080
105 IAC 12-2-20	N	03-58	26 IR 3080
105 IAC 12-2-21	N	03-58	26 IR 3081
105 IAC 12-3-1	A	03-58	26 IR 3082
105 IAC 12-3-2	A	03-58	26 IR 3082
105 IAC 12-3-4	A	03-58	26 IR 3082
105 IAC 12-3-5	A	03-58	26 IR 3083

105 IAC 12-4-3	A	03-58	26 IR 3084	
105 IAC 12-4-4	A	03-58	26 IR 3084	
105 IAC 12-4-5	A	03-58	26 IR 3084	

TITLE 135 INDIANA TRANSPORTATION FINANCE AUTHORITY

135 IAC 2	RA	02-175	25 IR 4219	**26 IR 882**
135 IAC 2-1-1	A	02-171	25 IR 4138	
135 IAC 2-2-1	A	02-171	25 IR 4140	
135 IAC 2-2-3	A	02-171	25 IR 4140	
135 IAC 2-2-5	A	02-171	25 IR 4140	
135 IAC 2-2-10	A	02-171	25 IR 4141	
135 IAC 2-2-12	A	02-171	25 IR 4141	
135 IAC 2-3-1	A	02-171	25 IR 4141	
135 IAC 2-3-2	A	02-171	25 IR 4141	
135 IAC 2-4-1	A	02-171	25 IR 4141	
135 IAC 2-4-4	A	02-171	25 IR 4142	
135 IAC 2-5-1	A	02-171	25 IR 4142	
135 IAC 2-5-2	A	02-171	25 IR 4142	
135 IAC 2-6-1	A	02-171	25 IR 4148	
135 IAC 2-7-1	A	02-171	25 IR 4148	
135 IAC 2-7-3	A	02-171	25 IR 4148	
135 IAC 2-7-7	A	02-171	25 IR 4148	
135 IAC 2-7-11	A	02-171	25 IR 4149	
135 IAC 2-7-15	A	02-171	25 IR 4149	
135 IAC 2-7-18	A	02-171	25 IR 4149	
135 IAC 2-7-19	R	02-171	25 IR 4151	
135 IAC 2-7-20	A	02-171	25 IR 4149	
135 IAC 2-7-23	A	02-171	25 IR 4149	
135 IAC 2-8-1	A	02-171	25 IR 4149	
135 IAC 2-8-3	A	02-171	25 IR 4150	
135 IAC 2-8-5	A	02-171	25 IR 4150	
135 IAC 2-8-7	A	02-171	25 IR 4150	
135 IAC 2-8-11	A	02-171	25 IR 4150	
135 IAC 2-10-1	A	02-171	25 IR 4151	
135 IAC 2-10-2	A	02-171	25 IR 4151	
135 IAC 3	RA	02-175	25 IR 4219	**26 IR 882**

TITLE 170 INDIANA UTILITY REGULATORY COMMISSION

170 IAC 4-1-26	A	02-44	25 IR 2751	**26 IR 328**
170 IAC 7-1.2				*ERR (26 IR 382)
170 IAC 7-1.3				*ERR (26 IR 382)
170 IAC 7-1.3-2				*ERR (26 IR 1565)
				*ERR (26 IR 2375)

TITLE 210 DEPARTMENT OF CORRECTION

210 IAC 1-6-1	A	02-259	26 IR 817	**26 IR 3538**
210 IAC 1-6-2	A	02-259	26 IR 818	**26 IR 3539**
210 IAC 1-6-3	R	02-259	26 IR 829	**26 IR 3550**
210 IAC 1-6-4	A	02-259	26 IR 818	**26 IR 3539**
210 IAC 1-6-5	A	02-259	26 IR 819	**26 IR 3540**
210 IAC 1-6-6	A	02-259	26 IR 820	**26 IR 3541**
210 IAC 1-6-7	A	02-259	26 IR 821	**26 IR 3542**
210 IAC 1-10	N	02-259	26 IR 821	**26 IR 3542**
210 IAC 5-1-1	A	02-259	26 IR 823	**26 IR 3544**
210 IAC 5-1-2	A	02-259	26 IR 824	**26 IR 3545**
210 IAC 5-1-3	A	02-259	26 IR 824	**26 IR 3545**
210 IAC 5-1-4	A	02-259	26 IR 827	**26 IR 3548**
210 IAC 6-1-1	A	02-173	25 IR 4152	**26 IR 1064**
210 IAC 6-2-1	RA	02-174	25 IR 4219	**26 IR 882**
210 IAC 6-2-2	RA	02-174	25 IR 4219	**26 IR 882**
210 IAC 6-2-3	A	02-173	25 IR 4152	**26 IR 1064**
210 IAC 6-2-4	A	02-173	25 IR 4152	**26 IR 1064**
210 IAC 6-2-5	A	02-173	25 IR 4152	**26 IR 1064**
210 IAC 6-2-6	RA	02-174	25 IR 4219	**26 IR 882**
210 IAC 6-2-7	RA	02-174	25 IR 4219	**26 IR 882**
210 IAC 6-2-8	RA	02-174	25 IR 4219	**26 IR 882**
210 IAC 6-2-9	RA	02-174	25 IR 4219	**26 IR 882**
210 IAC 6-2-10	RA	02-174	25 IR 4219	**26 IR 882**
210 IAC 6-2-11	RA	02-174	25 IR 4219	**26 IR 882**
210 IAC 6-2-12	RA	02-174	25 IR 4219	**26 IR 882**
210 IAC 6-2-13	A	02-173	25 IR 4152	**26 IR 1064**
210 IAC 6-3-1	A	02-173	25 IR 4152	**26 IR 1064**
210 IAC 6-3-2	A	02-173	25 IR 4153	**26 IR 1065**
210 IAC 6-3-3	A	02-173	25 IR 4153	**26 IR 1065**
210 IAC 6-3-4	A	02-173	25 IR 4154	**26 IR 1066**
210 IAC 6-3-5	A	02-173	25 IR 4155	**26 IR 1067**
210 IAC 6-3-6	RA	02-174	25 IR 4219	**26 IR 882**
210 IAC 6-3-7	RA	02-174	25 IR 4219	**26 IR 882**
210 IAC 6-3-8	RA	02-174	25 IR 4219	**26 IR 882**
210 IAC 6-3-9	A	02-173	25 IR 4155	**26 IR 1067**
210 IAC 6-3-10	A	02-173	25 IR 4155	**26 IR 1068**
210 IAC 6-3-11	A	02-173	25 IR 4155	**26 IR 1068**
210 IAC 6-3-12	RA	02-174	25 IR 4219	**26 IR 882**
210 IAC 7	RA	03-54	26 IR 3147	

TITLE 240 STATE POLICE DEPARTMENT

240 IAC 1-4-3	RA	03-98	26 IR 3425	
240 IAC 1-4-24.1	RA	03-98	26 IR 3425	
240 IAC 7-1-6	RA	02-139	25 IR 3882	**26 IR 546**

TITLE 250 LAW ENFORCEMENT TRAINING BOARD

250 IAC 1-1.1	RA	02-149	25 IR 3882	
250 IAC 1-2	RA	02-149	25 IR 3882	
250 IAC 1-3-1	RA	02-149	25 IR 3882	
250 IAC 1-3-3	RA	02-149	25 IR 3882	
250 IAC 1-3-6	RA	02-149	25 IR 3882	
250 IAC 1-3-7	RA	02-149	25 IR 3882	
250 IAC 1-3-8	RA	02-149	25 IR 3882	
250 IAC 1-3-9	RA	02-149	25 IR 3882	
250 IAC 1-3-10	RA	02-149	25 IR 3882	
250 IAC 1-3-11	RA	02-149	25 IR 3882	
250 IAC 1-3-12	RA	02-149	25 IR 3882	
250 IAC 1-3-13	RA	02-149	25 IR 3882	
250 IAC 1-5	RA	02-149	25 IR 3882	
250 IAC 1-5.l	RA	02-149	25 IR 3882	
250 IAC 1-5.2	RA	02-149	25 IR 3882	
250 IAC 1-5.3	RA	02-149	25 IR 3882	
250 IAC 1-5.4	RA	02-149	25 IR 3882	
250 IAC 1-5.5	RA	02-149	25 IR 3882	
250 IAC 1-6-1	RA	02-149	25 IR 3882	
250 IAC 1-6-2	RA	02-149	25 IR 3882	
250 IAC 1-6-3	RA	02-149	25 IR 3882	
250 IAC 1-6-4	RA	02-149	25 IR 3882	
250 IAC 1-6-5	RA	02-149	25 IR 3882	
250 IAC 1-6-6	RA	02-149	25 IR 3882	
250 IAC 1-7	RA	02-149	25 IR 3882	
250 IAC 2	N	02-339	26 IR 3679	

TITLE 305 INDIANA BOARD OF LICENSURE FOR PROFESSIONAL GEOLOGISTS

305 IAC 1-2-6	A	02-328	26 IR 1598	
305 IAC 1-3-4	A	02-328	26 IR 1599	
305 IAC 1-4-1	A	02-328	26 IR 1599	
305 IAC 1-4-2	A	02-328	26 IR 1599	
305 IAC 1-5	N	02-328	26 IR 1600	

TITLE 307 INDIANA BOARD OF REGISTRATION FOR SOIL SCIENTISTS

307 IAC	N	03-32	26 IR 2652	

TITLE 312 NATURAL RESOURCES COMMISSION

312 IAC 2	RA	02-72	25 IR 3461	**26 IR 546**
312 IAC 2-4-1	A	02-236	26 IR 1126	**26 IR 3318**
312 IAC 2-4-2	A	02-236	26 IR 1126	**26 IR 3318**
312 IAC 2-4-4	A	02-236	26 IR 1127	**26 IR 3318**
312 IAC 2-4-6	A	02-236	26 IR 1127	**26 IR 3319**
312 IAC 2-4-7	A	02-236	26 IR 1127	**26 IR 3319**
312 IAC 2-4-8	R	02-236	26 IR 1131	**26 IR 3323**
312 IAC 2-4-9	A	02-236	26 IR 1128	**26 IR 3319**

312 IAC 2-4-9.5	A	02-236	26 IR 1128	**26 IR 3320**
312 IAC 2-4-10	R	02-236	26 IR 1131	**26 IR 3323**
312 IAC 2-4-12	A	02-236	26 IR 1128	**26 IR 3320**
312 IAC 2-4-13	N	02-236	26 IR 1129	**26 IR 3321**
312 IAC 3	RA	02-72	25 IR 3461	**26 IR 546**
312 IAC 3-1-1	A	02-2	25 IR 2552	**26 IR 7**
312 IAC 3-1-2	A	02-2	25 IR 2553	**26 IR 8**
312 IAC 3-1-3	A	02-2	25 IR 2553	**26 IR 8**
312 IAC 3-1-8	A	02-2	25 IR 2553	**26 IR 8**
312 IAC 3-1-12	A	02-294	26 IR 1131	**26 IR 3323**
312 IAC 3-1-14	A	02-2	25 IR 2554	**26 IR 9**
312 IAC 3-1-18	A	02-2	25 IR 2554	**26 IR 9**
312 IAC 5-2-47	A	03-24	26 IR 2401	
312 IAC 5-3-1	A	02-236	26 IR 1130	**26 IR 3321**
312 IAC 5-3-2	A	02-236	26 IR 1130	**26 IR 3322**
312 IAC 5-3-3	A	02-236	26 IR 1130	**26 IR 3322**
312 IAC 5-6-6	A	02-162	25 IR 4165	**26 IR 1900**
	A	03-29	26 IR 2660	
312 IAC 5-13-2	A	03-24	26 IR 2401	
312 IAC 6	RA	02-331	26 IR 2133	
312 IAC 7	RA	02-331	26 IR 2133	
312 IAC 8-1-2	A	03-50	26 IR 3085	
312 IAC 8-1-4	A	03-50	26 IR 3085	
312 IAC 8-2-3	A	03-50	26 IR 3086	
312 IAC 8-2-6	A	03-50	26 IR 3088	
312 IAC 8-2-9	A	03-50	26 IR 3088	
312 IAC 8-2-11	A	03-50	26 IR 3088	
312 IAC 9	RA	02-331	26 IR 2133	
312 IAC 9-2-11	A	03-50	26 IR 3089	
312 IAC 9-2-13	A	02-68	25 IR 2751	**26 IR 1068**
312 IAC 9-6-1	A	02-318	26 IR 1966	
312 IAC 9-6-7	A	02-318	26 IR 1967	
312 IAC 9-10-3	A	03-35	26 IR 3374	
312 IAC 9-10-4	A	02-232	26 IR 1602	*AWR (26 IR 3347)
312 IAC 9-10-6	A	02-68	25 IR 2752	**26 IR 1069**
312 IAC 9-10-11	A	01-444	25 IR 2551	**26 IR 692**
312 IAC 9-11-14	A	02-322	26 IR 1603	**26 IR 3324**
312 IAC 11-5-1	A	03-30	26 IR 2661	
312 IAC 12-3-2				*ERR (26 IR 1565)
312 IAC 14	RA	02-331	26 IR 2133	
312 IAC 15	RA	02-331	26 IR 2133	
312 IAC 16-3-2	A	02-73	25 IR 4156	**26 IR 1896**
312 IAC 16-3.5	N	02-73	25 IR 4158	**26 IR 1898**
312 IAC 16-4-1	A	02-73	25 IR 4158	**26 IR 1898**
312 IAC 16-4-2	A	02-73	25 IR 4159	**26 IR 1898**
312 IAC 16-4-5	A	02-73	25 IR 4159	**26 IR 1899**
312 IAC 18	RA	02-72	25 IR 3461	**26 IR 546**
312 IAC 18-3-8	A	02-202	26 IR 1123	**26 IR 3315**
312 IAC 18-3-12	A	02-201	26 IR 1121	**26 IR 3313**
312 IAC 18-5-4	A	03-91	26 IR 3375	
312 IAC 20-2-1.7	N	03-12	26 IR 3084	
312 IAC 20-2-4.3	N	03-12	26 IR 3084	
312 IAC 20-2-4.7	N	03-12	26 IR 3085	
312 IAC 20-3-3	N	03-12	26 IR 3085	
312 IAC 20-5	N	02-329	26 IR 2658	
312 IAC 22.5				*ERR (26 IR 383)
312 IAC 24	RA	02-331	26 IR 2133	
312 IAC 25-1-45.5	N	02-104	25 IR 4160	*AROC (26 IR 1736)
312 IAC 25-1-60.5	N	02-104	25 IR 4160	*AROC (26 IR 1736)
312 IAC 25-4-43	A	02-104	25 IR 4160	*AROC (26 IR 1736)
312 IAC 25-4-47	A	02-104	25 IR 4161	*AROC (26 IR 1736)
312 IAC 25-4-85	A	02-104	25 IR 4162	*AROC (26 IR 1736)
312 IAC 25-4-93	A	02-104	25 IR 4163	*AROC (26 IR 1736)
312 IAC 25-6-12.5	N	02-104	25 IR 4164	*AROC (26 IR 1736)
312 IAC 25-6-76.5	N	02-104	25 IR 4164	*AROC (26 IR 1736)

TITLE 326 AIR POLLUTION CONTROL BOARD

326 IAC 1-1-3	A	02-337	26 IR 1997	
326 IAC 1-1-3.5	A	02-337	26 IR 1997	
326 IAC 1-2-65	A	02-337	26 IR 1997	
326 IAC 1-2-90	A	02-337	26 IR 1998	
326 IAC 1-3-4	A	03-69	26 IR 3376	
326 IAC 1-4-1	A	02-88	25 IR 3240	**26 IR 1077**
	A	03-70	26 IR 3092	
326 IAC 1-5-2				*ERR (26 IR 1565)
326 IAC 2-2-13				*ERR (26 IR 1565)
	A	02-337	26 IR 1998	
326 IAC 2-2-16				*ERR (26 IR 1565)
	A	02-337	26 IR 1999	
326 IAC 2-3-1				*ERR (26 IR 1565)
	A	02-337	26 IR 2000	
326 IAC 2-6-1	A	01-249	24 IR 3700	*CPH (24 IR 4012)
326 IAC 2-6-2	A	01-249	24 IR 3700	*CPH (24 IR 4012)
326 IAC 2-6-3	A	01-249	24 IR 3702	*CPH (24 IR 4012)
326 IAC 2-6-4	A	01-249	24 IR 3703	*CPH (24 IR 4012)
				*ERR (26 IR 1566)
	A	02-337	26 IR 2005	
326 IAC 2-6-5	N	01-249	24 IR 3705	*CPH (24 IR 4012)
326 IAC 2-7-3				*ERR (26 IR 1566)
	A	02-337	26 IR 2006	
326 IAC 2-7-8				*ERR (26 IR 1566)
	A	02-337	26 IR 2006	
326 IAC 2-7-18				*ERR (26 IR 1566)
	A	02-337	26 IR 2007	
326 IAC 2-8-3				*ERR (26 IR 1566)
	A	02-337	26 IR 2008	
326 IAC 2-9-7				*ERR (26 IR 1566)
	A	02-337	26 IR 2009	
326 IAC 2-9-8				*ERR (26 IR 1566)
	A	02-337	26 IR 2010	
326 IAC 2-9-9				*ERR (26 IR 1566)
	A	02-337	26 IR 2012	
326 IAC 2-9-10				*ERR (26 IR 1566)
	A	02-337	26 IR 2013	
326 IAC 2-9-13				*ERR (26 IR 1566)
	A	02-337	26 IR 2014	
326 IAC 3-4-1				*ERR (26 IR 1566)
	A	02-337	26 IR 2016	
326 IAC 3-4-3				*ERR (26 IR 1566)
	A	02-337	26 IR 2016	
326 IAC 3-5-2				*ERR (26 IR 1566)
	A	02-337	26 IR 2017	
326 IAC 3-5-3				*ERR (26 IR 1567)
	A	02-337	26 IR 2019	
326 IAC 3-5-4				*ERR (26 IR 1567)
	A	02-337	26 IR 2019	
326 IAC 3-5-5				*ERR (26 IR 1567)
	A	02-337	26 IR 2020	
326 IAC 3-6-1				*ERR (26 IR 1567)
	A	02-337	26 IR 2022	
326 IAC 3-6-3				*ERR (26 IR 1567)
	A	02-337	26 IR 2022	
326 IAC 3-6-5				*ERR (26 IR 1567)
	A	02-337	26 IR 2023	
326 IAC 3-7-2				*ERR (26 IR 1567)
	A	02-337	26 IR 2024	
326 IAC 3-7-4				*ERR (26 IR 1567)
	A	02-337	26 IR 2025	
326 IAC 4-1-4.1	A	02-88	25 IR 3240	**26 IR 1077**
326 IAC 4-1-8				*ERR (26 IR 1567)
326 IAC 4-2-1	A	00-44	24 IR 2754	*CPH (25 IR 2542)
				*CPH (25 IR 3208)
				26 IR 1071
326 IAC 4-2-2	A	00-44	24 IR 2754	*CPH (25 IR 2542)
				*CPH (25 IR 3208)
				26 IR 1071
326 IAC 5-1-2				*ERR (26 IR 1567)
	A	01-407	26 IR 2026	*CPH (26 IR 2391)

326 IAC 5-1-4				*ERR (26 IR 1567)
	A	02-337	26 IR 2026	
326 IAC 5-1-5				*ERR (26 IR 1567)
	A	02-337	26 IR 2027	
326 IAC 6-1-1				*ERR (26 IR 383)
326 IAC 6-1-10.1	A	01-407	26 IR 1970	*CPH (26 IR 2391)
326 IAC 6-1-10.2	A	01-407	26 IR 1994	*CPH (26 IR 2391)
326 IAC 6-1-14	A	02-122	26 IR 98	*CPH (26 IR 811)
				26 IR 2318
326 IAC 6-2-3				*ERR (26 IR 1567)
326 IAC 6-4-5				*ERR (26 IR 1567)
326 IAC 6-5-7				*ERR (26 IR 1568)
326 IAC 6-6-2				*ERR (26 IR 1568)
326 IAC 6-6-4				*ERR (26 IR 1568)
326 IAC 7-2-1				*ERR (26 IR 1565)
	A	02-337	26 IR 2028	
326 IAC 7-4-10				*ERR (26 IR 1568)
	A	02-337	26 IR 2029	
326 IAC 7-4-14				*ERR (26 IR 1568)
326 IAC 8-1-2	A	01-251	25 IR 2754	**26 IR 1073**
326 IAC 8-1-4				*ERR (26 IR 1565)
	A	02-337	26 IR 2030	
326 IAC 8-2-9	A	02-88	25 IR 3241	**26 IR 1078**
326 IAC 8-4-6	A	02-337	26 IR 2032	
326 IAC 8-4-9				*ERR (26 IR 1568)
	A	02-337	26 IR 2035	
326 IAC 8-7-7				*ERR (26 IR 1568)
	A	02-337	26 IR 2036	
326 IAC 8-7-10				*ERR (26 IR 1568)
326 IAC 8-8.1-1				*ERR (26 IR 1568)
326 IAC 8-9-2				*ERR (26 IR 1568)
	A	02-337	26 IR 2037	
326 IAC 8-9-3				*ERR (26 IR 1568)
	A	02-337	26 IR 2037	
326 IAC 8-9-4				*ERR (26 IR 1568)
	A	02-337	26 IR 2038	
326 IAC 8-9-5				*ERR (26 IR 1568)
	A	02-337	26 IR 2040	
326 IAC 8-9-6				*ERR (26 IR 1568)
	A	02-337	26 IR 2042	
326 IAC 8-10-5				*ERR (26 IR 1568)
326 IAC 8-10-6				*ERR (26 IR 1568)
326 IAC 8-10-7				*ERR (26 IR 1568)
	A	02-337	26 IR 2044	
326 IAC 8-11-2				*ERR (26 IR 1568)
	A	02-337	26 IR 2044	
326 IAC 8-11-3				*ERR (26 IR 1568)
326 IAC 8-11-6				*ERR (26 IR 1568)
	A	02-337	26 IR 2046	
326 IAC 8-11-7				*ERR (26 IR 1569)
	A	02-337	26 IR 2050	
326 IAC 8-12-3				*ERR (26 IR 1569)
	A	02-337	26 IR 2050	
326 IAC 8-12-5				*ERR (26 IR 1569)
	A	02-337	26 IR 2052	
326 IAC 8-12-6				*ERR (26 IR 1565)
	A	02-337	26 IR 2053	
326 IAC 8-12-7	A	02-337	26 IR 2054	
326 IAC 8-13-5				*ERR (26 IR 1569)
	A	02-337	26 IR 2055	
326 IAC 9-1-1	A	00-44	24 IR 2777	*CPH (25 IR 2542)
				*CPH (25 IR 3208)
				26 IR 1072
326 IAC 9-1-2	A	00-44	24 IR 2777	*CPH (25 IR 2542)
				*CPH (25 IR 3208)
				26 IR 1072
326 IAC 10-1-2				*ERR (26 IR 1569)
	A	02-337	26 IR 2056	
326 IAC 10-1-4				*ERR (26 IR 1569)
	A	02-337	26 IR 2057	
326 IAC 10-1-5				*ERR (26 IR 1569)
	A	02-337	26 IR 2059	
326 IAC 10-1-6				*ERR (26 IR 1569)
	A	02-337	26 IR 2059	
326 IAC 10-3-1	A	02-54	26 IR 1134	*CPH (26 IR 2391)
				26 IR 3550
326 IAC 10-3-3				*ERR (26 IR 1569)
326 IAC 10-4-1	A	02-54	26 IR 1134	*CPH (26 IR 2391)
				26 IR 3551
326 IAC 10-4-2	A	02-54	26 IR 1136	*CPH (26 IR 2391)
				26 IR 3552
326 IAC 10-4-3				*ERR (26 IR 1569)
326 IAC 10-4-4				*ERR (26 IR 1569)
326 IAC 10-4-8				*ERR (26 IR 1569)
326 IAC 10-4-9	A	02-54	26 IR 1142	*CPH (26 IR 2391)
				26 IR 3558
326 IAC 10-4-10	A	02-54	26 IR 1148	*CPH (26 IR 2391)
				26 IR 3565
326 IAC 10-4-12				*ERR (26 IR 1569)
326 IAC 10-4-13	A	02-54	26 IR 1152	*CPH (26 IR 2391)
				26 IR 3568
326 IAC 10-4-14	A	02-54	26 IR 1155	*CPH (26 IR 2391)
				26 IR 3572
326 IAC 10-4-15	A	02-54	26 IR 1156	*CPH (26 IR 2391)
				26 IR 3572
326 IAC 11-3-4				*ERR (26 IR 1569)
	A	01-407	26 IR 2060	*CPH (26 IR 2391)
326 IAC 11-4-5	A	00-43	25 IR 2285	**26 IR 10**
326 IAC 11-5	R	99-177	25 IR 1984	**26 IR 10**
326 IAC 11-7-1	A	02-337	26 IR 2061	
326 IAC 13-1.1-1				*ERR (26 IR 1570)
	A	02-337	26 IR 2062	
326 IAC 13-1.1-8				*ERR (26 IR 1570)
	A	02-337	26 IR 2063	
326 IAC 13-1.1-10				*ERR (26 IR 1570)
	A	02-337	26 IR 2063	
326 IAC 13-1.1-13				*ERR (26 IR 1570)
	A	02-337	26 IR 2064	
326 IAC 13-1.1-14				*ERR (26 IR 1570)
	A	02-337	26 IR 2065	
326 IAC 13-1.1-16				*ERR (26 IR 1570)
	A	02-337	26 IR 2066	
326 IAC 13-2.1-3				*ERR (26 IR 1570)
326 IAC 13-3-1	A	02-88	25 IR 3242	**26 IR 1079**
326 IAC 13-3-2				*ERR (26 IR 1570)
326 IAC 13-3-5				*ERR (26 IR 1570)
326 IAC 13-3-6				*ERR (26 IR 1570)
326 IAC 14-1-1	A	02-337	26 IR 2066	
326 IAC 14-1-2	A	02-337	26 IR 2067	
326 IAC 14-1-4	R	02-337	26 IR 2099	
326 IAC 14-3-1				*ERR (26 IR 1570)
	A	02-337	26 IR 2067	
326 IAC 14-4-1				*ERR (26 IR 1571)
	A	02-337	26 IR 2067	
326 IAC 14-5-1				*ERR (26 IR 1571)
	A	02-337	26 IR 2068	
326 IAC 14-6-1				*ERR (26 IR 1571)
326 IAC 14-7-1				*ERR (26 IR 1571)
	A	02-337	26 IR 2068	
326 IAC 14-8-1	A	02-337	26 IR 2068	
326 IAC 14-8-3	A	02-337	26 IR 2069	
326 IAC 14-8-4	A	02-337	26 IR 2069	
326 IAC 14-8-5	A	02-337	26 IR 2069	
326 IAC 14-9-5	A	02-337	26 IR 2070	
326 IAC 14-9-7				*ERR (26 IR 1571)
326 IAC 14-9-8	A	02-337	26 IR 2071	
326 IAC 14-9-9				*ERR (26 IR 1571)
	A	02-337	26 IR 2071	

326 IAC 14-10-1				*ERR (26 IR 1571)
	A	02-337	26 IR 2072	
326 IAC 14-10-2				*ERR (26 IR 1571)
	A	02-337	26 IR 2074	
326 IAC 14-10-3				*ERR (26 IR 1571)
	A	02-337	26 IR 2076	
326 IAC 14-10-4				*ERR (26 IR 1571)
	A	02-337	26 IR 2078	
326 IAC 15-1-2				*ERR (26 IR 1565)
	A	02-337	26 IR 2080	
326 IAC 15-1-4				*ERR (26 IR 1571)
	A	02-337	26 IR 2083	
326 IAC 16-2-3				*ERR (26 IR 1571)
326 IAC 16-3-1				*ERR (26 IR 1571)
	A	02-337	26 IR 2084	
326 IAC 18-1-2				*ERR (26 IR 1572)
	A	02-337	26 IR 2084	
326 IAC 18-1-5				*ERR (26 IR 1572)
	A	02-337	26 IR 2086	
326 IAC 18-1-7				*ERR (26 IR 1572)
	A	02-337	26 IR 2087	
326 IAC 18-1-8	A	02-337	26 IR 2088	
326 IAC 18-2-2				*ERR (26 IR 1572)
	A	02-337	26 IR 2088	
326 IAC 18-2-3				*ERR (26 IR 1572)
	A	02-337	26 IR 2090	
326 IAC 18-2-6	A	02-337	26 IR 2096	
326 IAC 18-2-7	A	02-337	26 IR 2097	
326 IAC 19-1	R	00-44	24 IR 2791	*CPH (25 IR 2542)
				*CPH (25 IR 3208)
				26 IR 1073
326 IAC 20-25-1	A	02-55	26 IR 92	*CPH (26 IR 811)
				26 IR 2607
326 IAC 20-25-3	A	02-55	26 IR 92	*CPH (26 IR 811)
				26 IR 2607
326 IAC 20-25-4	A	02-55	26 IR 94	*CPH (26 IR 811)
				26 IR 2609
326 IAC 20-25-5	A	02-55	26 IR 94	*CPH (26 IR 811)
				26 IR 2610
326 IAC 20-25-7	A	02-55	26 IR 95	*CPH (26 IR 811)
				26 IR 2610
326 IAC 20-48	N	02-55	26 IR 95	*CPH (26 IR 811)
				26 IR 2611
326 IAC 20-49	N	02-336	26 IR 3090	
326 IAC 20-50	N	02-336	26 IR 3090	
326 IAC 20-51	N	02-336	26 IR 3090	
326 IAC 20-52	N	02-336	26 IR 3091	
326 IAC 20-53	N	02-336	26 IR 3091	
326 IAC 20-54	N	02-336	26 IR 3091	
326 IAC 20-55	N	02-336	26 IR 3091	
326 IAC 22-1-1				*ERR (26 IR 1572)
	A	02-337	26 IR 2098	
326 IAC 23-1-4	A	02-189	26 IR 2407	
326 IAC 23-1-5	A	02-189	26 IR 2408	
326 IAC 23-1-5.5	N	02-189	26 IR 2408	
326 IAC 23-1-6.5	N	02-189	26 IR 2408	
326 IAC 23-1-7.5	N	02-189	26 IR 2408	
326 IAC 23-1-7.6	N	02-189	26 IR 2408	
326 IAC 23-1-9	A	02-189	26 IR 2408	
326 IAC 23-1-10	A	02-189	26 IR 2409	
326 IAC 23-1-11	A	02-189	26 IR 2409	
326 IAC 23-1-11.5	N	02-189	26 IR 2409	
326 IAC 23-1-12.5	N	02-189	26 IR 2409	
326 IAC 23-1-17	A	02-189	26 IR 2409	
326 IAC 23-1-21	A	02-189	26 IR 2410	
326 IAC 23-1-21.5	N	02-189	26 IR 2410	
326 IAC 23-1-22	R	02-189	26 IR 2437	
326 IAC 23-1-23	R	02-189	26 IR 2437	
326 IAC 23-1-26.5	N	02-189	26 IR 2410	
326 IAC 23-1-27	A	02-189	26 IR 2410	
326 IAC 23-1-27.5	N	02-189	26 IR 2410	
326 IAC 23-1-31	A	02-337	26 IR 2099	
326 IAC 23-1-32.1	N	02-189	26 IR 2410	
326 IAC 23-1-32.2	N	02-189	26 IR 2411	
326 IAC 23-1-34	A	02-189	26 IR 2411	
326 IAC 23-1-34.5	N	02-189	26 IR 2411	
326 IAC 23-1-34.8	N	02-189	26 IR 2411	
326 IAC 23-1-37	R	02-189	26 IR 2437	
326 IAC 23-1-40	R	02-189	26 IR 2437	
326 IAC 23-1-42	R	02-189	26 IR 2437	
326 IAC 23-1-43	R	02-189	26 IR 2437	
326 IAC 23-1-44	R	02-189	26 IR 2437	
326 IAC 23-1-45	R	02-189	26 IR 2437	
326 IAC 23-1-46	R	02-189	26 IR 2437	
326 IAC 23-1-47	R	02-189	26 IR 2437	
326 IAC 23-1-48.5	N	02-189	26 IR 2411	
326 IAC 23-1-52	A	02-189	26 IR 2411	
326 IAC 23-1-52.5	N	02-189	26 IR 2411	
326 IAC 23-1-54.5	N	02-189	26 IR 2412	
326 IAC 23-1-55.5	N	02-189	26 IR 2412	
326 IAC 23-1-58.5	N	02-189	26 IR 2412	
326 IAC 23-1-58.7	N	02-189	26 IR 2412	
326 IAC 23-1-60.1	N	02-189	26 IR 2412	
326 IAC 23-1-60.5	N	02-189	26 IR 2412	
326 IAC 23-1-60.6	N	02-189	26 IR 2413	
326 IAC 23-1-61.5	N	02-189	26 IR 2413	
326 IAC 23-1-62.5	N	02-189	26 IR 2413	
326 IAC 23-1-62.6	N	02-189	26 IR 2413	
326 IAC 23-1-63	A	02-189	26 IR 2413	
326 IAC 23-1-64	A	02-189	26 IR 2414	
326 IAC 23-1-69.5	N	02-189	26 IR 2414	
326 IAC 23-1-69.6	N	02-189	26 IR 2414	
326 IAC 23-1-69.7	N	02-189	26 IR 2414	
326 IAC 23-1-71	N	02-189	26 IR 2414	
326 IAC 23-2-1	A	02-189	26 IR 2414	
326 IAC 23-2-3	A	02-189	26 IR 2415	
326 IAC 23-2-4	A	02-189	26 IR 2416	
326 IAC 23-2-5	A	02-189	26 IR 2418	
326 IAC 23-2-6	A	02-189	26 IR 2419	
326 IAC 23-2-6.5	N	02-189	26 IR 2419	
326 IAC 23-2-7	A	02-189	26 IR 2420	
326 IAC 23-2-8	A	02-189	26 IR 2421	
326 IAC 23-2-9	A	02-189	26 IR 2422	
326 IAC 23-3-1	A	02-189	26 IR 2422	
326 IAC 23-3-2	A	02-189	26 IR 2422	
326 IAC 23-3-3	A	02-189	26 IR 2423	
326 IAC 23-3-5	A	02-189	26 IR 2426	
326 IAC 23-3-7	A	02-189	26 IR 2426	
326 IAC 23-3-11	A	02-189	26 IR 2428	
326 IAC 23-3-12	A	02-189	26 IR 2428	
326 IAC 23-3-13	A	02-189	26 IR 2428	
326 IAC 23-4-1	A	02-189	26 IR 2429	
326 IAC 23-4-2	A	02-189	26 IR 2429	
326 IAC 23-4-3	A	02-189	26 IR 2429	
326 IAC 23-4-4	A	02-189	26 IR 2430	
326 IAC 23-4-5	A	02-189	26 IR 2431	
326 IAC 23-4-6	A	02-189	26 IR 2432	
326 IAC 23-4-7	A	02-189	26 IR 2434	
326 IAC 23-4-9	A	02-189	26 IR 2434	
326 IAC 23-4-11	A	02-189	26 IR 2435	
326 IAC 23-4-12	A	02-189	26 IR 2435	
326 IAC 23-4-13	A	02-189	26 IR 2435	
326 IAC 23-5	N	02-189	26 IR 2436	

TITLE 327 WATER POLLUTION CONTROL BOARD

327 IAC 5-1-1.5	A	02-327	26 IR 3097	*CPH (26 IR 3366)
327 IAC 5-2-9	A	00-136	26 IR 427	**26 IR 2613**
327 IAC 5-2.1	N	00-136	26 IR 427	**26 IR 2613**

327 IAC 5-4-3	A	01-51	26 IR 3698	
327 IAC 5-4-6	A	01-96	26 IR 845	*CPH (26 IR 1113)
				26 IR 3575
327 IAC 6.1-1-1	A	01-238	26 IR 1165	**26 IR 3596**
327 IAC 6.1-1-3	A	01-238	26 IR 1166	**26 IR 3596**
327 IAC 6.1-1-4	A	01-238	26 IR 1166	**26 IR 3597**
327 IAC 6.1-1-5	A	01-238	26 IR 1167	**26 IR 3597**
327 IAC 6.1-1-7	A	01-238	26 IR 1167	**26 IR 3597**
327 IAC 6.1-2-3	A	01-238	26 IR 1167	**26 IR 3597**
327 IAC 6.1-2-6	A	01-238	26 IR 1167	**26 IR 3597**
327 IAC 6.1-2-6.5	N	01-238		**††26 IR 3598**
327 IAC 6.1-2-7	A	01-238	26 IR 1167	**26 IR 3598**
327 IAC 6.1-2-7.5	N	01-238	26 IR 1167	**26 IR 3598**
327 IAC 6.1-2-8	A	01-238	26 IR 1168	**26 IR 3598**
327 IAC 6.1-2-10	R	01-238	26 IR 1201	**26 IR 3632**
327 IAC 6.1-2-12	R	01-238	26 IR 1201	**26 IR 3632**
327 IAC 6.1-2-13	A	01-238	26 IR 1168	**26 IR 3598**
327 IAC 6.1-2-14	A	01-238	26 IR 1168	**26 IR 3599**
327 IAC 6.1-2-20.5	N	01-238	26 IR 1168	**26 IR 3599**
327 IAC 6.1-2-28	A	01-238	26 IR 1169	**26 IR 3599**
327 IAC 6.1-2-30	A	01-238	26 IR 1169	**26 IR 3599**
327 IAC 6.1-2-31.5	N	01-238	26 IR 1169	**26 IR 3599**
327 IAC 6.1-2-35	A	01-238	26 IR 1169	**26 IR 3600**
327 IAC 6.1-2-42	A	01-238	26 IR 1169	**26 IR 3600**
327 IAC 6.1-2-43	A	01-238	26 IR 1170	**26 IR 3600**
327 IAC 6.1-2-54	A	01-238	26 IR 1170	**26 IR 3600**
327 IAC 6.1-2-55	A	01-238	26 IR 1170	**26 IR 3600**
327 IAC 6.1-2-55.3	N	01-238		**††26 IR 3601**
327 IAC 6.1-2-55.5	N	01-238	26 IR 1170	**26 IR 3601**
327 IAC 6.1-2-61	R	01-238	26 IR 1201	**26 IR 3632**
327 IAC 6.1-3-1	A	01-238	26 IR 1170	**26 IR 3601**
327 IAC 6.1-3-2	A	01-238	26 IR 1171	**26 IR 3602**
327 IAC 6.1-3-3	A	01-238	26 IR 1172	**26 IR 3602**
327 IAC 6.1-3-4	A	01-238	26 IR 1172	**26 IR 3602**
327 IAC 6.1-3-7	A	01-238	26 IR 1172	**26 IR 3603**
327 IAC 6.1-3-8	N	01-238	26 IR 1173	**26 IR 3603**
327 IAC 6.1-4-1	A	01-238	26 IR 1173	**26 IR 3604**
327 IAC 6.1-4-3	A	01-238	26 IR 1173	**26 IR 3604**
327 IAC 6.1-4-4	A	01-238	26 IR 1174	**26 IR 3605**
327 IAC 6.1-4-5	A	01-238	26 IR 1175	**26 IR 3605**
327 IAC 6.1-4-5.5	N	01-238	26 IR 1175	**26 IR 3606**
327 IAC 6.1-4-6	A	01-238	26 IR 1176	**26 IR 3607**
327 IAC 6.1-4-7	A	01-238	26 IR 1177	**26 IR 3608**
327 IAC 6.1-4-8	A	01-238	26 IR 1178	**26 IR 3609**
327 IAC 6.1-4-9	A	01-238	26 IR 1179	**26 IR 3610**
327 IAC 6.1-4-10	A	01-238	26 IR 1181	**26 IR 3612**
327 IAC 6.1-4-11	A	01-238	26 IR 1182	**26 IR 3613**
327 IAC 6.1-4-13	A	01-238	26 IR 1182	**26 IR 3613**
327 IAC 6.1-4-16	A	01-238	26 IR 1184	**26 IR 3615**
327 IAC 6.1-4-17	A	01-238	26 IR 1186	**26 IR 3617**
327 IAC 6.1-4-18	A	01-238	26 IR 1187	**26 IR 3618**
327 IAC 6.1-4-19	A	01-238	26 IR 1187	**26 IR 3618**
327 IAC 6.1-5-1	A	01-238	26 IR 1187	**26 IR 3618**
327 IAC 6.1-5-2	A	01-238	26 IR 1187	**26 IR 3618**
327 IAC 6.1-5-3	A	01-238	26 IR 1188	**26 IR 3619**
327 IAC 6.1-5-4	A	01-238	26 IR 1188	**26 IR 3619**
327 IAC 6.1-6-1	A	01-238	26 IR 1189	**26 IR 3620**
327 IAC 6.1-6-2	A	01-238	26 IR 1189	**26 IR 3620**
327 IAC 6.1-6-3	A	01-238	26 IR 1190	**26 IR 3621**
327 IAC 6.1-7-1	A	01-238	26 IR 1191	**26 IR 3622**
327 IAC 6.1-7-2	A	01-238	26 IR 1191	**26 IR 3622**
327 IAC 6.1-7-3	A	01-238	26 IR 1192	**26 IR 3623**
327 IAC 6.1-7-4	A	01-238	26 IR 1193	**26 IR 3624**
327 IAC 6.1-7-5	A	01-238	26 IR 1193	**26 IR 3625**
327 IAC 6.1-7-6	A	01-238	26 IR 1194	**26 IR 3625**
327 IAC 6.1-7-9	A	01-238	26 IR 1195	**26 IR 3626**
327 IAC 6.1-7-10	A	01-238	26 IR 1195	**26 IR 3626**
327 IAC 6.1-7-11	A	01-238	26 IR 1196	**26 IR 3627**
327 IAC 6.1-7.5	N	01-238	26 IR 1197	**26 IR 3628**
327 IAC 6.1-8-1	A	01-238	26 IR 1198	**26 IR 3629**
327 IAC 6.1-8-2	A	01-238	26 IR 1199	**26 IR 3630**
327 IAC 6.1-8-3	A	01-238	26 IR 1199	**26 IR 3630**
327 IAC 6.1-8-4	A	01-238	26 IR 1199	**26 IR 3630**
327 IAC 6.1-8-5	A	01-238	26 IR 1200	**26 IR 3631**
327 IAC 6.1-8-6	A	01-238	26 IR 1200	**26 IR 3631**
327 IAC 6.1-8-7	A	01-238	26 IR 1200	**26 IR 3632**
327 IAC 6.1-8-8	A	01-238	26 IR 1201	**26 IR 3632**
327 IAC 8-2-1	A	01-348	26 IR 101	*CPH (26 IR 812)
				26 IR 2808
327 IAC 8-2-5	A	01-348	26 IR 105	*CPH (26 IR 812)
				26 IR 2812
327 IAC 8-2-5.3	A	01-348	26 IR 107	*CPH (26 IR 812)
				26 IR 2814
327 IAC 8-2-6	R	01-348	26 IR 152	*CPH (26 IR 812)
327 IAC 8-2-8.5	A	01-348	26 IR 109	*CPH (26 IR 812)
				26 IR 2816
327 IAC 8-2-13	A	01-348	26 IR 110	*CPH (26 IR 812)
				26 IR 2817
327 IAC 8-2-29	R	01-348	26 IR 152	*CPH (26 IR 812)
				26 IR 2859
327 IAC 8-2-30	A	01-348	26 IR 110	*CPH (26 IR 812)
				26 IR 2817
327 IAC 8-2-31	A	01-348	26 IR 111	*CPH (26 IR 812)
				26 IR 2818
327 IAC 8-2-48	N	01-348	26 IR 111	*CPH (26 IR 812)
				26 IR 2818
327 IAC 8-2.1-3	A	01-348	26 IR 112	*CPH (26 IR 812)
				26 IR 2818
327 IAC 8-2.1-4	A	01-348	26 IR 114	*CPH (26 IR 812)
				26 IR 2821
327 IAC 8-2.1-6	A	01-348	26 IR 115	*CPH (26 IR 812)
				26 IR 2822
327 IAC 8-2.1-8	A	01-348	26 IR 121	*CPH (26 IR 812)
				26 IR 2828
327 IAC 8-2.1-16	A	01-348	26 IR 122	*CPH (26 IR 812)
				26 IR 2829
327 IAC 8-2.1-17	A	01-348	26 IR 126	*CPH (26 IR 812)
				26 IR 2833
327 IAC 8-2.5	N	01-348	26 IR 133	*CPH (26 IR 812)
				26 IR 2840
327 IAC 8-2.6	N	01-348	26 IR 146	*CPH (26 IR 812)
				26 IR 2854
327 IAC 15-2-3	A	01-95	26 IR 1615	*CPH (26 IR 1961)
				*CPH (26 IR 2392)
				*CPH (26 IR 2645)
327 IAC 15-2-6	A	01-95	26 IR 1615	*CPH (26 IR 1961)
				*CPH (26 IR 2392)
				*CPH (26 IR 2645)
327 IAC 15-2-8	A	01-95	26 IR 1615	*CPH (26 IR 1961)
				*CPH (26 IR 2392)
				*CPH (26 IR 2645)
327 IAC 15-2-9	A	01-95	26 IR 1615	*CPH (26 IR 1961)
				*CPH (26 IR 2392)
				*CPH (26 IR 2645)
327 IAC 15-3-1	A	01-95	26 IR 1616	*CPH (26 IR 1961)
				*CPH (26 IR 2392)
				*CPH (26 IR 2645)
327 IAC 15-3-2	A	01-95	26 IR 1616	*CPH (26 IR 1961)
				*CPH (26 IR 2392)
				*CPH (26 IR 2645)
	A	02-327	26 IR 3098	*CPH (26 IR 3366)
327 IAC 15-3-3	A	01-95	26 IR 1617	*CPH (26 IR 1961)
				*CPH (26 IR 2392)
				*CPH (26 IR 2645)
327 IAC 15-5-1	A	01-95	26 IR 1617	*CPH (26 IR 1961)
				*CPH (26 IR 2392)
				*CPH (26 IR 2645)

327 IAC 15-5-2	A	01-95	26 IR 1617	*CPH (26 IR 1961) *CPH (26 IR 2392) *CPH (26 IR 2645)
327 IAC 15-5-3	A	01-95	26 IR 1618	*CPH (26 IR 1961) *CPH (26 IR 2392) *CPH (26 IR 2645)
327 IAC 15-5-4	A	01-95	26 IR 1619	*CPH (26 IR 1961) *CPH (26 IR 2392) *CPH (26 IR 2645)
327 IAC 15-5-5	A	01-95	26 IR 1620	*CPH (26 IR 1961) *CPH (26 IR 2392) *CPH (26 IR 2645)
327 IAC 15-5-6	A	01-95	26 IR 1621	*CPH (26 IR 1961) *CPH (26 IR 2392) *CPH (26 IR 2645)
327 IAC 15-5-6.5	N	01-95	26 IR 1622	*CPH (26 IR 1961) *CPH (26 IR 2392) *CPH (26 IR 2645)
327 IAC 15-5-7	A	01-95	26 IR 1625	*CPH (26 IR 1961) *CPH (26 IR 2392) *CPH (26 IR 2645)
327 IAC 15-5-7.5	N	01-95	26 IR 1627	*CPH (26 IR 1961) *CPH (26 IR 2392) *CPH (26 IR 2645)
327 IAC 15-5-8	A	01-95	26 IR 1628	*CPH (26 IR 1961) *CPH (26 IR 2392) *CPH (26 IR 2645)
327 IAC 15-5-10	A	01-95	26 IR 1629	*CPH (26 IR 1961) *CPH (26 IR 2392) *CPH (26 IR 2645)
327 IAC 15-5-11	R	01-95	26 IR 1646	*CPH (26 IR 1961) *CPH (26 IR 2392) *CPH (26 IR 2645)
327 IAC 15-5-12	N	01-95	26 IR 1629	*CPH (26 IR 1961) *CPH (26 IR 2392) *CPH (26 IR 2645)
327 IAC 15-6-1	A	01-95	26 IR 1629	*CPH (26 IR 1961) *CPH (26 IR 2392) *CPH (26 IR 2645)
327 IAC 15-6-2	A	01-95	26 IR 1629	*CPH (26 IR 1961) *CPH (26 IR 2392) *CPH (26 IR 2645)
327 IAC 15-6-4	A	01-95	26 IR 1632	*CPH (26 IR 1961) *CPH (26 IR 2392) *CPH (26 IR 2645)
327 IAC 15-6-5	A	01-95	26 IR 1635	*CPH (26 IR 1961) *CPH (26 IR 2392) *CPH (26 IR 2645)
327 IAC 15-6-6	A	01-95	26 IR 1635	*CPH (26 IR 1961) *CPH (26 IR 2392) *CPH (26 IR 2645)
327 IAC 15-6-7	A	01-95	26 IR 1635	*CPH (26 IR 1961) *CPH (26 IR 2392) *CPH (26 IR 2645)
327 IAC 15-6-7.3	N	01-95	26 IR 1641	*CPH (26 IR 1961) *CPH (26 IR 2392) *CPH (26 IR 2645)
327 IAC 15-6-7.5	N	01-95	26 IR 1643	*CPH (26 IR 1961) *CPH (26 IR 2392) *CPH (26 IR 2645)
327 IAC 15-6-8.5	N	01-95	26 IR 1643	*CPH (26 IR 1961) *CPH (26 IR 2392) *CPH (26 IR 2645)
327 IAC 15-6-10	N	01-95	26 IR 1643	*CPH (26 IR 1961) *CPH (26 IR 2392) *CPH (26 IR 2645)
327 IAC 15-6-11	N	01-95	26 IR 1643	*CPH (26 IR 1961) *CPH (26 IR 2392) *CPH (26 IR 2645)
327 IAC 15-6-12	N	01-95	26 IR 1644	*CPH (26 IR 1961) *CPH (26 IR 2392) *CPH (26 IR 2645)
327 IAC 15-13	N	01-96	26 IR 847	*CPH (26 IR 1113) **26 IR 3577**
327 IAC 15-14	N	02-327	26 IR 3098	*CPH (26 IR 3366)
327 IAC 15-15	N	01-51	26 IR 3701	

TITLE 329 SOLID WASTE MANAGEMENT BOARD

329 IAC 3.1-1-7	A	02-235	26 IR 1240	*CPH (26 IR 1962) *CPH (26 IR 2647) *CPH (26 IR 3074) *CPH (26 IR 3367) *CPH (26 IR 3672)
329 IAC 3.1-4-1	A	02-235	26 IR 1240	*CPH (26 IR 1962) *CPH (26 IR 2647) *CPH (26 IR 3074) *CPH (26 IR 3367) *CPH (26 IR 3672)
329 IAC 3.1-7-2	A	02-235	26 IR 1240	*CPH (26 IR 1962) *CPH (26 IR 2647) *CPH (26 IR 3074) *CPH (26 IR 3367) *CPH (26 IR 3672)
329 IAC 3.1-7-15				*ERR (26 IR 3046)
329 IAC 3.1-9-2	A	02-235	26 IR 1241	*CPH (26 IR 1962) *CPH (26 IR 2647) *CPH (26 IR 3074) *CPH (26 IR 3367) *CPH (26 IR 3672)
329 IAC 3.1-10-2	A	02-235	26 IR 1242	*CPH (26 IR 1962) *CPH (26 IR 2647) *CPH (26 IR 3074) *CPH (26 IR 3367) *CPH (26 IR 3672)
329 IAC 3.1-12-2				*ERR (26 IR 3046)
329 IAC 9-1-1	A	01-161	26 IR 1209	*CPH (26 IR 1962) *CPH (26 IR 2646) *CPH (26 IR 3073) *CPH (26 IR 3367) *CPH (26 IR 3671)
329 IAC 9-1-4	A	01-161	26 IR 1209	*CPH (26 IR 1962) *CPH (26 IR 2646) *CPH (26 IR 3073) *CPH (26 IR 3367) *CPH (26 IR 3671)
329 IAC 9-1-10.1	R	01-161	26 IR 1239	*CPH (26 IR 1962) *CPH (26 IR 2646) *CPH (26 IR 3073) *CPH (26 IR 3367) *CPH (26 IR 3671)
329 IAC 9-1-10.2	R	01-161	26 IR 1239	*CPH (26 IR 1962) *CPH (26 IR 2646) *CPH (26 IR 3073) *CPH (26 IR 3367) *CPH (26 IR 3671)
329 IAC 9-1-10.4	N	01-161	26 IR 1209	*CPH (26 IR 1962) *CPH (26 IR 2646) *CPH (26 IR 3073) *CPH (26 IR 3367) *CPH (26 IR 3671)
329 IAC 9-1-10.6	N	01-161	26 IR 1209	*CPH (26 IR 1962) *CPH (26 IR 2646) *CPH (26 IR 3073) *CPH (26 IR 3367) *CPH (26 IR 3671)

329 IAC 9-1-10.8	N	01-161	26 IR 1210	*CPH (26 IR 1962) *CPH (26 IR 2646) *CPH (26 IR 3073) *CPH (26 IR 3367) *CPH (26 IR 3671)
329 IAC 9-1-14	A	01-161	26 IR 1210	*CPH (26 IR 1962) *CPH (26 IR 2646) *CPH (26 IR 3073) *CPH (26 IR 3367) *CPH (26 IR 3671)
329 IAC 9-1-14.1	R	01-161	26 IR 1239	*CPH (26 IR 1962) *CPH (26 IR 2646) *CPH (26 IR 3073) *CPH (26 IR 3367) *CPH (26 IR 3671)
329 IAC 9-1-14.3	N	01-161	26 IR 1210	*CPH (26 IR 1962) *CPH (26 IR 2646) *CPH (26 IR 3073) *CPH (26 IR 3367) *CPH (26 IR 3671)
329 IAC 9-1-14.5	N	01-161	26 IR 1210	*CPH (26 IR 1962) *CPH (26 IR 2646) *CPH (26 IR 3073) *CPH (26 IR 3367) *CPH (26 IR 3671)
329 IAC 9-1-14.7	N	01-161	26 IR 1210	*CPH (26 IR 1962) *CPH (26 IR 2646) *CPH (26 IR 3073) *CPH (26 IR 3367) *CPH (26 IR 3671)
329 IAC 9-1-25	A	01-161	26 IR 1210	*CPH (26 IR 1962) *CPH (26 IR 2646) *CPH (26 IR 3073) *CPH (26 IR 3367) *CPH (26 IR 3671)
329 IAC 9-1-27	A	01-161	26 IR 1210	*CPH (26 IR 1962) *CPH (26 IR 2646) *CPH (26 IR 3073) *CPH (26 IR 3367) *CPH (26 IR 3671)
329 IAC 9-1-29.1	R	01-161	26 IR 1239	*CPH (26 IR 1962) *CPH (26 IR 2646) *CPH (26 IR 3073) *CPH (26 IR 3367) *CPH (26 IR 3671)
329 IAC 9-1-36	A	01-161	26 IR 1210	*CPH (26 IR 1962) *CPH (26 IR 2646) *CPH (26 IR 3073) *CPH (26 IR 3367) *CPH (26 IR 3671)
329 IAC 9-1-39.5	N	01-161	26 IR 1211	*CPH (26 IR 1962) *CPH (26 IR 2646) *CPH (26 IR 3073) *CPH (26 IR 3367) *CPH (26 IR 3671)
329 IAC 9-1-41	R	01-161	26 IR 1239	*CPH (26 IR 1962) *CPH (26 IR 2646) *CPH (26 IR 3073) *CPH (26 IR 3367) *CPH (26 IR 3671)
329 IAC 9-1-41.1	R	01-161	26 IR 1239	*CPH (26 IR 1962) *CPH (26 IR 2646) *CPH (26 IR 3073) *CPH (26 IR 3367) *CPH (26 IR 3671)
329 IAC 9-1-41.5	N	01-161	26 IR 1211	*CPH (26 IR 1962) *CPH (26 IR 2646) *CPH (26 IR 3073) *CPH (26 IR 3367) *CPH (26 IR 3671)
329 IAC 9-1-42.1	R	01-161	26 IR 1239	*CPH (26 IR 1962) *CPH (26 IR 2646) *CPH (26 IR 3073) *CPH (26 IR 3367) *CPH (26 IR 3671)
329 IAC 9-1-47	A	01-161	26 IR 1211	*CPH (26 IR 1962) *CPH (26 IR 2646) *CPH (26 IR 3073) *CPH (26 IR 3367) *CPH (26 IR 3671)
329 IAC 9-1-47.1	A	01-161	26 IR 1211	*CPH (26 IR 1962) *CPH (26 IR 2646) *CPH (26 IR 3073) *CPH (26 IR 3367) *CPH (26 IR 3671)
329 IAC 9-2-1	A	01-161	26 IR 1211	*CPH (26 IR 1962) *CPH (26 IR 2646) *CPH (26 IR 3073) *CPH (26 IR 3367) *CPH (26 IR 3671)
329 IAC 9-2-2	A	01-161	26 IR 1214	*CPH (26 IR 1962) *CPH (26 IR 2646) *CPH (26 IR 3073) *CPH (26 IR 3367) *CPH (26 IR 3671)
329 IAC 9-2.1-1	A	01-161	26 IR 1215	*CPH (26 IR 1962) *CPH (26 IR 2646) *CPH (26 IR 3073) *CPH (26 IR 3367) *CPH (26 IR 3671)
329 IAC 9-3-1	A	01-161	26 IR 1216	*CPH (26 IR 1962) *CPH (26 IR 2646) *CPH (26 IR 3073) *CPH (26 IR 3367) *CPH (26 IR 3671)
329 IAC 9-3-2	N	01-161	26 IR 1218	*CPH (26 IR 1962) *CPH (26 IR 2646) *CPH (26 IR 3073) *CPH (26 IR 3367) *CPH (26 IR 3671)
329 IAC 9-3.1-1	A	01-161	26 IR 1218	*CPH (26 IR 1962) *CPH (26 IR 2646) *CPH (26 IR 3073) *CPH (26 IR 3367) *CPH (26 IR 3671)
329 IAC 9-3.1-2	A	01-161	26 IR 1219	*CPH (26 IR 1962) *CPH (26 IR 2646) *CPH (26 IR 3073) *CPH (26 IR 3367) *CPH (26 IR 3671)
329 IAC 9-3.1-3	A	01-161	26 IR 1219	*CPH (26 IR 1962) *CPH (26 IR 2646) *CPH (26 IR 3073) *CPH (26 IR 3367) *CPH (26 IR 3671)
329 IAC 9-3.1-4	A	01-161	26 IR 1219	*CPH (26 IR 1962) *CPH (26 IR 2646) *CPH (26 IR 3073) *CPH (26 IR 3367) *CPH (26 IR 3671)
329 IAC 9-4-3	A	01-161	26 IR 1220	*CPH (26 IR 1962) *CPH (26 IR 2646) *CPH (26 IR 3073) *CPH (26 IR 3367) *CPH (26 IR 3671)
329 IAC 9-4-4	A	01-161	26 IR 1221	*CPH (26 IR 1962) *CPH (26 IR 2646) *CPH (26 IR 3073) *CPH (26 IR 3367) *CPH (26 IR 3671)

329 IAC 9-5-1	A	01-161	26 IR 1221	*CPH (26 IR 1962) *CPH (26 IR 2646) *CPH (26 IR 3073) *CPH (26 IR 3367) *CPH (26 IR 3671)
329 IAC 9-5-2	A	01-161	26 IR 1223	*CPH (26 IR 1962) *CPH (26 IR 2646) *CPH (26 IR 3073) *CPH (26 IR 3367) *CPH (26 IR 3671)
329 IAC 9-5-3.1	R	01-161	26 IR 1239	*CPH (26 IR 1962) *CPH (26 IR 2646) *CPH (26 IR 3073) *CPH (26 IR 3367) *CPH (26 IR 3671)
329 IAC 9-5-3.2	N	01-161	26 IR 1223	*CPH (26 IR 1962) *CPH (26 IR 2646) *CPH (26 IR 3073) *CPH (26 IR 3367) *CPH (26 IR 3671)
329 IAC 9-5-4.1	R	01-161	26 IR 1239	*CPH (26 IR 1962) *CPH (26 IR 2646) *CPH (26 IR 3073) *CPH (26 IR 3367) *CPH (26 IR 3671)
329 IAC 9-5-4.2	N	01-161	26 IR 1224	*CPH (26 IR 1962) *CPH (26 IR 2646) *CPH (26 IR 3073) *CPH (26 IR 3367) *CPH (26 IR 3671)
329 IAC 9-5-5.1	A	01-161	26 IR 1224	*CPH (26 IR 1962) *CPH (26 IR 2646) *CPH (26 IR 3073) *CPH (26 IR 3367) *CPH (26 IR 3671)
329 IAC 9-5-6	A	01-161	26 IR 1226	*CPH (26 IR 1962) *CPH (26 IR 2646) *CPH (26 IR 3073) *CPH (26 IR 3367) *CPH (26 IR 3671)
329 IAC 9-5-7	A	01-161	26 IR 1227	*CPH (26 IR 1962) *CPH (26 IR 2646) *CPH (26 IR 3073) *CPH (26 IR 3367) *CPH (26 IR 3671)
329 IAC 9-6-1	A	01-161	26 IR 1229	*CPH (26 IR 1962) *CPH (26 IR 2646) *CPH (26 IR 3073) *CPH (26 IR 3367) *CPH (26 IR 3671)
329 IAC 9-6-2	R	01-161	26 IR 1239	*CPH (26 IR 1962) *CPH (26 IR 2646) *CPH (26 IR 3073) *CPH (26 IR 3367) *CPH (26 IR 3671)
329 IAC 9-6-2.5	N	01-161	26 IR 1230	*CPH (26 IR 1962) *CPH (26 IR 2646) *CPH (26 IR 3073) *CPH (26 IR 3367) *CPH (26 IR 3671)
329 IAC 9-6-3	A	01-161	26 IR 1234	*CPH (26 IR 1962) *CPH (26 IR 2646) *CPH (26 IR 3073) *CPH (26 IR 3367) *CPH (26 IR 3671)
329 IAC 9-6-4	A	01-161	26 IR 1234	*CPH (26 IR 1962) *CPH (26 IR 2646) *CPH (26 IR 3073) *CPH (26 IR 3367) *CPH (26 IR 3671)
329 IAC 9-6-5	A	01-161	26 IR 1235	*CPH (26 IR 1962) *CPH (26 IR 2646) *CPH (26 IR 3073) *CPH (26 IR 3367) *CPH (26 IR 3671)
329 IAC 9-7-1	A	01-161	26 IR 1235	*CPH (26 IR 1962) *CPH (26 IR 2646) *CPH (26 IR 3073) *CPH (26 IR 3367) *CPH (26 IR 3671)
329 IAC 9-7-2	A	01-161	26 IR 1236	*CPH (26 IR 1962) *CPH (26 IR 2646) *CPH (26 IR 3073) *CPH (26 IR 3367) *CPH (26 IR 3671)
329 IAC 9-7-4	A	01-161	26 IR 1237	*CPH (26 IR 1962) *CPH (26 IR 2646) *CPH (26 IR 3073) *CPH (26 IR 3367) *CPH (26 IR 3671)
329 IAC 9-7-6	R	01-161	26 IR 1239	*CPH (26 IR 1962) *CPH (26 IR 2646) *CPH (26 IR 3073) *CPH (26 IR 3367) *CPH (26 IR 3671)
329 IAC 10-1-4	A	00-185	26 IR 432	*CPH (26 IR 2392) *CPH (26 IR 3073) *CPH (26 IR 3366) *CPH (26 IR 3671)
329 IAC 10-1-4.5	N	00-185	26 IR 433	*CPH (26 IR 2392) *CPH (26 IR 3073) *CPH (26 IR 3366) *CPH (26 IR 3671)
329 IAC 10-2-6	R	00-185	26 IR 511	*CPH (26 IR 2392) *CPH (26 IR 3073) *CPH (26 IR 3366) *CPH (26 IR 3671)
329 IAC 10-2-11	A	00-185	26 IR 433	*CPH (26 IR 2392) *CPH (26 IR 3073) *CPH (26 IR 3366) *CPH (26 IR 3671)
329 IAC 10-2-29	R	00-185	26 IR 511	*CPH (26 IR 2392) *CPH (26 IR 3073) *CPH (26 IR 3366) *CPH (26 IR 3671)
329 IAC 10-2-29.5	N	01-288	26 IR 1653	*CPH (26 IR 2647) *CPH (26 IR 3672)
329 IAC 10-2-32	A	01-288	26 IR 1653	*CPH (26 IR 2647) *CPH (26 IR 3672)
329 IAC 10-2-33	R	00-185	26 IR 511	*CPH (26 IR 2392) *CPH (26 IR 3073) *CPH (26 IR 3366) *CPH (26 IR 3671)
329 IAC 10-2-41	A	00-185	26 IR 433	*CPH (26 IR 2392) *CPH (26 IR 3073) *CPH (26 IR 3366) *CPH (26 IR 3671)
329 IAC 10-2-41.1	A	00-185	26 IR 434	*CPH (26 IR 2392) *CPH (26 IR 3073) *CPH (26 IR 3366) *CPH (26 IR 3671)
329 IAC 10-2-53	R	00-185	26 IR 511	*CPH (26 IR 2392) *CPH (26 IR 3073) *CPH (26 IR 3366) *CPH (26 IR 3671)
329 IAC 10-2-60	R	00-185	26 IR 511	*CPH (26 IR 2392) *CPH (26 IR 3073) *CPH (26 IR 3366) *CPH (26 IR 3671)

329 IAC 10-2-63.5	N	00-185	26 IR 434	*CPH (26 IR 2392) *CPH (26 IR 3073) *CPH (26 IR 3366) *CPH (26 IR 3671)
329 IAC 10-2-64	A	00-185	26 IR 434	*CPH (26 IR 2392) *CPH (26 IR 3073) *CPH (26 IR 3366) *CPH (26 IR 3671)
329 IAC 10-2-66.1	N	00-185	26 IR 434	*CPH (26 IR 2392) *CPH (26 IR 3073) *CPH (26 IR 3366) *CPH (26 IR 3671)
329 IAC 10-2-66.2	N	00-185	26 IR 434	*CPH (26 IR 2392) *CPH (26 IR 3073) *CPH (26 IR 3366) *CPH (26 IR 3671)
329 IAC 10-2-66.3	N	00-185	26 IR 434	*CPH (26 IR 2392) *CPH (26 IR 3073) *CPH (26 IR 3366) *CPH (26 IR 3671)
329 IAC 10-2-69	A	00-185	26 IR 435	*CPH (26 IR 2392) *CPH (26 IR 3073) *CPH (26 IR 3366) *CPH (26 IR 3671)
329 IAC 10-2-72.1	A	01-288	26 IR 1654	*CPH (26 IR 2647) *CPH (26 IR 3672)
329 IAC 10-2-74	A	00-185	26 IR 435	*CPH (26 IR 2392) *CPH (26 IR 3073) *CPH (26 IR 3366) *CPH (26 IR 3671)
329 IAC 10-2-75	A	00-185	26 IR 435	*CPH (26 IR 2392) *CPH (26 IR 3073) *CPH (26 IR 3366) *CPH (26 IR 3671)
329 IAC 10-2-75.1	N	00-185	26 IR 435	*CPH (26 IR 2392) *CPH (26 IR 3073) *CPH (26 IR 3366) *CPH (26 IR 3671)
329 IAC 10-2-76	R	00-185	26 IR 511	*CPH (26 IR 2392) *CPH (26 IR 3073) *CPH (26 IR 3366) *CPH (26 IR 3671)
329 IAC 10-2-96	A	00-185	26 IR 435	*CPH (26 IR 2392) *CPH (26 IR 3073) *CPH (26 IR 3366) *CPH (26 IR 3671)
329 IAC 10-2-97.1	A	00-185	26 IR 435	*CPH (26 IR 2392) *CPH (26 IR 3073) *CPH (26 IR 3366) *CPH (26 IR 3671)
329 IAC 10-2-99	A	00-185	26 IR 436	*CPH (26 IR 2392) *CPH (26 IR 3073) *CPH (26 IR 3366) *CPH (26 IR 3671)
329 IAC 10-2-100	A	00-185	26 IR 436	*CPH (26 IR 2392) *CPH (26 IR 3073) *CPH (26 IR 3366) *CPH (26 IR 3671)
329 IAC 10-2-105.3	N	00-185	26 IR 436	*CPH (26 IR 2392) *CPH (26 IR 3073) *CPH (26 IR 3366) *CPH (26 IR 3671)
329 IAC 10-2-106	A	00-185	26 IR 436	*CPH (26 IR 2392) *CPH (26 IR 3366) *CPH (26 IR 3073) *CPH (26 IR 3671)
329 IAC 10-2-109	A	00-185	26 IR 436	*CPH (26 IR 2392) *CPH (26 IR 3073) *CPH (26 IR 3366) *CPH (26 IR 3671)
329 IAC 10-2-111.5	N	00-185	26 IR 436	*CPH (26 IR 2392) *CPH (26 IR 3073) *CPH (26 IR 3366) *CPH (26 IR 3671)
329 IAC 10-2-112	A	00-185	26 IR 436	*CPH (26 IR 2392) *CPH (26 IR 3073) *CPH (26 IR 3366) *CPH (26 IR 3671)
329 IAC 10-2-115	A	01-288	26 IR 1654	*CPH (26 IR 2647) *CPH (26 IR 3672)
329 IAC 10-2-116	A	01-288	26 IR 1654	*CPH (26 IR 2647) *CPH (26 IR 3672)
329 IAC 10-2-117	A	01-288	26 IR 1654	*CPH (26 IR 2647) *CPH (26 IR 3672)
329 IAC 10-2-121.1	A	00-185	26 IR 437	*CPH (26 IR 2392) *CPH (26 IR 3073) *CPH (26 IR 3366) *CPH (26 IR 3671)
329 IAC 10-2-127	R	00-185	26 IR 511	*CPH (26 IR 2392) *CPH (26 IR 3073) *CPH (26 IR 3366) *CPH (26 IR 3671)
329 IAC 10-2-128	R	00-185	26 IR 511	*CPH (26 IR 2392) *CPH (26 IR 3073) *CPH (26 IR 3366) *CPH (26 IR 3671)
329 IAC 10-2-130	A	01-288	26 IR 1655	*CPH (26 IR 2647) *CPH (26 IR 3672)
329 IAC 10-2-132.2	N	00-185	26 IR 437	*CPH (26 IR 2392) *CPH (26 IR 3073) *CPH (26 IR 3366) *CPH (26 IR 3671)
329 IAC 10-2-132.3	N	00-185	26 IR 437	*CPH (26 IR 2392) *CPH (26 IR 3073) *CPH (26 IR 3366) *CPH (26 IR 3671)
329 IAC 10-2-135.1	R	01-288	26 IR 1674	*CPH (26 IR 2647) *CPH (26 IR 3672)
329 IAC 10-2-135.5	N	01-288	26 IR 1655	*CPH (26 IR 2647) *CPH (26 IR 3672)
329 IAC 10-2-142.5	N	00-185	26 IR 437	*CPH (26 IR 2392) *CPH (26 IR 3073) *CPH (26 IR 3366) *CPH (26 IR 3671)
329 IAC 10-2-147.2	N	00-185	26 IR 437	*CPH (26 IR 2392) *CPH (26 IR 3073) *CPH (26 IR 3366) *CPH (26 IR 3671)
329 IAC 10-2-149	R	00-185	26 IR 511	*CPH (26 IR 2392) *CPH (26 IR 3073) *CPH (26 IR 3366) *CPH (26 IR 3671)
329 IAC 10-2-158	A	00-185	26 IR 437	*CPH (26 IR 2392) *CPH (26 IR 3073) *CPH (26 IR 3366) *CPH (26 IR 3671)
329 IAC 10-2-165.5	N	00-185	26 IR 438	*CPH (26 IR 2392) *CPH (26 IR 3073) *CPH (26 IR 3366) *CPH (26 IR 3671)
329 IAC 10-2-172.5	N	00-185	26 IR 438	*CPH (26 IR 2392) *CPH (26 IR 3073) *CPH (26 IR 3366) *CPH (26 IR 3671)
329 IAC 10-2-174	A	01-288	26 IR 1655	*CPH (26 IR 2647) *CPH (26 IR 3672)
329 IAC 10-2-177	R	00-185	26 IR 511	*CPH (26 IR 2392) *CPH (26 IR 3073) *CPH (26 IR 3366) *CPH (26 IR 3671)

329 IAC 10-2-179	R	01-288	26 IR 1674	*CPH (26 IR 2647) *CPH (26 IR 3672)
329 IAC 10-2-181.2	N	00-185	26 IR 438	*CPH (26 IR 2392) *CPH (26 IR 3073) *CPH (26 IR 3366) *CPH (26 IR 3671)
329 IAC 10-2-181.5	N	00-185	26 IR 438	*CPH (26 IR 2392) *CPH (26 IR 3073) *CPH (26 IR 3366) *CPH (26 IR 3671)
329 IAC 10-2-181.6	N	00-185	26 IR 438	*CPH (26 IR 2392) *CPH (26 IR 3073) *CPH (26 IR 3366) *CPH (26 IR 3671)
329 IAC 10-2-187.5	N	00-185	26 IR 438	*CPH (26 IR 2392) *CPH (26 IR 3073) *CPH (26 IR 3366) *CPH (26 IR 3671)
329 IAC 10-2-197.1	A	01-288	26 IR 1656	*CPH (26 IR 2647) *CPH (26 IR 3672)
329 IAC 10-2-199.1	R	01-288	26 IR 1674	*CPH (26 IR 2647) *CPH (26 IR 3672)
329 IAC 10-2-201.1	R	01-288	26 IR 1674	*CPH (26 IR 2647) *CPH (26 IR 3672)
329 IAC 10-2-203	R	00-185	26 IR 511	*CPH (26 IR 2392) *CPH (26 IR 3073) *CPH (26 IR 3366) *CPH (26 IR 3671)
329 IAC 10-2-205	R	00-185	26 IR 511	*CPH (26 IR 2392) *CPH (26 IR 3073) *CPH (26 IR 3366) *CPH (26 IR 3671)
329 IAC 10-3-1	A	00-185	26 IR 438	*CPH (26 IR 2392) *CPH (26 IR 3073) *CPH (26 IR 3366) *CPH (26 IR 3671)
329 IAC 10-3-2	A	00-185	26 IR 439	*CPH (26 IR 2392) *CPH (26 IR 3073) *CPH (26 IR 3366) *CPH (26 IR 3671)
329 IAC 10-3-3	A	00-185	26 IR 439	*CPH (26 IR 2392) *CPH (26 IR 3073) *CPH (26 IR 3366) *CPH (26 IR 3671)
329 IAC 10-5-1	A	01-288	26 IR 1656	*CPH (26 IR 2647) *CPH (26 IR 3672)
329 IAC 10-6-4	A	00-185	26 IR 440	*CPH (26 IR 2392) *CPH (26 IR 3073) *CPH (26 IR 3366) *CPH (26 IR 3671)
329 IAC 10-7.1	R	01-288	26 IR 1674	*CPH (26 IR 2647) *CPH (26 IR 3672)
329 IAC 10-7.2	N	01-288	26 IR 1656	*CPH (26 IR 2647) *CPH (26 IR 3672)
329 IAC 10-8.1	R	01-288	26 IR 1674	*CPH (26 IR 2647) *CPH (26 IR 3672)
329 IAC 10-8.2	N	01-288	26 IR 1657	*CPH (26 IR 2647) *CPH (26 IR 3672)
329 IAC 10-9-2	A	01-288	26 IR 1659	*CPH (26 IR 2647) *CPH (26 IR 3672)
329 IAC 10-9-4	A	01-288	26 IR 1659	*CPH (26 IR 2647) *CPH (26 IR 3672)
329 IAC 10-10-1	A	00-185	26 IR 440	*CPH (26 IR 2392) *CPH (26 IR 3073) *CPH (26 IR 3366) *CPH (26 IR 3671)
329 IAC 10-10-2	A	00-185	26 IR 440	*CPH (26 IR 2392) *CPH (26 IR 3073) *CPH (26 IR 3366) *CPH (26 IR 3671)
329 IAC 10-11-2.1	A	00-185	26 IR 440	*CPH (26 IR 2392) *CPH (26 IR 3073) *CPH (26 IR 3366) *CPH (26 IR 3671)
329 IAC 10-11-2.5	A	00-185	26 IR 441	*CPH (26 IR 2392) *CPH (26 IR 3073) *CPH (26 IR 3366) *CPH (26 IR 3671)
329 IAC 10-11-5.1	A	00-185	26 IR 443	*CPH (26 IR 2392) *CPH (26 IR 3073) *CPH (26 IR 3366) *CPH (26 IR 3671)
329 IAC 10-11-6	A	00-185	26 IR 443	*CPH (26 IR 2392) *CPH (26 IR 3073) *CPH (26 IR 3366) *CPH (26 IR 3671)
329 IAC 10-12-1	A	00-185	26 IR 443	*CPH (26 IR 2392) *CPH (26 IR 3073) *CPH (26 IR 3366) *CPH (26 IR 3671)
329 IAC 10-13-1	A	00-185	26 IR 445	*CPH (26 IR 2392) *CPH (26 IR 3073) *CPH (26 IR 3366) *CPH (26 IR 3671)
329 IAC 10-13-5	A	00-185	26 IR 445	*CPH (26 IR 2392) *CPH (26 IR 3073) *CPH (26 IR 3366) *CPH (26 IR 3671)
329 IAC 10-13-6	A	00-185	26 IR 446	*CPH (26 IR 2392) *CPH (26 IR 3073) *CPH (26 IR 3366) *CPH (26 IR 3671)
329 IAC 10-14-1	A	00-185	26 IR 446	*CPH (26 IR 2392) *CPH (26 IR 3073) *CPH (26 IR 3366) *CPH (26 IR 3671)
329 IAC 10-14-2	A	01-288	26 IR 1661	*CPH (26 IR 2647) *CPH (26 IR 3672)
329 IAC 10-15-1	A	00-185	26 IR 447	*CPH (26 IR 2392) *CPH (26 IR 3073) *CPH (26 IR 3366) *CPH (26 IR 3671)
329 IAC 10-15-2	A	00-185	26 IR 448	*CPH (26 IR 2392) *CPH (26 IR 3073) *CPH (26 IR 3366) *CPH (26 IR 3671)
329 IAC 10-15-5	A	00-185	26 IR 449	*CPH (26 IR 2392) *CPH (26 IR 3073) *CPH (26 IR 3366) *CPH (26 IR 3671)
329 IAC 10-15-8	A	00-185	26 IR 450	*CPH (26 IR 2392) *CPH (26 IR 3073) *CPH (26 IR 3366) *CPH (26 IR 3671)
329 IAC 10-15-12	N	00-185	26 IR 451	*CPH (26 IR 2392) *CPH (26 IR 3073) *CPH (26 IR 3366) *CPH (26 IR 3671)
329 IAC 10-16-1	A	00-185	26 IR 452	*CPH (26 IR 2392) *CPH (26 IR 3073) *CPH (26 IR 3366) *CPH (26 IR 3671)
329 IAC 10-16-8	A	00-185	26 IR 453	*CPH (26 IR 2392) *CPH (26 IR 3073) *CPH (26 IR 3366) *CPH (26 IR 3671)
329 IAC 10-16-12				*ERR (26 IR 3046)
329 IAC 10-17-2	A	00-185	26 IR 453	*CPH (26 IR 2392) *CPH (26 IR 3073) *CPH (26 IR 3366) *CPH (26 IR 3671)

329 IAC 10-17-7	A	00-185	26 IR 454	*CPH (26 IR 2392) *CPH (26 IR 3073) *CPH (26 IR 3366) *CPH (26 IR 3671)
329 IAC 10-17-9	A	00-185	26 IR 456	*CPH (26 IR 2392) *CPH (26 IR 3073) *CPH (26 IR 3366) *CPH (26 IR 3671)
329 IAC 10-17-12	A	00-185	26 IR 457	*CPH (26 IR 2392) *CPH (26 IR 3073) *CPH (26 IR 3366) *CPH (26 IR 3671)
329 IAC 10-17-18	A	00-185	26 IR 458	*CPH (26 IR 2392) *CPH (26 IR 3073) *CPH (26 IR 3366) *CPH (26 IR 3671)
329 IAC 10-19-1	A	00-185	26 IR 458	*CPH (26 IR 2392) *CPH (26 IR 3073) *CPH (26 IR 3366) *CPH (26 IR 3671)
329 IAC 10-20-3	A	00-185	26 IR 459	*CPH (26 IR 2392) *CPH (26 IR 3073) *CPH (26 IR 3366) *CPH (26 IR 3671)
329 IAC 10-20-8	A	00-185	26 IR 460	*CPH (26 IR 2392) *CPH (26 IR 3073) *CPH (26 IR 3366) *CPH (26 IR 3671)
329 IAC 10-20-11	A	00-185	26 IR 461	*CPH (26 IR 2392) *CPH (26 IR 3073) *CPH (26 IR 3366) *CPH (26 IR 3671)
329 IAC 10-20-12	A	00-185	26 IR 462	*CPH (26 IR 2392) *CPH (26 IR 3073) *CPH (26 IR 3366) *CPH (26 IR 3671)
329 IAC 10-20-13	A	00-185	26 IR 463	*CPH (26 IR 2392) *CPH (26 IR 3073) *CPH (26 IR 3366) *CPH (26 IR 3671)
329 IAC 10-20-14.1	A	01-288	26 IR 1662	*CPH (26 IR 2647) *CPH (26 IR 3672)
329 IAC 10-20-20	A	00-185	26 IR 463	*CPH (26 IR 2392) *CPH (26 IR 3073) *CPH (26 IR 3366) *CPH (26 IR 3671)
329 IAC 10-20-24	A	00-185	26 IR 464	*CPH (26 IR 2392) *CPH (26 IR 3073) *CPH (26 IR 3366) *CPH (26 IR 3671)
329 IAC 10-20-26	A	00-185	26 IR 464	*CPH (26 IR 2392) *CPH (26 IR 3073) *CPH (26 IR 3366) *CPH (26 IR 3671)
329 IAC 10-20-28	A	00-185	26 IR 464	*CPH (26 IR 2392) *CPH (26 IR 3073) *CPH (26 IR 3366) *CPH (26 IR 3671)
329 IAC 10-20-29	R	01-288	26 IR 1674	*CPH (26 IR 2647) *CPH (26 IR 3672)
329 IAC 10-21-1	A	00-185	26 IR 465	*CPH (26 IR 2392) *CPH (26 IR 3073) *CPH (26 IR 3366) *CPH (26 IR 3671)
329 IAC 10-21-2	A	00-185	26 IR 468	*CPH (26 IR 2392) *CPH (26 IR 3073) *CPH (26 IR 3366) *CPH (26 IR 3671)
329 IAC 10-21-4	A	00-185	26 IR 474	*CPH (26 IR 2392) *CPH (26 IR 3073) *CPH (26 IR 3366) *CPH (26 IR 3671)
329 IAC 10-21-6	A	00-185	26 IR 477	*CPH (26 IR 2392) *CPH (26 IR 3073) *CPH (26 IR 3366) *CPH (26 IR 3671)
329 IAC 10-21-7	A	00-185	26 IR 479	*CPH (26 IR 2392) *CPH (26 IR 3073) *CPH (26 IR 3366) *CPH (26 IR 3671)
329 IAC 10-21-8	A	00-185	26 IR 480	*CPH (26 IR 2392) *CPH (26 IR 3073) *CPH (26 IR 3366) *CPH (26 IR 3671)
329 IAC 10-21-9	A	00-185	26 IR 481	*CPH (26 IR 2392) *CPH (26 IR 3073) *CPH (26 IR 3366) *CPH (26 IR 3671)
329 IAC 10-21-10	A	00-185	26 IR 482	*CPH (26 IR 2392) *CPH (26 IR 3073) *CPH (26 IR 3366) *CPH (26 IR 3671)
329 IAC 10-21-13	A	00-185	26 IR 484	*CPH (26 IR 2392) *CPH (26 IR 3073) *CPH (26 IR 3366) *CPH (26 IR 3671)
329 IAC 10-21-15	A	00-185	26 IR 488	*CPH (26 IR 2392) *CPH (26 IR 3073) *CPH (26 IR 3366) *CPH (26 IR 3671)
329 IAC 10-21-16	A	00-185	26 IR 488	*CPH (26 IR 2392) *CPH (26 IR 3073) *CPH (26 IR 3366) *CPH (26 IR 3671)
329 IAC 10-22-2	A	00-185	26 IR 493	*CPH (26 IR 2392) *CPH (26 IR 3073) *CPH (26 IR 3366) *CPH (26 IR 3671)
329 IAC 10-22-3	A	00-185	26 IR 494	*CPH (26 IR 2392) *CPH (26 IR 3073) *CPH (26 IR 3366) *CPH (26 IR 3671)
329 IAC 10-22-5	A	00-185	26 IR 494	*CPH (26 IR 2392) *CPH (26 IR 3073) *CPH (26 IR 3366) *CPH (26 IR 3671)
329 IAC 10-22-6	A	00-185	26 IR 494	*CPH (26 IR 2392) *CPH (26 IR 3073) *CPH (26 IR 3366) *CPH (26 IR 3671)
329 IAC 10-22-7	A	00-185	26 IR 495	*CPH (26 IR 2392) *CPH (26 IR 3073) *CPH (26 IR 3366) *CPH (26 IR 3671)
329 IAC 10-22-8	A	00-185	26 IR 496	*CPH (26 IR 2392) *CPH (26 IR 3073) *CPH (26 IR 3366) *CPH (26 IR 3671)
329 IAC 10-23-2	A	00-185	26 IR 496	*CPH (26 IR 2392) *CPH (26 IR 3073) *CPH (26 IR 3366) *CPH (26 IR 3671)
329 IAC 10-23-3	A	00-185	26 IR 497	*CPH (26 IR 2392) *CPH (26 IR 3073) *CPH (26 IR 3366) *CPH (26 IR 3671)

329 IAC 10-23-4	A	00-185	26 IR 498	*CPH (26 IR 2392) *CPH (26 IR 3073) *CPH (26 IR 3366) *CPH (26 IR 3671)
329 IAC 10-24-4	A	00-185	26 IR 499	*CPH (26 IR 2392) *CPH (26 IR 3073) *CPH (26 IR 3366) *CPH (26 IR 3671)
329 IAC 10-28-21	R	01-288	26 IR 1674	*CPH (26 IR 2647) *CPH (26 IR 3672)
329 IAC 10-28-24	A	01-288	26 IR 1664	*CPH (26 IR 2647) *CPH (26 IR 3672)
329 IAC 10-29-1	A	00-185	26 IR 499	*CPH (26 IR 2392) *CPH (26 IR 3073) *CPH (26 IR 3366) *CPH (26 IR 3671)
329 IAC 10-30-4	A	00-185	26 IR 500	*CPH (26 IR 2392) *CPH (26 IR 3073) *CPH (26 IR 3366) *CPH (26 IR 3671)
329 IAC 10-36-19	A	01-288	26 IR 1665	*CPH (26 IR 2647) *CPH (26 IR 3672)
329 IAC 10-37-4	A	00-185	26 IR 501	*CPH (26 IR 2392) *CPH (26 IR 3073) *CPH (26 IR 3366) *CPH (26 IR 3671)
329 IAC 10-39-1	A	00-185	26 IR 501	*CPH (26 IR 2392) *CPH (26 IR 3073) *CPH (26 IR 3366) *CPH (26 IR 3671)
329 IAC 10-39-2	A	00-185	26 IR 502	*CPH (26 IR 2392) *CPH (26 IR 3073) *CPH (26 IR 3366) *CPH (26 IR 3671)
329 IAC 10-39-3	A	00-185	26 IR 508	*CPH (26 IR 2392) *CPH (26 IR 3073) *CPH (26 IR 3366) *CPH (26 IR 3671)
329 IAC 10-39-7	A	00-185	26 IR 509	*CPH (26 IR 2392) *CPH (26 IR 3073) *CPH (26 IR 3366) *CPH (26 IR 3671)
329 IAC 10-39-9	A	00-185	26 IR 509	*CPH (26 IR 2392) *CPH (26 IR 3073) *CPH (26 IR 3366) *CPH (26 IR 3671)
329 IAC 10-39-10	A	00-185	26 IR 510	*CPH (26 IR 2392) *CPH (26 IR 3073) *CPH (26 IR 3366) *CPH (26 IR 3671)
329 IAC 11-2-19.5	N	01-288	26 IR 1665	*CPH (26 IR 2647) *CPH (26 IR 3672)
329 IAC 11-2-39	A	01-288	26 IR 1666	*CPH (26 IR 2647) *CPH (26 IR 3672)
329 IAC 11-2-44	R	01-288	26 IR 1674	*CPH (26 IR 2647) *CPH (26 IR 3672)
329 IAC 11-3-2	A	01-288	26 IR 1666	*CPH (26 IR 2647) *CPH (26 IR 3672)
329 IAC 11-6-1	R	01-288	26 IR 1674	*CPH (26 IR 2647) *CPH (26 IR 3672)
329 IAC 11-7	R	01-288	26 IR 1674	*CPH (26 IR 2647) *CPH (26 IR 3672)
329 IAC 11-8-2	A	01-288	26 IR 1666	*CPH (26 IR 2647) *CPH (26 IR 3672)
329 IAC 11-8-2.5	N	01-288	26 IR 1666	*CPH (26 IR 2647) *CPH (26 IR 3672)
329 IAC 11-8-3	A	01-288	26 IR 1667	*CPH (26 IR 2647) *CPH (26 IR 3672)
329 IAC 11-9-6	N	01-288	26 IR 1667	*CPH (26 IR 2647) *CPH (26 IR 3672)
329 IAC 11-13-4	A	01-288	26 IR 1667	*CPH (26 IR 2647) *CPH (26 IR 3672)
329 IAC 11-13-6	A	01-288	26 IR 1668	*CPH (26 IR 2647) *CPH (26 IR 3672)
329 IAC 11-15-1	A	01-288	26 IR 1668	*CPH (26 IR 2647) *CPH (26 IR 3672)
329 IAC 11-19-2	A	01-288	26 IR 1669	*CPH (26 IR 2647) *CPH (26 IR 3672)
329 IAC 11-19-3	A	01-288	26 IR 1670	*CPH (26 IR 2647) *CPH (26 IR 3672)
329 IAC 11-20-1	A	01-288	26 IR 1670	*CPH (26 IR 2647) *CPH (26 IR 3672)
329 IAC 11-21-4	A	01-288	26 IR 1671	*CPH (26 IR 2647) *CPH (26 IR 3672)
329 IAC 11-21-5	A	01-288	26 IR 1671	*CPH (26 IR 2647) *CPH (26 IR 3672)
329 IAC 11-21-6	A	01-288	26 IR 1671	*CPH (26 IR 2647) *CPH (26 IR 3672)
329 IAC 11-21-7	A	01-288	26 IR 1671	*CPH (26 IR 2647) *CPH (26 IR 3672)
329 IAC 11-21-8	A	01-288	26 IR 1672	*CPH (26 IR 2647) *CPH (26 IR 3672)
329 IAC 12-8-4	A	01-288	26 IR 1672	*CPH (26 IR 2647) *CPH (26 IR 3672)
329 IAC 13-3-1	A	01-288	26 IR 1673	*CPH (26 IR 2647) *CPH (26 IR 3672)

TITLE 345 INDIANA STATE BOARD OF ANIMAL HEALTH

345 IAC 1-3-3	A	02-107	25 IR 4170	**26 IR 1523**
345 IAC 1-3-4	A	02-107	25 IR 4171	**26 IR 1524**
345 IAC 1-3-8	R	02-107	25 IR 4182	**26 IR 1535**
345 IAC 1-3-11	A	02-107	25 IR 4171	**26 IR 1524**
345 IAC 1-3-12	A	02-107	25 IR 4172	**26 IR 1525**
345 IAC 1-3-13	A	02-107	25 IR 4172	**26 IR 1525**
345 IAC 1-3-14	A	02-107	25 IR 4173	**26 IR 1526**
345 IAC 1-3-15	A	02-107	25 IR 4173	**26 IR 1527**
345 IAC 1-3-16	R	02-107	25 IR 4182	**26 IR 1535**
345 IAC 1-3-16.5	N	02-107	25 IR 4174	**26 IR 1527**
345 IAC 1-3-22	A	03-9	26 IR 3108	
345 IAC 1-3-30	A	01-413	25 IR 2774	**26 IR 345**
	A	02-323	26 IR 3102	
345 IAC 1-3-31	N	02-323	26 IR 3104	
345 IAC 1-3-32	N	02-323	26 IR 3104	
345 IAC 1-5-1	A	03-9	26 IR 3108	
345 IAC 1-6-2	A	02-323	26 IR 3105	
345 IAC 1-6-3	A	02-323	26 IR 3105	
345 IAC 2-7-1	A	01-413	25 IR 2775	**26 IR 346**
345 IAC 2-7-2.4	N	02-323	26 IR 3106	
345 IAC 2-7-2.5	N	02-323	26 IR 3107	
345 IAC 2-7-3	A	01-413	25 IR 2776	**26 IR 347**
	A	02-323	26 IR 3107	
345 IAC 2-7-4	A	01-413	25 IR 2777	**26 IR 348**
345 IAC 2-7-5	A	01-413	25 IR 2778	**26 IR 349**
345 IAC 3-5.1-1.2	A	02-107	25 IR 4175	**26 IR 1528**
345 IAC 3-5.1-1.5	A	02-107	25 IR 4176	**26 IR 1529**
345 IAC 3-5.1-2	A	02-107	25 IR 4176	**26 IR 1529**
345 IAC 3-5.1-3	A	02-107	25 IR 4176	**26 IR 1530**
345 IAC 3-5.1-3.5	N	02-107	25 IR 4177	**26 IR 1530**
345 IAC 3-5.1-4	A	02-107	25 IR 4177	**26 IR 1530**
345 IAC 3-5.1-6	A	02-107	25 IR 4177	**26 IR 1531**
345 IAC 3-5.1-7	A	02-107	25 IR 4178	**26 IR 1531**
345 IAC 3-5.1-8.5	A	02-107	25 IR 4179	**26 IR 1533**
345 IAC 3-5.1-8.7	A	02-107	25 IR 4180	**26 IR 1533**
345 IAC 3-5.1-8.8	R	02-107	25 IR 4182	**26 IR 1535**
345 IAC 3-5.1-8.9	R	02-107	25 IR 4182	**26 IR 1535**
345 IAC 3-5.1-9	R	02-107	25 IR 4182	**26 IR 1535**
345 IAC 3-5.1-10	A	02-107	25 IR 4181	**26 IR 1535**
345 IAC 3-5.1-12	R	02-107	25 IR 4182	**26 IR 1535**
345 IAC 3-5.1-14	R	02-107	25 IR 4182	**26 IR 1535**

345 IAC 3-5.1-15	R	02-107	25 IR 4182	**26 IR 1535**
345 IAC 7-5-1	A	02-126	25 IR 4182	**26 IR 1535**
345 IAC 7-5-2.1	N	02-126	25 IR 4183	**26 IR 1536**
345 IAC 7-5-2.5	A	02-126	25 IR 4183	**26 IR 1536**
345 IAC 7-5-3	R	02-126	25 IR 4187	**26 IR 1540**
345 IAC 7-5-4	R	02-126	25 IR 4187	**26 IR 1540**
345 IAC 7-5-5	R	02-126	25 IR 4187	**26 IR 1540**
345 IAC 7-5-6	A	02-126	25 IR 4184	**26 IR 1537**
345 IAC 7-5-7	A	02-126	25 IR 4184	**26 IR 1537**
345 IAC 7-5-8	R	02-126	25 IR 4187	**26 IR 1540**
345 IAC 7-5-9	A	02-126	25 IR 4184	**26 IR 1538**
345 IAC 7-5-11	A	02-126	25 IR 4185	**26 IR 1538**
345 IAC 7-5-15.1	A	02-126	25 IR 4185	**26 IR 1539**
345 IAC 7-5-16	R	02-126	25 IR 4187	**26 IR 1540**
345 IAC 7-5-16.1	R	02-126	25 IR 4187	**26 IR 1540**
345 IAC 7-5-21	R	02-126	25 IR 4187	**26 IR 1540**
345 IAC 7-5-22	A	02-126	25 IR 4186	**26 IR 1539**
345 IAC 7-5-24	A	02-126	25 IR 4186	**26 IR 1539**
345 IAC 7-5-25.7	R	02-126	25 IR 4187	**26 IR 1540**
345 IAC 7-5-26	R	02-126	25 IR 4187	**26 IR 1540**
345 IAC 7-5-27	R	02-126	25 IR 4187	**26 IR 1540**
345 IAC 7-5-28	A	02-126	25 IR 4186	**26 IR 1540**
345 IAC 7-7-1.5	N	01-377	25 IR 1991	*ARR (25 IR 3770)
			25 IR 4166	**26 IR 693**
345 IAC 7-7-2	A	01-377	25 IR 1991	*ARR (25 IR 3770)
			25 IR 4166	**26 IR 694**
345 IAC 7-7-3	A	01-377	25 IR 1992	*ARR (25 IR 3770)
			25 IR 4167	**26 IR 694**
345 IAC 7-7-3.5	N	01-377	25 IR 1993	*ARR (25 IR 3770)
			25 IR 4168	**26 IR 695**
345 IAC 7-7-4	A	01-377	25 IR 1993	*ARR (25 IR 3770)
			25 IR 4168	**26 IR 695**
345 IAC 7-7-5	A	01-377	25 IR 1993	*ARR (25 IR 3770)
			25 IR 4168	**26 IR 696**
345 IAC 7-7-6	R	01-377	25 IR 1994	*ARR (25 IR 3770)
			25 IR 4169	**26 IR 696**
345 IAC 7-7-7	A	01-377	25 IR 1994	*ARR (25 IR 3770)
			25 IR 4169	**26 IR 696**
345 IAC 7-7-8	R	01-377	25 IR 1994	*ARR (25 IR 3770)
			25 IR 4169	**26 IR 696**
345 IAC 7-7-9	R	01-377	25 IR 1994	*ARR (25 IR 3770)
			25 IR 4169	**26 IR 696**
345 IAC 7-7-10	A	01-377	25 IR 1994	*ARR (25 IR 3770)
			25 IR 4169	**26 IR 696**
345 IAC 8-2-1.1	A	01-392	25 IR 2758	**26 IR 329**
345 IAC 8-2-1.5	N	01-392	25 IR 2760	**26 IR 331**
345 IAC 8-2-1.7	N	01-392	25 IR 2760	**26 IR 331**
345 IAC 8-2-1.9	N	01-392	25 IR 2761	**26 IR 332**
345 IAC 8-2-2	A	01-392	25 IR 2762	**26 IR 333**
345 IAC 8-2-3	A	01-392	25 IR 2764	**26 IR 335**
345 IAC 8-2-3.5	N	01-392	25 IR 2766	**26 IR 337**
345 IAC 8-2-4	A	01-392	25 IR 2767	**26 IR 338**
345 IAC 8-3-1	A	01-392	25 IR 2769	**26 IR 340**
345 IAC 8-3-2	A	01-392	25 IR 2770	**26 IR 341**
345 IAC 8-3-3	N	01-392	25 IR 2770	
345 IAC 8-3-4	N	01-392	25 IR 2771	
345 IAC 8-3-9	N	01-392		**††26 IR 341**
				*ERR (26 IR 793)
345 IAC 8-3-10	N	01-392		**††26 IR 342**
				*ERR (26 IR 793)
345 IAC 8-4-1	A	01-392	25 IR 2771	**26 IR 342**
345 IAC 9-2.1-1	A	02-127	25 IR 4187	**26 IR 1540**
345 IAC 10-2.1-1	A	02-127	25 IR 4188	**26 IR 1541**

TITLE 357 INDIANA PESTICIDE REVIEW BOARD

357 IAC 1-10	N	02-292	26 IR 1243	**26 IR 2859**
				*AROC (26 IR 3149)
357 IAC 1-11	N	02-332	26 IR 3109	*CPH (26 IR 3673)

TITLE 370 STATE EGG BOARD

370 IAC 1-1-1	A	01-419	26 IR 153	**26 IR 1542**
370 IAC 1-1-2	A	01-419	26 IR 153	**26 IR 1542**
370 IAC 1-1-3	A	01-419	26 IR 153	**26 IR 1542**
370 IAC 1-1-4	A	01-419	26 IR 153	**26 IR 1542**
370 IAC 1-1-5	A	01-419	26 IR 153	**26 IR 1542**
370 IAC 1-2-1	A	01-419	26 IR 154	**26 IR 1543**
370 IAC 1-2-2	A	01-419	26 IR 154	**26 IR 1543**
370 IAC 1-2-3	N	01-419	26 IR 154	**26 IR 1543**
370 IAC 1-3-1	A	01-419	26 IR 154	**26 IR 1543**
370 IAC 1-3-2	A	01-419	26 IR 154	**26 IR 1543**
370 IAC 1-3-3	A	01-419	26 IR 154	**26 IR 1543**
370 IAC 1-3-4	A	01-419	26 IR 155	**26 IR 1544**
370 IAC 1-4-1	A	01-419	26 IR 155	**26 IR 1544**
370 IAC 1-4-2	A	01-419	26 IR 155	**26 IR 1545**
370 IAC 1-4-3	A	01-419	26 IR 156	**26 IR 1545**
370 IAC 1-5-1	A	01-419	26 IR 156	**26 IR 1545**
370 IAC 1-6-1	A	01-419	26 IR 156	**26 IR 1545**
370 IAC 1-8-1	A	01-419	26 IR 156	**26 IR 1545**
370 IAC 1-9-1	A	01-419	26 IR 156	**26 IR 1545**
370 IAC 1-10-1	A	01-419	26 IR 156	**26 IR 1546**
370 IAC 1-10-2	A	01-419	26 IR 157	**26 IR 1546**

TITLE 405 OFFICE OF THE SECRETARY OF FAMILY AND SOCIAL SERVICES

405 IAC 1-10.5-3	A	03-18	26 IR 3378	
405 IAC 1-12-1	A	02-16	25 IR 2791	*NRA (25 IR 4128)
				26 IR 718
405 IAC 1-12-2	A	02-16	25 IR 2791	*NRA (25 IR 4128)
				26 IR 718
405 IAC 1-12-4	A	02-16	25 IR 2793	*NRA (25 IR 4128)
				26 IR 720
405 IAC 1-12-5	A	02-16	25 IR 2794	*NRA (25 IR 4128)
				26 IR 721
405 IAC 1-12-6	A	02-16	25 IR 2795	*NRA (25 IR 4128)
				26 IR 722
405 IAC 1-12-7	A	02-16	25 IR 2796	*NRA (25 IR 4128)
				26 IR 723
405 IAC 1-12-8	A	02-16	25 IR 2796	*NRA (25 IR 4128)
				26 IR 723
405 IAC 1-12-9	A	02-16	25 IR 2797	*NRA (25 IR 4128)
				26 IR 724
405 IAC 1-12-12	A	02-16	25 IR 2797	*NRA (25 IR 4128)
				26 IR 724
405 IAC 1-12-13	A	02-16	25 IR 2798	*NRA (25 IR 4128)
				26 IR 725
405 IAC 1-12-14	A	02-16	25 IR 2799	*NRA (25 IR 4128)
				26 IR 726
405 IAC 1-12-15	A	02-16	25 IR 2799	*NRA (25 IR 4128)
				26 IR 726
405 IAC 1-12-16	A	02-16	25 IR 2800	*NRA (25 IR 4128)
				26 IR 727
405 IAC 1-12-17	A	02-16	25 IR 2801	*NRA (25 IR 4128)
				26 IR 728
405 IAC 1-12-19	A	02-16	25 IR 2802	*NRA (25 IR 4128)
				26 IR 729
405 IAC 1-12-24	A	02-16	25 IR 2802	*NRA (25 IR 4128)
				26 IR 730
405 IAC 1-12-26	A	02-16	25 IR 2803	*NRA (25 IR 4128)
				26 IR 730
405 IAC 1-14.5-13	A	02-144	25 IR 3826	*NRA (26 IR 415)
				26 IR 1080
405 IAC 1-14.5-14	A	02-144	25 IR 3827	*NRA (26 IR 415)
				26 IR 1081
405 IAC 1-14.5-15	A	02-144	25 IR 3827	*NRA (26 IR 415)
				26 IR 1081
405 IAC 1-14.6-2	A	02-13	25 IR 2779	*NRA (26 IR 61)
				26 IR 707
	A	02-340	26 IR 2099	*NRA (26 IR 3365)
405 IAC 1-14.6-4	A	02-13	25 IR 2782	*NRA (26 IR 61)
				26 IR 709
405 IAC 1-14.6-6	A	02-13	25 IR 2784	*NRA (26 IR 61)
				26 IR 712
	A	02-340	26 IR 2102	*NRA (26 IR 3365)

405 IAC 1-14.6-7	A	02-13	25 IR 2785	*NRA (26 IR 61)
				26 IR 712
				*ERR (26 IR 2375)
	A	02-340	26 IR 2103	*NRA (26 IR 3365)
405 IAC 1-14.6-9	A	02-13	25 IR 2786	*NRA (26 IR 61)
				26 IR 714
	A	02-340	26 IR 2104	*NRA (26 IR 3365)
405 IAC 1-14.6-12	A	02-13	25 IR 2787	*NRA (26 IR 61)
				26 IR 715
405 IAC 1-14.6-16	A	02-13	25 IR 2788	*NRA (26 IR 61)
				26 IR 716
	A	02-340	26 IR 2105	*NRA (26 IR 3365)
405 IAC 1-14.6-22	A	02-13	25 IR 2788	*NRA (26 IR 61)
				26 IR 716
	A	02-340	26 IR 2106	*NRA (26 IR 3365)
405 IAC 1-16-2	A	02-214	26 IR 158	*NRA (2644)
				*AROC (26 IR 2695)
				26 IR 3634
405 IAC 1-16-4	A	02-214	26 IR 159	*NRA (2644)
				*AROC (26 IR 2695)
				26 IR 3635
405 IAC 1-17-1	A	03-61	26 IR 3111	*NRA (26 IR 3670)
405 IAC 1-17-2	A	03-61	26 IR 3111	*NRA (26 IR 3670)
405 IAC 1-17-3	A	03-61	26 IR 3112	*NRA (26 IR 3670)
405 IAC 1-17-4	A	03-61	26 IR 3113	*NRA (26 IR 3670)
405 IAC 1-17-5	A	03-61	26 IR 3113	*NRA (26 IR 3670)
405 IAC 1-17-6	A	03-61	26 IR 3114	*NRA (26 IR 3670)
405 IAC 1-17-7	A	03-61	26 IR 3114	*NRA (26 IR 3670)
405 IAC 1-17-9	A	03-61	26 IR 3115	*NRA (26 IR 3670)
405 IAC 1-18-2	A	02-121	25 IR 3243	*NRA (26 IR 61)
				26 IR 1079
405 IAC 1-18-3	R	02-121	25 IR 3243	*NRA (26 IR 61)
				26 IR 1080
405 IAC 1-19	N	02-184	26 IR 511	*NRA (26 IR 1960)
				26 IR 2865
405 IAC 1-20	N	02-184	26 IR 512	*NRA (26 IR 1960)
				26 IR 2866
405 IAC 2-3-1.2				*ERR (26 IR 35)
405 IAC 2-3-17	A	02-234	26 IR 516	*NRA (26 IR 1960)
				26 IR 2868
405 IAC 2-3-21	A	02-234	26 IR 517	*NRA (26 IR 1960)
				26 IR 2868
405 IAC 2-3-23	N	02-45	25 IR 2555	*NRA (25 IR 3804)
				26 IR 731
405 IAC 2-8-1	A	02-87	25 IR 2804	*NRA (26 IR 61)
				26 IR 731
	A	03-134	26 IR 3706	
405 IAC 2-8-1.1	N	02-87	25 IR 2805	*NRA (26 IR 61)
				26 IR 732
	A	03-134	26 IR 3707	
405 IAC 2-9				*ERR (26 IR 35)
405 IAC 2-10	N	02-145	25 IR 3829	*NRA (26 IR 415)
				26 IR 1547
405 IAC 2-10-3	A	03-134	26 IR 3707	
405 IAC 2-10-7	A	03-134	26 IR 3707	
405 IAC 2-10-7.1	N	03-134	26 IR 3707	
405 IAC 2-10-8	A	03-134	26 IR 3708	
405 IAC 2-10-9	A	03-134	26 IR 3708	
405 IAC 2-10-10	R	03-134	26 IR 3709	
405 IAC 2-10-11	N	03-134	26 IR 3709	
405 IAC 4-1	RA	02-275	26 IR 544	**26 IR 1261**
405 IAC 4-1-1				*ERR (26 IR 383)
405 IAC 5-3-13	A	03-66	26 IR 3381	
405 IAC 5-12-1	A	02-49	25 IR 2555	*AROC (26 IR 884)
				*NRA (26 IR 1960)
				*ARR (26 IR 2625)
				*NRA (2644)
405 IAC 5-12-2	A	02-49	25 IR 2556	*AROC (26 IR 884)
				*NRA (26 IR 1960)
				*ARR (26 IR 2625)
				*NRA (2644)
				26 IR 2861
405 IAC 5-12-3	A	02-49	25 IR 2556	*AROC (26 IR 884)
				*NRA (26 IR 1960)
				*ARR (26 IR 2625)
				*NRA (2644)
				26 IR 2861
405 IAC 5-12-4	R	02-49	25 IR 2556	*AROC (26 IR 884)
				*NRA (26 IR 1960)
				*ARR (26 IR 2625)
				*NRA (2644)
405 IAC 5-12-5	R	02-49	25 IR 2556	*AROC (26 IR 884)
				*NRA (26 IR 1960)
				*ARR (26 IR 2625)
				*NRA (2644)
405 IAC 5-12-6	R	02-49	25 IR 2556	*AROC (26 IR 884)
				*NRA (26 IR 1960)
				*ARR (26 IR 2625)
				*NRA (2644)
				26 IR 2862
405 IAC 5-12-7	A	02-49	25 IR 2556	*AROC (26 IR 884)
				*NRA (26 IR 1960)
				*ARR (26 IR 2625)
				*NRA (2644)
				26 IR 2862
405 IAC 5-14-1	A	02-50	25 IR 2556	*NRA (26 IR 61)
				*ARR (26 IR 384)
				*NRA (26 IR 415)
				26 IR 1546
405 IAC 5-14-2	A	02-140	25 IR 3823	*NRA (26 IR 61)
				*ARR (26 IR 384)
				*NRA (26 IR 809)
				*ARR (26 IR 1573)
				*NRA (26 IR 1960)
				26 IR 2862
	A	02-277	26 IR 864	**26 IR 2862**
405 IAC 5-14-2.5	N	02-140	25 IR 3823	*NRA (26 IR 61)
				*ARR (26 IR 384)
				*NRA (26 IR 809)
				*ARR (26 IR 1573)
				*NRA (26 IR 1960)
405 IAC 5-14-3	A	02-140	25 IR 3824	*NRA (26 IR 61)
				*ARR (26 IR 384)
				*NRA (26 IR 809)
				*ARR (26 IR 1573)
				*NRA (26 IR 1960)
				26 IR 2863
	A	02-277	26 IR 865	**26 IR 2863**
405 IAC 5-14-4	A	02-140	25 IR 3824	*NRA (26 IR 61)
				*ARR (26 IR 384)
				*NRA (26 IR 809)
				*ARR (26 IR 1573)
				*NRA (26 IR 1960)
				26 IR 2863
405 IAC 5-14-6	A	02-140	25 IR 3824	*NRA (26 IR 61)
				*ARR (26 IR 384)
				*NRA (26 IR 809)
				*ARR (26 IR 1573)
				*NRA (26 IR 1960)
				26 IR 2863
	A	02-277	26 IR 865	**26 IR 2863**
405 IAC 5-14-10	R	02-277	26 IR 866	**26 IR 2865**
405 IAC 5-14-11	A	02-277	26 IR 865	**26 IR 2864**
405 IAC 5-14-15	A	02-277	26 IR 865	**26 IR 2864**
405 IAC 5-14-16	A	02-277	26 IR 866	**26 IR 2864**
405 IAC 5-14-17	A	02-277	26 IR 866	**26 IR 2864**

405 IAC 5-14-18	A	02-277	26 IR 866	**26 IR 2864**
405 IAC 5-19-1	A	01-301	25 IR 3811	*NRA (26 IR 809)
				26 IR 1901
405 IAC 5-19-3	A	02-207	26 IR 514	*NRA (2644)
405 IAC 5-21-1	A	03-66	26 IR 3381	
405 IAC 5-21-7	A	03-66	26 IR 3382	
405 IAC 5-21-8	N	03-66	26 IR 3382	
405 IAC 5-24-4				*ERR (26 IR 35)
405 IAC 5-24-7	A	02-141	25 IR 3825	*NRA (26 IR 62)
				26 IR 732
405 IAC 5-24-13	N	02-207	26 IR 515	*NRA (2644)
				26 IR 3633
405 IAC 5-31-4	A	02-207	26 IR 515	*NRA (2644)
				26 IR 3633
405 IAC 5-34-1	A	02-214	26 IR 159	*NRA (2644)
				*AROC (26 IR 2695)
				26 IR 3635
405 IAC 5-34-2	A	02-214	26 IR 159	*NRA (2644)
				*AROC (26 IR 2695)
				26 IR 3635
405 IAC 5-34-3	A	02-214	26 IR 160	*NRA (2644)
				*AROC (26 IR 2695)
				26 IR 3636
405 IAC 5-34-4	A	02-214	26 IR 160	*NRA (2644)
				*AROC (26 IR 2695)
				26 IR 3636
405 IAC 5-34-4.1	N	02-214	26 IR 162	*NRA (2644)
				*AROC (26 IR 2695)
				26 IR 3638
405 IAC 5-34-4.2	N	02-214	26 IR 162	*NRA (2644)
				*AROC (26 IR 2695)
				26 IR 3638
405 IAC 5-34-5	A	02-214	26 IR 162	*NRA (2644)
				*AROC (26 IR 2695)
				26 IR 3638
405 IAC 5-34-6	A	02-214	26 IR 162	*NRA (2644)
				*AROC (26 IR 2695)
				26 IR 3639
405 IAC 5-34-7	A	02-214	26 IR 163	*NRA (2644)
				*AROC (26 IR 2695)
				26 IR 3640
405 IAC 6-2-3	A	01-373	25 IR 3813	*AROC (25 IR 3885)
				*NRA (26 IR 61)
				26 IR 697
405 IAC 6-2-5	A	01-373	25 IR 3813	*AROC (25 IR 3885)
				*NRA (26 IR 61)
				26 IR 697
405 IAC 6-2-5.3	N	01-373	25 IR 3813	*AROC (25 IR 3885)
				*NRA (26 IR 61)
				26 IR 697
405 IAC 6-2-5.5	N	01-373	25 IR 3813	*AROC (25 IR 3885)
				*NRA (26 IR 61)
				26 IR 697
405 IAC 6-2-9	A	01-373	25 IR 3813	*AROC (25 IR 3885)
				*NRA (26 IR 61)
				26 IR 698
405 IAC 6-2-12	A	01-373	25 IR 3814	*AROC (25 IR 3885)
				*NRA (26 IR 61)
				26 IR 698
405 IAC 6-2-12.5	N	01-373	25 IR 3814	*AROC (25 IR 3885)
				*NRA (26 IR 61)
				26 IR 698
405 IAC 6-2-14	A	01-373	25 IR 3814	*AROC (25 IR 3885)
				*NRA (26 IR 61)
				26 IR 698
405 IAC 6-2-16.5	N	01-373	25 IR 3814	*AROC (25 IR 3885)
				*NRA (26 IR 61)
				26 IR 698
405 IAC 6-2-18	A	01-373	25 IR 3814	*AROC (25 IR 3885)
				*NRA (26 IR 61)
				26 IR 698
405 IAC 6-2-20	A	01-373	25 IR 3814	*AROC (25 IR 3885)
				*NRA (26 IR 61)
				26 IR 698
405 IAC 6-2-20.5	N	01-373	25 IR 3814	*AROC (25 IR 3885)
				*NRA (26 IR 61)
				26 IR 699
405 IAC 6-2-21	A	01-373	25 IR 3815	*AROC (25 IR 3885)
				*NRA (26 IR 61)
				26 IR 699
405 IAC 6-2-22.5	N	01-373	25 IR 3815	*AROC (25 IR 3885)
				*NRA (26 IR 61)
				26 IR 699
405 IAC 6-3-2	A	01-373	25 IR 3815	*AROC (25 IR 3885)
				*NRA (26 IR 61)
				26 IR 699
405 IAC 6-3-3	A	01-373	25 IR 3815	*AROC (25 IR 3885)
				*NRA (26 IR 61)
				26 IR 699
405 IAC 6-4-2	A	01-373	25 IR 3815	*AROC (25 IR 3885)
				*NRA (26 IR 61)
				26 IR 699
405 IAC 6-5-1	A	01-373	25 IR 3816	*AROC (25 IR 3885)
				*NRA (26 IR 61)
				26 IR 700
405 IAC 6-5-2	A	01-373	25 IR 3816	*AROC (25 IR 3885)
				*NRA (26 IR 61)
				26 IR 700
405 IAC 6-5-3	A	01-373	25 IR 3816	*AROC (25 IR 3885)
				*NRA (26 IR 61)
				26 IR 700
405 IAC 6-5-4	A	01-373	25 IR 3816	*AROC (25 IR 3885)
				*NRA (26 IR 61)
				26 IR 701
405 IAC 6-5-5	A	01-373	25 IR 3817	*AROC (25 IR 3885)
				*NRA (26 IR 61)
				26 IR 701
405 IAC 6-5-6	A	01-373	25 IR 3817	*AROC (25 IR 3885)
				*NRA (26 IR 61)
				26 IR 701
405 IAC 6-6-2	A	01-373	25 IR 3817	*AROC (25 IR 3885)
				*NRA (26 IR 61)
				26 IR 701
405 IAC 6-6-3	A	01-373	25 IR 3817	*AROC (25 IR 3885)
				*NRA (26 IR 61)
				26 IR 701
405 IAC 6-6-4	A	01-373	25 IR 3817	*AROC (25 IR 3885)
				*NRA (26 IR 61)
				26 IR 702
405 IAC 6-8	N	01-373	25 IR 3818	*AROC (25 IR 3885)
				*NRA (26 IR 61)
				26 IR 702
405 IAC 6-9	N	01-373	25 IR 3818	*AROC (25 IR 3885)
				*NRA (26 IR 61)
				26 IR 702
405 IAC 7	N	02-234	26 IR 518	*NRA (26 IR 1960)
				26 IR 2869

TITLE 407 OFFICE OF THE CHILDREN'S HEALTH INSURANCE PROGRAM

407 IAC 2-3-1				*ERR (26 IR 383)

TITLE 410 INDIANA STATE DEPARTMENT OF HEALTH

410 IAC 1-2.3-47	A	03-4	26 IR 3131
410 IAC 1-2.3-48	A	03-4	26 IR 3134
410 IAC 1-2.3-97.5	N	03-4	26 IR 3135
410 IAC 3-3-7.1	A	03-19	26 IR 3385

410 IAC 6-2	R	02-142	25 IR 4197	*CPH (26 IR 812)
				*AROC (26 IR 3149)
				26 IR 3334
410 IAC 6-2.1	N	02-142	25 IR 4188	*CPH (26 IR 812)
				*AROC (26 IR 3149)
				26 IR 3325
410 IAC 6-7.1				*ERR (26 IR 36)
410 IAC 6-7.2				*ERR (26 IR 36)
410 IAC 6-7.2-17	A	02-295	26 IR 2662	
410 IAC 6-7.2-29	A	02-295	26 IR 2662	
410 IAC 6-7.2-30	A	02-295	26 IR 2663	
410 IAC 6-8.1	R	02-321	26 IR 3131	*CPH (26 IR 3368)
410 IAC 6-8.2	N	02-321	26 IR 3116	*CPH (26 IR 3368)
410 IAC 6-10	R	02-321	26 IR 3131	*CPH (26 IR 3368)
410 IAC 7-19	R	02-317	26 IR 3385	
410 IAC 7-22	N	02-266	26 IR 1245	**26 IR 3334**
410 IAC 7-23	N	02-317	26 IR 3383	
410 IAC 15-1.5-4	A	02-43	26 IR 164	**26 IR 1550**
410 IAC 15-1.5-5	A	02-43	26 IR 166	**26 IR 1551**
410 IAC 16.2-1-0.5	R	02-89	25 IR 3276	**26 IR 1936**
410 IAC 16.2-1-1	R	02-89	25 IR 3276	**26 IR 1936**
410 IAC 16.2-1-2	R	02-89	25 IR 3276	**26 IR 1936**
410 IAC 16.2-1-2.1	R	02-89	25 IR 3276	**26 IR 1936**
410 IAC 16.2-1-2.2	R	02-89	25 IR 3276	**26 IR 1936**
410 IAC 16.2-1-3	R	02-89	25 IR 3276	**26 IR 1936**
410 IAC 16.2-1-3.5	R	02-89	25 IR 3276	**26 IR 1936**
410 IAC 16.2-1-5	R	02-89	25 IR 3276	**26 IR 1936**
410 IAC 16.2-1-6	R	02-89	25 IR 3276	**26 IR 1936**
410 IAC 16.2-1-6.5	R	02-89	25 IR 3276	**26 IR 1936**
410 IAC 16.2-1-7	R	02-89	25 IR 3276	**26 IR 1936**
410 IAC 16.2-1-8	R	02-89	25 IR 3276	**26 IR 1936**
410 IAC 16.2-1-9	R	02-89	25 IR 3276	**26 IR 1936**
410 IAC 16.2-1-10.1	R	02-89	25 IR 3277	**26 IR 1936**
410 IAC 16.2-1-10.2	R	02-89	25 IR 3277	**26 IR 1936**
410 IAC 16.2-1-11	R	02-89	25 IR 3277	**26 IR 1936**
410 IAC 16.2-1-12.5	R	02-89	25 IR 3277	**26 IR 1936**
410 IAC 16.2-1-14	R	02-89	25 IR 3277	**26 IR 1936**
410 IAC 16.2-1-14.1	R	02-89	25 IR 3277	**26 IR 1936**
410 IAC 16.2-1-14.2	R	02-89	25 IR 3277	**26 IR 1936**
410 IAC 16.2-1-15	R	02-89	25 IR 3277	**26 IR 1936**
410 IAC 16.2-1-15.1	R	02-89	25 IR 3277	**26 IR 1936**
410 IAC 16.2-1-15.2	R	02-89	25 IR 3277	**26 IR 1936**
410 IAC 16.2-1-15.3	R	02-89	25 IR 3277	**26 IR 1936**
410 IAC 16.2-1-16	R	02-89	25 IR 3277	**26 IR 1936**
410 IAC 16.2-1-17	R	02-89	25 IR 3277	**26 IR 1936**
410 IAC 16.2-1-18	R	02-89	25 IR 3277	**26 IR 1936**
410 IAC 16.2-1-18.1	R	02-89	25 IR 3277	**26 IR 1936**
410 IAC 16.2-1-18.2	R	02-89	25 IR 3277	**26 IR 1936**
410 IAC 16.2-1-19	R	02-89	25 IR 3277	**26 IR 1936**
410 IAC 16.2-1-19.1	R	02-89	25 IR 3277	**26 IR 1936**
410 IAC 16.2-1-20	R	02-89	25 IR 3277	**26 IR 1936**
410 IAC 16.2-1-21	R	02-89	25 IR 3277	**26 IR 1936**
410 IAC 16.2-1-22	R	02-89	25 IR 3277	**26 IR 1936**
410 IAC 16.2-1-22.1	R	02-89	25 IR 3277	**26 IR 1936**
410 IAC 16.2-1-22.2	R	02-89	25 IR 3277	**26 IR 1936**
410 IAC 16.2-1-23	R	02-89	25 IR 3277	**26 IR 1936**
410 IAC 16.2-1-24	R	02-89	25 IR 3277	**26 IR 1936**
410 IAC 16.2-1-25	R	02-89	25 IR 3277	**26 IR 1936**
410 IAC 16.2-1-26	R	02-89	25 IR 3277	**26 IR 1936**
410 IAC 16.2-1-26.1	R	02-89	25 IR 3277	**26 IR 1936**
410 IAC 16.2-1-27	R	02-89	25 IR 3277	**26 IR 1936**
410 IAC 16.2-1-27.1	R	02-89	25 IR 3277	**26 IR 1936**
410 IAC 16.2-1-28	R	02-89	25 IR 3277	**26 IR 1936**
410 IAC 16.2-1-29	R	02-89	25 IR 3277	**26 IR 1936**
410 IAC 16.2-1-29.1	R	02-89	25 IR 3277	**26 IR 1936**
410 IAC 16.2-1-30	R	02-89	25 IR 3277	**26 IR 1936**
410 IAC 16.2-1-31	R	02-89	25 IR 3277	**26 IR 1936**
410 IAC 16.2-1-31.1	R	02-89	25 IR 3277	**26 IR 1936**
410 IAC 16.2-1-32	R	02-89	25 IR 3277	**26 IR 1936**
410 IAC 16.2-1-32.1	R	02-89	25 IR 3277	**26 IR 1936**
410 IAC 16.2-1-32.2	R	02-89	25 IR 3277	**26 IR 1936**
410 IAC 16.2-1-33	R	02-89	25 IR 3277	**26 IR 1936**
410 IAC 16.2-1-34	R	02-89	25 IR 3277	**26 IR 1936**
410 IAC 16.2-1-35	R	02-89	25 IR 3277	**26 IR 1936**
410 IAC 16.2-1-36	R	02-89	25 IR 3277	**26 IR 1936**
410 IAC 16.2-1-37	R	02-89	25 IR 3277	**26 IR 1936**
410 IAC 16.2-1-38	R	02-89	25 IR 3277	**26 IR 1936**
410 IAC 16.2-1-39	R	02-89	25 IR 3277	**26 IR 1936**
410 IAC 16.2-1-39.1	R	02-89	25 IR 3277	**26 IR 1936**
410 IAC 16.2-1-41.1	R	02-89	25 IR 3277	**26 IR 1936**
410 IAC 16.2-1-42	R	02-89	25 IR 3277	**26 IR 1936**
410 IAC 16.2-1-44	R	02-89	25 IR 3277	**26 IR 1936**
410 IAC 16.2-1-45	R	02-89	25 IR 3277	**26 IR 1936**
410 IAC 16.2-1-46	R	02-89	25 IR 3277	**26 IR 1936**
410 IAC 16.2-1-47	R	02-89	25 IR 3277	**26 IR 1936**
410 IAC 16.2-1-48	R	02-89	25 IR 3277	**26 IR 1936**
410 IAC 16.2-1.1	N	02-89	25 IR 3244	**26 IR 1902**
410 IAC 16.2-5-0.5	N	02-89	25 IR 3252	**26 IR 1911**
410 IAC 16.2-5-1.1	A	02-89	25 IR 3252	**26 IR 1912**
410 IAC 16.2-5-1.2	A	02-89	25 IR 3254	**26 IR 1914**
410 IAC 16.2-5-1.3	A	02-89	25 IR 3259	**26 IR 1919**
410 IAC 16.2-5-1.4	A	02-89	25 IR 3261	**26 IR 1921**
410 IAC 16.2-5-1.5	A	02-89	25 IR 3263	**26 IR 1923**
410 IAC 16.2-5-1.6	A	02-89	25 IR 3265	**26 IR 1925**
410 IAC 16.2-5-1.7	R	02-89	25 IR 3277	**26 IR 1936**
410 IAC 16.2-5-2	A	02-89	25 IR 3269	**26 IR 1929**
410 IAC 16.2-5-3	R	02-89	25 IR 3277	**26 IR 1936**
410 IAC 16.2-5-4	A	02-89	25 IR 3270	**26 IR 1929**
410 IAC 16.2-5-5	R	02-89	25 IR 3277	**26 IR 1936**
410 IAC 16.2-5-5.1	N	02-89	25 IR 3271	**26 IR 1931**
410 IAC 16.2-5-6	A	02-89	25 IR 3272	**26 IR 1932**
410 IAC 16.2-5-7	R	02-89	25 IR 3277	**26 IR 1936**
410 IAC 16.2-5-7.1	N	02-89	25 IR 3274	**26 IR 1933**
410 IAC 16.2-5-8	R	02-89	25 IR 3277	**26 IR 1936**
410 IAC 16.2-5-8.1	N	02-89	25 IR 3274	**26 IR 1934**
410 IAC 16.2-5-9	R	02-89	25 IR 3277	**26 IR 1936**
410 IAC 16.2-5-10	R	02-89	25 IR 3277	**26 IR 1936**
410 IAC 16.2-5-11	R	02-89	25 IR 3277	**26 IR 1936**
410 IAC 16.2-5-11.1	N	02-89	25 IR 3275	**26 IR 1935**
410 IAC 16.2-5-12	N	02-89	25 IR 3276	**26 IR 1935**

TITLE 412 INDIANA HEALTH FACILITIES COUNCIL

412 IAC 2				*ERR (26 IR 36)
				*ERR (26 IR 1572)
412 IAC 2-1-1	A	02-41	25 IR 4198	**26 IR 1937**
412 IAC 2-1-2.1	N	02-41	25 IR 4198	**26 IR 1937**
				*ERR (26 IR 2375)
412 IAC 2-1-2.2	N	02-41	25 IR 4198	**26 IR 1937**
				*ERR (26 IR 2375)
412 IAC 2-1-6	A	02-41	25 IR 4199	**26 IR 1937**
412 IAC 2-1-8	A	02-41	25 IR 4199	**26 IR 1938**
412 IAC 2-1-10	N	02-41	25 IR 4199	**26 IR 1938**
412 IAC 2-1-11	N	02-41	25 IR 4200	**26 IR 1939**
412 IAC 2-1-12	N	02-41	25 IR 4200	**26 IR 1939**
412 IAC 2-1-13	N	02-41	25 IR 4200	**26 IR 1939**
412 IAC 2-1-14	N	02-41	25 IR 4200	**26 IR 1939**

TITLE 431 COMMUNITY RESIDENTIAL FACILITIES COUNCIL

431 IAC 1.1-1-2				*ERR (26 IR 36)
431 IAC 7	N	02-211	26 IR 2108	**26 IR 3640**

TITLE 440 DIVISION OF MENTAL HEALTH AND ADDICTION

440 IAC 1-1.5	R	02-42	25 IR 3289	*NRA (26 IR 62)
				26 IR 745
440 IAC 1.5	N	02-42	25 IR 3277	*NRA (26 IR 62)
				26 IR 733
440 IAC 4-3-1	A	02-218	26 IR 519	*NRA (26 IR 2390)
				26 IR 2616

440 IAC 4.1-2-1	A	02-218	26 IR 519	*NRA (26 IR 2390) **26 IR 2616**
440 IAC 4.1-2-4	A	02-218	26 IR 520	*NRA (26 IR 2390) **26 IR 2617**
440 IAC 4.1-2-5	A	02-218	26 IR 521	*NRA (26 IR 2390) **26 IR 2618**
440 IAC 4.1-2-9	A	02-218	26 IR 521	*NRA (26 IR 2390) **26 IR 2618**
440 IAC 4.1-3	N	02-218	26 IR 522	*NRA (26 IR 2390) **26 IR 2619**
440 IAC 5-1-1	A	02-105	25 IR 3289	*NRA (26 IR 62) **26 IR 745**
440 IAC 5-1-2	A	02-105	25 IR 3290	*NRA (26 IR 62) **26 IR 746**
440 IAC 5-1-3.5	N	02-105	25 IR 3290	*NRA (26 IR 62) **26 IR 747**
440 IAC 5.2	N	03-57	26 IR 3386	
440 IAC 6-2-2				*ERR (26 IR 1572)
440 IAC 9-2-10	N	02-106	25 IR 4201	*NRA (26 IR 1112) **26 IR 1940**
440 IAC 9-2-11	N	02-106	25 IR 4202	*NRA (26 IR 1112) **26 IR 1941**
440 IAC 9-2-12	N	02-106	25 IR 4203	*NRA (26 IR 1112) **26 IR 1942**
440 IAC 9-2-13	N	02-265	26 IR 867	**26 IR 3337**

TITLE 460 DIVISION OF DISABILITY, AGING, AND REHABILITATIVE SERVICES

460 IAC 1-3-1	R	02-319	26 IR 2112	**26 IR 3644**
460 IAC 1-3-2	R	02-319	26 IR 2112	**26 IR 3644**
460 IAC 1-3-3	RA	02-262	26 IR 544	**26 IR 1261**
	R	02-319	26 IR 2112	**26 IR 3644**
460 IAC 1-3-4	R	02-319	26 IR 2112	**26 IR 3644**
460 IAC 1-3-5	R	02-319	26 IR 2112	**26 IR 3644**
460 IAC 1-3-6	RA	02-262	26 IR 544	**26 IR 1261**
	R	02-319	26 IR 2112	**26 IR 3644**
460 IAC 1-3-7	RA	02-262	26 IR 544	**26 IR 1261**
	R	02-319	26 IR 2112	**26 IR 3644**
460 IAC 1-3-8	R	02-319	26 IR 2112	**26 IR 3644**
460 IAC 1-3-9	R	02-319	26 IR 2112	**26 IR 3644**
460 IAC 1-3-10	R	02-319	26 IR 2112	**26 IR 3644**
460 IAC 1-3-11	R	02-319		**††26 IR 3644**
460 IAC 1-3-12	RA	02-262	26 IR 544	**26 IR 1261**
	R	02-319	26 IR 2112	**26 IR 3644**
460 IAC 1-3-13	R	02-319	26 IR 2112	**26 IR 3644**
460 IAC 1-3-14	R	02-319	26 IR 2112	**26 IR 3644**
460 IAC 1-3-15	R	02-319	26 IR 2112	**26 IR 3644**
460 IAC 1-3.3	N	02-319	26 IR 2111	**26 IR 3643**
460 IAC 1-8	N	01-337	25 IR 2557	**26 IR 350**
460 IAC 2-3-1	A	02-9	25 IR 2286	**26 IR 747**
460 IAC 2-3-2	A	02-9	25 IR 2286	**26 IR 747**
460 IAC 2-3-3	A	02-9	25 IR 2287	**26 IR 748**
460 IAC 3.5	RA	02-237	26 IR 2694	
460 IAC 5-1-13	A	02-151	26 IR 524	
460 IAC 6	N	02-46	25 IR 3832	**26 IR 749** *AROC (26 IR 883)
460 IAC 6-3-2.1	N	02-326	26 IR 2664	
460 IAC 6-3-5.1	N	02-326	26 IR 2665	
460 IAC 6-3-5.2	N	02-326	26 IR 2665	
460 IAC 6-3-6.1	N	02-326	26 IR 2665	
460 IAC 6-3-10.1	N	02-326	26 IR 2665	
460 IAC 6-3-15.1	N	02-326	26 IR 2665	
460 IAC 6-3-15.2	N	02-326	26 IR 2665	
460 IAC 6-3-18	A	02-326	26 IR 2666	
460 IAC 6-3-25	A	02-326	26 IR 2666	
460 IAC 6-3-29.5	N	02-326	26 IR 2666	
460 IAC 6-3-31	A	02-326	26 IR 2666	
460 IAC 6-3-32	A	02-326	26 IR 2666	
460 IAC 6-3-38.5	N	02-326	26 IR 2666	
460 IAC 6-3-38.6	N	02-326	26 IR 2667	
460 IAC 6-3-41.1	N	02-326	26 IR 2667	
460 IAC 6-3-52.1	N	02-326	26 IR 2667	
460 IAC 6-3-56	A	02-326	26 IR 2667	
460 IAC 6-4-1	A	02-326	26 IR 2667	
460 IAC 6-5-4	A	02-326	26 IR 2668	
460 IAC 6-5-7	A	02-326	26 IR 2669	
460 IAC 6-5-21	A	02-326	26 IR 2669	
460 IAC 6-5-32	N	02-326	26 IR 2669	
460 IAC 6-5-33	N	02-326	26 IR 2670	
460 IAC 6-5-34	N	02-326	26 IR 2670	
460 IAC 6-5-35	N	02-326	26 IR 2670	
460 IAC 6-5-36	N	02-326	26 IR 2670	
460 IAC 6-6-2	A	02-326	26 IR 2670	
460 IAC 6-6-3	A	02-326	26 IR 2670	
460 IAC 6-7-2	A	02-326	26 IR 2671	
460 IAC 6-7-3	A	02-326	26 IR 2671	
460 IAC 6-9-5	A	02-326	26 IR 2672	
460 IAC 6-9-7	N	02-326	26 IR 2673	
460 IAC 6-10-5	A	02-326	26 IR 2673	
460 IAC 6-10-8	A	02-326	26 IR 2674	
460 IAC 6-10-13	A	02-326	26 IR 2674	
460 IAC 6-13-2	A	02-326	26 IR 2675	
460 IAC 6-14-4	A	02-326	26 IR 2675	
460 IAC 6-17-3	A	02-326	26 IR 2675	
460 IAC 6-17-4	A	02-326	26 IR 2676	
460 IAC 6-19-6	A	02-326	26 IR 2676	
460 IAC 6-24-1	A	02-236	26 IR 2677	
460 IAC 6-24-2	A	02-326	26 IR 2677	
460 IAC 6-25-10	A	02-326	26 IR 2677	
460 IAC 6-29-4	A	02-326	26 IR 2678	
460 IAC 6-29-9	N	02-326	26 IR 2678	
460 IAC 6-35	N	02-326	26 IR 2678	
460 IAC 7	N	02-210	26 IR 525	*ARR (26 IR 1110)
			26 IR 1247	*AROC (26 IR 2472) **26 IR 2870**
460 IAC 8	N	03-99	26 IR 3392	

TITLE 470 DIVISION OF FAMILY AND CHILDREN

470 IAC 3-4.1	R	02-298	26 IR 1719	*NRA (26 IR 3365) *AROC (26 IR 3756)
470 IAC 3-4.2	R	02-298	26 IR 1719	*NRA (26 IR 3365) *AROC (26 IR 3756)
470 IAC 3-4.7	N	02-298	26 IR 1675	*NRA (26 IR 3365) *AROC (26 IR 3756)
470 IAC 3.1-12-2	A	02-74	26 IR 167	*NRA (26 IR 1112) *AROC (26 IR 1264) **26 IR 2320**
470 IAC 3.1-12-7	N	02-74	26 IR 168	*NRA (26 IR 1112) *AROC (26 IR 1264) **26 IR 2320**
470 IAC 6-2-1	A	03-136	26 IR 3709	
470 IAC 6-2-13	A	03-136	26 IR 3709	
470 IAC 6-4.1-4	A	03-136	26 IR 3710	
470 IAC 8.1-2-12	A	02-152	26 IR 530	
470 IAC 10.1-3-4	R	03-33	26 IR 2682	*NRA (26 IR 3670)
470 IAC 10.1-3-4.1	R	03-33	26 IR 2682	*NRA (26 IR 3670)
470 IAC 10.1-3-5	R	03-33	26 IR 2682	*NRA (26 IR 3670)
470 IAC 10.2	N	03-33	26 IR 2680	*NRA (26 IR 3670)
470 IAC 11.1-1-5	A	02-203	26 IR 169	*NRA (26 IR 1112) **26 IR 2321**

TITLE 511 INDIANA STATE BOARD OF EDUCATION

511 IAC 1-6-2	RA	03-56	26 IR 3147	
511 IAC 1-6-3	RA	03-56	26 IR 3147	
511 IAC 1-6-4	RA	03-56	26 IR 3147	
511 IAC 4-4-3	RA	03-56	26 IR 3147	
511 IAC 4-4-4	RA	03-56	26 IR 3147	
511 IAC 5-1-1	RA	03-56	26 IR 3147	
511 IAC 5-1-2	A	02-67	25 IR 2807	**26 IR 786**

511 IAC 5-1-3	RA	03-56	26 IR 3147	
511 IAC 5-1-3.5	A	02-67	25 IR 2807	**26 IR 787**
511 IAC 5-1-4	RA	03-56	26 IR 3147	
511 IAC 5-1-4.5	RA	03-56	26 IR 3147	
511 IAC 5-1-5	A	02-67	25 IR 2807	**26 IR 787**
511 IAC 5-1-6	A	02-67	25 IR 2807	**26 IR 787**
511 IAC 5-2-3	A	02-170	25 IR 4204	**26 IR 3645**
511 IAC 5-2-4	A	02-170	25 IR 4205	**26 IR 3645**
511 IAC 5-3-1	RA	03-56	26 IR 3147	
511 IAC 5-3-2	RA	03-56	26 IR 3147	
511 IAC 6-7-2	RA	03-56	26 IR 3147	
511 IAC 6-7-4	RA	03-56	26 IR 3147	
511 IAC 6-7-6.5	A	02-177	25 IR 4205	**26 IR 3646**
511 IAC 6-7-7	RA	03-56	26 IR 3147	
511 IAC 6-8-1	RA	03-56	26 IR 3147	
511 IAC 6-8-2	RA	03-56	26 IR 3147	
511 IAC 6-8-3	RA	03-56	26 IR 3147	
511 IAC 6-8-5	RA	03-56	26 IR 3147	
511 IAC 6-8-6	RA	03-56	26 IR 3147	
511 IAC 6.1-1-11.5				*ERR (26 IR 36)
511 IAC 6.1-5-3.5	RA	03-56	26 IR 3147	
511 IAC 6.1-5.1-5	A	02-177	25 IR 4206	**26 IR 3646**
	A	02-178	25 IR 4207	**26 IR 3647**
511 IAC 6.1-5.1-8	A	02-274	26 IR 1252	**26 IR 3648**
511 IAC 6.2-6-4	A	02-264	26 IR 1719	
511 IAC 6.2-6-6.1	N	02-264	26 IR 1720	
511 IAC 6.2-6-8	A	02-264	26 IR 1720	
511 IAC 6.2-6-12	A	02-264	26 IR 1720	
511 IAC 6.2-7	N	02-264	26 IR 1720	

TITLE 515 PROFESSIONAL STANDARDS BOARD

515 IAC 1-3	R	02-314	26 IR 1257	*ARR (26 IR 3346)
515 IAC 1-4-1	A	02-75	25 IR 4207	**26 IR 2322**
515 IAC 1-4-2	A	02-75	25 IR 4208	**26 IR 2323**
515 IAC 1-6				*ERR (26 IR 36)
515 IAC 1-7	N	02-314	26 IR 1254	*ARR (26 IR 3346)
515 IAC 3				*ERR (26 IR 37)
515 IAC 4	N	02-8	25 IR 2292	*ARR (25 IR 3183)
				*ARR (25 IR 3770)
515 IAC 5	N	02-80	25 IR 2808	**26 IR 2325**
515 IAC 8	N	03-10	26 IR 2437	
515 IAC 9	N	03-11	26 IR 2451	*CPH (26 IR 2648)

TITLE 540 INDIANA EDUCATION SAVINGS AUTHORITY

540 IAC 1-1-1	RA	03-112	26 IR 3754	
540 IAC 1-1-2	RA	03-112	26 IR 3754	
540 IAC 1-1-5	RA	03-112	26 IR 3754	
540 IAC 1-1-8	RA	03-112	26 IR 3754	
540 IAC 1-1-10	RA	03-112	26 IR 3754	
540 IAC 1-1-15	RA	03-112	26 IR 3754	
540 IAC 1-1-18	RA	03-112	26 IR 3754	
540 IAC 1-2	RA	03-112	26 IR 3754	
540 IAC 1-3-1	RA	03-112	26 IR 3754	
540 IAC 1-4-1	RA	03-112	26 IR 3754	
540 IAC 1-4-2	RA	03-112	26 IR 3754	
540 IAC 1-7-2	A	02-287	26 IR 1257	*CPH (26 IR 1593)
				26 IR 3338
540 IAC 1-8-2	A	02-287	26 IR 1258	*CPH (26 IR 1593)
				26 IR 3338
540 IAC 1-8-8	RA	03-112	26 IR 3754	
540 IAC 1-9-2.6	R	02-287	26 IR 1258	*CPH (26 IR 1593)
				26 IR 3338
540 IAC 1-10-1	A	02-287	26 IR 1258	*CPH (26 IR 1593)
				26 IR 3338
540 IAC 1-10-2	RA	03-112	26 IR 3754	
540 IAC 1-11	RA	03-112	26 IR 3754	
540 IAC 1-12-1	RA	03-112	26 IR 3754	
540 IAC 1-12-3	RA	03-112	26 IR 3754	
540 IAC 1-12-4	RA	03-112	26 IR 3754	

TITLE 550 BOARD OF TRUSTEES OF THE INDIANA STATE TEACHERS' RETIREMENT FUND

550 IAC 3-1-1	A	02-325	26 IR 2112	
550 IAC 3-1-2	A	02-325	26 IR 2113	
550 IAC 3-1-3	A	02-325	26 IR 2113	
550 IAC 3-2-1	A	02-325	26 IR 2113	
550 IAC 3-2-2	A	02-325	26 IR 2114	
550 IAC 5	N	02-325	26 IR 2114	
550 IAC 6	N	02-325	26 IR 2115	
550 IAC 7	N	03-100	26 IR 3710	

TITLE 570 INDIANA COMMISSION ON PROPRIETARY EDUCATION

570 IAC 1-14	N	02-233	26 IR 867	**26 IR 3338**

TITLE 575 STATE SCHOOL BUS COMMITTEE

575 IAC 1-1-4.6	N	02-315	26 IR 1723	**26 IR 3341**

TITLE 610 DEPARTMENT OF LABOR

610 IAC 4-2-1	A	03-36	26 IR 2463	
610 IAC 4-2-11	R	03-36	26 IR 2464	
610 IAC 4-4	R	01-340	25 IR 891	*ARR (25 IR 3770)
				26 IR 370
				*AROC (26 IR 547)
610 IAC 4-6	N	01-340	25 IR 874	*ARR (25 IR 3770)
				26 IR 353
				*AROC (26 IR 547)
610 IAC 4-6-11	A	03-37	26 IR 2464	

TITLE 655 BOARD OF FIREFIGHTING PERSONNEL STANDARDS AND EDUCATION

655 IAC 1-1				*ERR (26 IR 383)
655 IAC 1-2.1	RA	02-128	25 IR 3883	*CPH (26 IR 416)
				26 IR 1262

TITLE 675 FIRE PREVENTION AND BUILDING SAFETY COMMISSION

675 IAC 12-3-13	N	02-90	25 IR 2573	**26 IR 1556**
675 IAC 12-3-14	N	02-90	25 IR 2574	**26 IR 1557**
675 IAC 12-3-15	N	02-90		**††26 IR 1558**
675 IAC 13-1-4	RA	03-48	26 IR 2693	
675 IAC 13-1-5	RA	03-48	26 IR 2693	
675 IAC 13-1-8	A	02-51	25 IR 2561	**26 IR 1095**
675 IAC 13-1-9.5	RA	03-48	26 IR 2693	
675 IAC 13-1-9.6	RA	03-48	26 IR 2693	
675 IAC 13-1-10	A	02-51	25 IR 2564	**26 IR 1098**
675 IAC 13-1-28	RA	03-48	26 IR 2693	
675 IAC 13-2.3	R	02-115	25 IR 3366	*ARR (26 IR 2376)
				26 IR 2951
675 IAC 13-2.4	N	02-115	25 IR 3291	*ARR (26 IR 2376)
				26 IR 2975
675 IAC 14-4.2-1	A	03-71	26 IR 3712	
675 IAC 14-4.2-2	A	03-71	26 IR 3712	
675 IAC 14-4.2-3	A	03-71	26 IR 3714	
675 IAC 14-4.2-6	A	03-71	26 IR 3715	
675 IAC 14-4.2-7	A	03-71	26 IR 3719	
675 IAC 14-4.2-9	A	03-71	26 IR 3719	
675 IAC 14-4.2-13.5	N	03-71	26 IR 3719	
675 IAC 14-4.2-15.5	N	03-71	26 IR 3719	
675 IAC 14-4.2-19.5	N	03-71	26 IR 3720	
675 IAC 14-4.2-20.5	A	03-71	26 IR 3720	
675 IAC 14-4.2-21	A	03-71	26 IR 3720	
675 IAC 14-4.2-22	A	03-71	26 IR 3721	
675 IAC 14-4.2-26.5	N	03-71	26 IR 3722	
675 IAC 14-4.2-27.5	A	03-71	26 IR 3722	
675 IAC 14-4.2-29	A	03-71	26 IR 3722	
675 IAC 14-4.2-31	A	03-71	26 IR 3722	
675 IAC 14-4.2-34	A	03-71	26 IR 3723	
675 IAC 14-4.2-37.5	N	03-71	26 IR 3724	
675 IAC 14-4.2-45.3	N	03-71	26 IR 3724	

675 IAC 14-4.2-46.8	N	03-71	26 IR 3724	
675 IAC 14-4.2-49.1	N	03-71	26 IR 3724	
675 IAC 14-4.2-49.3	N	03-71	26 IR 3724	
675 IAC 14-4.2-52	A	03-71	26 IR 3725	
675 IAC 14-4.2-53	A	03-71	26 IR 3725	
675 IAC 14-4.2-53.7	N	03-71	26 IR 3725	
675 IAC 14-4.2-61	A	03-71	26 IR 3726	
675 IAC 14-4.2-63	A	03-71	26 IR 3726	
675 IAC 14-4.2-69.5	N	03-71	26 IR 3726	
675 IAC 14-4.2-71	A	03-71	26 IR 3726	
675 IAC 14-4.2-73.5	N	03-71	26 IR 3727	
675 IAC 14-4.2-77.6	N	03-71	26 IR 3727	
675 IAC 14-4.2-77.7	N	03-71	26 IR 3727	
675 IAC 14-4.2-81.2	N	03-71	26 IR 3727	
675 IAC 14-4.2-81.3	N	03-71	26 IR 3727	
675 IAC 14-4.2-81.7	N	03-71	26 IR 3727	
675 IAC 14-4.2-82	A	03-71	26 IR 3727	
675 IAC 14-4.2-83	A	03-71	26 IR 3728	
675 IAC 14-4.2-89.2	N	03-71	26 IR 3728	
675 IAC 14-4.2-89.6	A	03-71	26 IR 3728	
675 IAC 14-4.2-89.7	R	03-71	26 IR 3737	
675 IAC 14-4.2-89.8	A	03-71	26 IR 3728	
675 IAC 14-4.2-89.9	A	03-71	26 IR 3728	
675 IAC 14-4.2-89.10	R	03-71	26 IR 3737	
675 IAC 14-4.2-89.11	R	03-71	26 IR 3737	
675 IAC 14-4.2-95	A	03-71	26 IR 3729	
675 IAC 14-4.2-96.2	N	03-71	26 IR 3729	
675 IAC 14-4.2-97.5	N	03-71	26 IR 3729	
675 IAC 14-4.2-97.9	N	03-71	26 IR 3729	
675 IAC 14-4.2-107	A	03-71	26 IR 3729	
675 IAC 14-4.2-112.5	N	03-71	26 IR 3735	
675 IAC 14-4.2-117	A	03-71	26 IR 3736	
675 IAC 14-4.2-171.5	N	03-71	26 IR 3736	
675 IAC 14-4.2-174.5	N	03-71	26 IR 3736	
675 IAC 14-4.2-177.5	N	03-71	26 IR 3736	
675 IAC 14-4.2-181.1	N	01-376		**††26 IR 11**
675 IAC 14-4.2-182.1	N	01-376	25 IR 1248	**26 IR 11**
675 IAC 14-4.2-185.1	N	01-376	25 IR 1248	**26 IR 11**
675 IAC 14-4.2-187	A	01-376	25 IR 1248	**26 IR 11**
675 IAC 14-4.2-187.1	N	01-376	25 IR 1248	**26 IR 12**
675 IAC 14-4.2-187.2	N	01-376	25 IR 1248	**26 IR 12**
675 IAC 14-4.2-187.3	N	01-376	25 IR 1248	**26 IR 12**
675 IAC 14-4.2-187.4	N	01-376	25 IR 1248	**26 IR 12**
675 IAC 14-4.2-189	A	03-71	26 IR 3736	
675 IAC 14-4.2-189.2	N	03-71	26 IR 3736	
675 IAC 14-4.2-190.1	N	01-376	25 IR 1249	**26 IR 12**
675 IAC 14-4.2-190.2	N	01-376	25 IR 1249	**26 IR 12**
675 IAC 14-4.2-190.3	N	01-376	25 IR 1249	**26 IR 12**
675 IAC 14-4.2-190.4	N	01-376	25 IR 1249	**26 IR 12**
675 IAC 14-4.2-190.5	N	01-376	25 IR 1249	**26 IR 13**
675 IAC 14-4.2-191.1	N	01-376	25 IR 1249	**26 IR 13**
675 IAC 14-4.2-191.2	N	01-376	25 IR 1249	**26 IR 13**
675 IAC 14-4.2-191.3	N	01-376	25 IR 1249	**26 IR 13**
675 IAC 14-4.2-191.4	N	01-376		**††26 IR 13**
	A	03-71	26 IR 3736	
675 IAC 14-4.2-191.5	N	01-376		**††26 IR 13**
675 IAC 14-4.2-192	R	03-71	26 IR 3737	
675 IAC 14-4.2-192.1	N	01-376	25 IR 1250	**26 IR 13**
675 IAC 14-4.2-192.2	N	01-376	25 IR 1251	**26 IR 13**
675 IAC 14-4.2-192.3	N	01-376	25 IR 1250	**26 IR 14**
675 IAC 14-4.2-192.4	N	01-376	25 IR 1250	**26 IR 14**
675 IAC 14-4.2-192.5	N	01-376	25 IR 1250	**26 IR 14**
675 IAC 14-4.2-192.6	N	01-376	25 IR 1250	**26 IR 14**
675 IAC 14-4.2-193.1	N	01-376	25 IR 1251	**26 IR 14**
675 IAC 14-4.2-193.2	N	01-376	25 IR 1251	**26 IR 14**
675 IAC 14-4.2-193.3	N	01-376	25 IR 1251	**26 IR 14**
675 IAC 14-4.2-193.4	N	01-376	25 IR 1251	**26 IR 14**
675 IAC 14-4.2-193.5	N	01-376	25 IR 1251	**26 IR 14**
675 IAC 14-4.2-194.1	N	01-376	25 IR 1251	**26 IR 15**
675 IAC 14-4.2-194.2	N	01-376	25 IR 1251	**26 IR 15**
675 IAC 14-4.2-194.3	N	01-376	25 IR 1251	**26 IR 15**
675 IAC 14-4.2-194.4	N	01-376	25 IR 1252	**26 IR 15**
675 IAC 14-4.2-194.5	N	01-376	25 IR 1252	**26 IR 15**
675 IAC 14-4.2-194.6	N	01-376	25 IR 1252	**26 IR 15**
675 IAC 14-4.2-194.7	N	01-376	25 IR 1252	**26 IR 15**
675 IAC 17-1.5	R	01-376	25 IR 1255	**26 IR 19**
675 IAC 17-1.6	N	01-376	25 IR 1252	**26 IR 15**
675 IAC 17-1.6-12	A	03-71	26 IR 3737	
675 IAC 17-1.6-16	A	03-71	26 IR 3737	
675 IAC 18-1.3	R	02-116	25 IR 3381	*ARR (26 IR 2376) **26 IR 2967**
675 IAC 18-1.4	N	02-116	25 IR 3366	*ARR (26 IR 2376) **26 IR 2952**
675 IAC 19-3-4	A	03-71	26 IR 3737	
675 IAC 20-2-17	A	02-52	25 IR 2566	**26 IR 1100**
675 IAC 20-2-20	A	02-52	25 IR 2566	**26 IR 1101**
675 IAC 20-2-24	A	02-52	25 IR 2567	**26 IR 1102**
675 IAC 20-2-26	A	02-52	25 IR 2567	**26 IR 1102**
675 IAC 20-3-5	A	02-52	25 IR 2568	**26 IR 1102**
675 IAC 20-3-6	A	02-52	25 IR 2568	**26 IR 1103**
675 IAC 20-3-7	A	02-52	25 IR 2569	**26 IR 1103**
675 IAC 21-1-1	A	01-430	25 IR 2031	*ARR (26 IR 38) **26 IR 1083**
675 IAC 21-1-1.5	N	01-430	25 IR 2031	*ARR (26 IR 38) **26 IR 1084**
675 IAC 21-1-2	R	01-430	25 IR 2042	*ARR (26 IR 38) **26 IR 1095**
675 IAC 21-1-2.1	R	01-430	25 IR 2042	*ARR (26 IR 38) **26 IR 1095**
675 IAC 21-1-3	R	01-430	25 IR 2042	*ARR (26 IR 38) **26 IR 1095**
675 IAC 21-1-3.1	A	01-430	25 IR 2032	*ARR (26 IR 38) **26 IR 1085**
675 IAC 21-1-4	R	01-430	25 IR 2042	*ARR (26 IR 38) **26 IR 1095**
675 IAC 21-1-6	R	01-430	25 IR 2042	*ARR (26 IR 38) **26 IR 1095**
675 IAC 21-1-7	A	01-430	25 IR 2033	*ARR (26 IR 38) **26 IR 1085**
675 IAC 21-1-8	R	01-430		**††26 IR 1095**
675 IAC 21-1-9	A	01-430	25 IR 2033	*ARR (26 IR 38) **26 IR 1086**
675 IAC 21-1-10	N	01-430	25 IR 2034	*ARR (26 IR 38) **26 IR 1086**
675 IAC 21-2	R	01-430	25 IR 2042	*ARR (26 IR 38) **26 IR 1095**
675 IAC 21-3-1	A	01-430	25 IR 2034	*ARR (26 IR 38) **26 IR 1087**
675 IAC 21-3-2	A	01-430	25 IR 2034	*ARR (26 IR 38) **26 IR 1087**
675 IAC 21-4-1	A	01-430	25 IR 2037	*ARR (26 IR 38) **26 IR 1090**
675 IAC 21-4-2	A	01-430	25 IR 2037	*ARR (26 IR 38) **26 IR 1090**
675 IAC 21-5-1	A	01-430	25 IR 2039	*ARR (26 IR 38) **26 IR 1092**
675 IAC 21-5-3	N	01-430	25 IR 2039	*ARR (26 IR 38) **26 IR 1092**
675 IAC 21-6	R	01-430	25 IR 2042	*ARR (26 IR 38) **26 IR 1095**
675 IAC 21-7	R	01-430	25 IR 2042	*ARR (26 IR 38) **26 IR 1095**
675 IAC 21-8	N	01-430	25 IR 2040	*ARR (26 IR 38) **26 IR 1093**
675 IAC 22-2.2	R	02-117	25 IR 3442	*ARR (26 IR 2376) **26 IR 3031**
675 IAC 22-2.2-14	A	02-53	25 IR 2569	**26 IR 1553**
675 IAC 22-2.3	N	02-117	25 IR 3382	*ARR (26 IR 2376) **26 IR 2968**
675 IAC 25	N	02-118	25 IR 3444	*ARR (26 IR 2376) **26 IR 3032**

TITLE 760 DEPARTMENT OF INSURANCE

760 IAC 1-5	R	01-399	25 IR 2582	*AROC (26 IR 183)
				*ARR (26 IR 38)
				26 IR 26
760 IAC 1-5.1	N	01-399	25 IR 2575	*AROC (26 IR 183)
				*ARR (26 IR 38)
				26 IR 19
				*ERR (26 IR 3345)
760 IAC 1-14	R	01-399	25 IR 2582	*AROC (26 IR 183)
				*ARR (26 IR 38)
				26 IR 26
760 IAC 1-21-2	A	02-299	26 IR 1724	*AROC (26 IR 3427)
760 IAC 1-21-5	A	02-299	26 IR 1724	*AROC (26 IR 3427)
760 IAC 1-21-8	A	02-299	26 IR 1724	*AROC (26 IR 3427)
760 IAC 1-57-1	A	03-7	26 IR 3398	
760 IAC 1-57-2	A	03-7	26 IR 3398	
760 IAC 1-57-3	A	03-7	26 IR 3398	
760 IAC 1-57-4	A	03-7	26 IR 3399	
760 IAC 1-57-5	A	03-7	26 IR 3399	
760 IAC 1-57-6	A	03-7	26 IR 3400	
760 IAC 1-57-7	R	03-7	26 IR 3408	
760 IAC 1-57-8	A	03-7	26 IR 3401	
760 IAC 1-57-9	A	03-7	26 IR 3405	
760 IAC 1-57-10	A	03-7	26 IR 3407	
760 IAC 1-59-1	A	02-124	26 IR 170	**26 IR 2326**
760 IAC 1-59-2	A	02-124	26 IR 170	**26 IR 2326**
760 IAC 1-59-3	A	02-124	26 IR 171	**26 IR 2327**
760 IAC 1-59-4	A	02-124	26 IR 171	**26 IR 2327**
760 IAC 1-59-5	A	02-124	26 IR 171	**26 IR 2327**
760 IAC 1-59-6	A	02-124	26 IR 172	**26 IR 2328**
760 IAC 1-59-7	A	02-124	26 IR 172	**26 IR 2329**
760 IAC 1-59-8	A	02-124	26 IR 173	**26 IR 2329**
760 IAC 1-59-9	A	02-124	26 IR 174	**26 IR 2330**
760 IAC 1-59-10	A	02-124	26 IR 174	**26 IR 2330**
760 IAC 1-59-11	A	02-124	26 IR 174	**26 IR 2330**
760 IAC 1-59-12	A	02-124	26 IR 175	**26 IR 2331**
760 IAC 1-59-13	R	02-124	26 IR 177	**26 IR 2333**
760 IAC 1-59-14	A	02-124	26 IR 175	**26 IR 2331**
760 IAC 1-68	N	02-137	26 IR 531	*AROC (26 IR 883)
				26 IR 3035

TITLE 762 INDIANA POLITICAL SUBDIVISION RISK MANAGEMENT COMMISSION

762 IAC 2	N	02-24	25 IR 2301	*ARR (25 IR 4114)
				26 IR 27

TITLE 804 BOARD OF REGISTRATION FOR ARCHITECTS AND LANDSCAPE ARCHITECTS

804 IAC 1.1-1-1	A	03-20	26 IR 3136	
804 IAC 1.1-3-1	A	02-20	25 IR 3446	**26 IR 370**
				*ERR (26 IR 793)
804 IAC 1.1-3-2	RA	03-43	26 IR 3148	

TITLE 808 STATE BOXING COMMISSION

808 IAC 2-6-1	A	02-120	25 IR 4210	**26 IR 1104**

TITLE 816 BOARD OF BARBER EXAMINERS

816 IAC 1-3-1	A	02-320	26 IR 1725	**26 IR 3648**

TITLE 820 STATE BOARD OF COSMETOLOGY EXAMINERS

820 IAC 4-1-11	A	03-21	26 IR 3137	*AROC (26 IR 3426)
820 IAC 4-4-5				*ERR (26 IR 1109)
820 IAC 4-4-14				*ERR (26 IR 1109)
820 IAC 6-1-3	A	03-21	26 IR 3137	*AROC (26 IR 3426)
820 IAC 6-2-1				*ERR (26 IR 1109)
820 IAC 6-3	N	03-21	26 IR 3137	*AROC (26 IR 3426)

TITLE 825 INDIANA GRAIN INDEMNITY CORPORATION

825 IAC 1	RA	02-176	25 IR 4220	**26 IR 1262**
825 IAC 1-1-5	R	02-179	25 IR 4211	
825 IAC 1-5-1	R	02-179	25 IR 4211	
825 IAC 1-5-2	R	02-179	25 IR 4211	

TITLE 828 STATE BOARD OF DENTISTRY

828 IAC 0.5-2-3	A	02-114	25 IR 3452	**26 IR 376**
828 IAC 0.5-2-4	A	02-114	25 IR 3453	**26 IR 376**
828 IAC 0.5-2-6	N	02-112	25 IR 3447	**26 IR 371**
828 IAC 1-1-3	A	03-73	26 IR 3408	
828 IAC 1-1-6	A	03-73	26 IR 3409	
828 IAC 1-1-7	A	03-73	26 IR 3409	
828 IAC 1-1-12	A	03-73	26 IR 3409	
828 IAC 1-2-3	A	03-73	26 IR 3409	
828 IAC 1-2-6	A	03-73	26 IR 3410	
828 IAC 1-2-7	A	03-73	26 IR 3410	
828 IAC 1-2-12	A	03-73	26 IR 3410	
828 IAC 1-3-1	R	02-113	25 IR 3452	**26 IR 375**
828 IAC 1-3-1.1	N	02-113	25 IR 3450	**26 IR 373**
				*ERR (26 IR 383)
828 IAC 1-3-1.5	N	02-113	25 IR 3451	**26 IR 374**
828 IAC 1-3-2	A	02-113	25 IR 3452	**26 IR 375**
	A	02-270	26 IR 3411	
828 IAC 1-3-3	A	02-113	25 IR 3452	**26 IR 375**
839 IAC 1-4-5	A	02-270	26 IR 3411	
828 IAC 1-5-1	A	02-112	25 IR 3448	**26 IR 371**
	A	02-270	26 IR 3412	
828 IAC 1-5-1.5	N	02-112	25 IR 3448	**26 IR 371**
	N	02-270	26 IR 3414	
828 IAC 1-5-2	A	02-112	25 IR 3448	**26 IR 372**
828 IAC 1-5-2.5	N	02-112	25 IR 3449	**26 IR 372**
828 IAC 1-6-1	A	02-112	25 IR 3449	**26 IR 373**
828 IAC 1-7-1	A	02-114	25 IR 3453	**26 IR 376**
828 IAC 1-7-2	N	02-114	25 IR 3453	**26 IR 377**

TITLE 830 INDIANA DIETITIANS CERTIFICATION BOARD

830 IAC 1-2-1	RA	03-55	26 IR 3755	
830 IAC 1-2-2	RA	03-55	26 IR 3755	
830 IAC 1-2-3	RA	03-55	26 IR 3755	
830 IAC 1-2-4	RA	03-55	26 IR 3755	
830 IAC 1-2-5	RA	03-55	26 IR 3755	
830 IAC 1-3	RA	03-55	26 IR 3755	
830 IAC 1-4	RA	03-55	26 IR 3755	
830 IAC 1-5	RA	03-55	26 IR 3755	

TITLE 832 STATE BOARD OF FUNERAL AND CEMETERY SERVICE

832 IAC 2-1-2	A	02-147	26 IR 870	**26 IR 2622**

TITLE 836 INDIANA EMERGENCY MEDICAL SERVICES COMMISSION

836 IAC 1-1-1	A	02-91	25 IR 2810	*CPH (25 IR 3807)
				26 IR 2333
836 IAC 1-1-2	N	02-91	25 IR 2812	*CPH (25 IR 3807)
				26 IR 2335
836 IAC 1-1-3	N	02-91	25 IR 2812	*CPH (25 IR 3807)
				26 IR 2336
836 IAC 1-2-1	A	02-91	25 IR 2813	*CPH (25 IR 3807)
				26 IR 2337
836 IAC 1-2-2	A	02-91	25 IR 2814	*CPH (25 IR 3807)
				26 IR 2338
836 IAC 1-2-3	A	02-91	25 IR 2815	*CPH (25 IR 3807)
				26 IR 2339
836 IAC 1-2-4	R	02-91	25 IR 2848	*CPH (25 IR 3807)
				26 IR 2372
836 IAC 1-3-5	A	02-91	25 IR 2818	*CPH (25 IR 3807)
				26 IR 2342
836 IAC 1-3-6	N	02-91	25 IR 2819	*CPH (25 IR 3807)
				26 IR 2343
836 IAC 1-8-1	R	02-91	25 IR 2848	*CPH (25 IR 3807)
				26 IR 2372

836 IAC 1-11-1	A	02-91	25 IR 2819	*CPH (25 IR 3807) **26 IR 2343**
836 IAC 1-11-2	A	02-91	25 IR 2820	*CPH (25 IR 3807) **26 IR 2344**
836 IAC 1-11-4	A	02-91	25 IR 2821	*CPH (25 IR 3807) **26 IR 2345**
836 IAC 1-11-5	R	02-91	25 IR 2848	*CPH (25 IR 3807) **26 IR 2372**
836 IAC 2	RA	01-40	24 IR 2580	
836 IAC 2-1-1	A	02-91	25 IR 2821	*CPH (25 IR 3807) **26 IR 2345**
836 IAC 2-2-1	A	02-91	25 IR 2824	*CPH (25 IR 3807) **26 IR 2348** *ERR (26 IR 2624)
836 IAC 2-7.1-1	A	02-91	25 IR 2826	*CPH (25 IR 3807) **26 IR 2350**
836 IAC 2-7.2	N	02-91	25 IR 2828	*CPH (25 IR 3807) **26 IR 2353**
836 IAC 2-12-1	R	02-91	25 IR 2848	*CPH (25 IR 3807) **26 IR 2372**
836 IAC 2-13-1	R	02-91	25 IR 2848	*CPH (25 IR 3807) **26 IR 2372**
836 IAC 2-14-5	A	02-91	25 IR 2833	*CPH (25 IR 3807) **26 IR 2357**
836 IAC 3	RA	01-40	24 IR 2580	
836 IAC 3-2-4	A	02-91	25 IR 2834	*CPH (25 IR 3807) **26 IR 2358**
836 IAC 3-2-5	A	02-91	25 IR 2835	*CPH (25 IR 3807) **26 IR 2360**
836 IAC 3-2-8	R	02-91	25 IR 2848	*CPH (25 IR 3807) **26 IR 2372**
836 IAC 3-3-4	A	02-91	25 IR 2836	*CPH (25 IR 3807) **26 IR 2360**
836 IAC 3-3-5	A	02-91	25 IR 2837	*CPH (25 IR 3807) **26 IR 2362**
836 IAC 3-3-8	R	02-91	25 IR 2848	*CPH (25 IR 3807) **26 IR 2372**
836 IAC 3-4-1	R	02-91	25 IR 2848	*CPH (25 IR 3807) **26 IR 2372**
836 IAC 4-1-1	A	02-91	25 IR 2838	*CPH (25 IR 3807) **26 IR 2362**
836 IAC 4-2-1	A	02-91	25 IR 2840	*CPH (25 IR 3807) **26 IR 2364**
836 IAC 4-2-2	A	02-91	25 IR 2841	*CPH (25 IR 3807) **26 IR 2365**
836 IAC 4-2-5	R	02-91	25 IR 2848	*CPH (25 IR 3807) **26 IR 2372**
836 IAC 4-3-2	A	02-91	25 IR 2841	*CPH (25 IR 3807) **26 IR 2366**
836 IAC 4-4-1	A	02-91	25 IR 2842	*CPH (25 IR 3807) **26 IR 2366**
836 IAC 4-5-2	A	02-91	25 IR 2843	*CPH (25 IR 3807) **26 IR 2367**
836 IAC 4-6.1	N	02-91	25 IR 2843	*CPH (25 IR 3807) **26 IR 2368**
836 IAC 4-7-2	A	02-91	25 IR 2844	*CPH (25 IR 3807) **26 IR 2368**
836 IAC 4-7-3.5	N	01-297	25 IR 499	**25 IR 2517**
836 IAC 4-7.1	N	02-91	25 IR 2844	*CPH (25 IR 3807) **26 IR 2369**
836 IAC 4-9-3	A	02-91	25 IR 2847	*CPH (25 IR 3807) **26 IR 2372**
836 IAC 4-10-1	R	02-91	25 IR 2848	*CPH (25 IR 3807) **26 IR 2372**

TITLE 839 SOCIAL WORKER, MARRIAGE AND FAMILY THERAPIST, AND MENTAL HEALTH COUNSELOR BOARD

839 IAC 1-2-2.1	A	02-271	26 IR 874	**26 IR 2622**
839 IAC 1-2-5	A	02-271	26 IR 875	**26 IR 2623**
839 IAC 1-3-2	A	02-270	26 IR 871 26 IR 3411	*ARR (26 IR 1945)
839 IAC 1-4-5	A	02-270	26 IR 871 26 IR 3411	*ARR (26 IR 1945)
839 IAC 1-5-1	A	02-270	26 IR 872 26 IR 3412	*ARR (26 IR 1945)
839 IAC 1-5-1.5	N	02-270	26 IR 874 26 IR 3414	*ARR (26 IR 1945)

TITLE 840 INDIANA STATE BOARD OF HEALTH FACILITY ADMINISTRATORS

840 IAC 1-1-4	A	02-219	26 IR 540	**26 IR 1943**

TITLE 844 MEDICAL LICENSING BOARD OF INDIANA

844 IAC 2.2-2-1	A	02-180	26 IR 177	**26 IR 1558**
844 IAC 2.2-2-2	A	02-180	26 IR 178	**26 IR 1559**
844 IAC 2.2-2-5	A	02-180	26 IR 179	**26 IR 1560**
844 IAC 2.2-2-8	A	02-180	26 IR 179	**26 IR 1560**
844 IAC 4-1-1	R	02-12	25 IR 2308	*CPH (25 IR 2746) **26 IR 34**
844 IAC 4-4.1-1	R	02-12	25 IR 2308	*CPH (25 IR 2746) **26 IR 34**
844 IAC 4-4.1-2	R	02-12	25 IR 2308	*CPH (25 IR 2746) **26 IR 34**
844 IAC 4-4.1-3.1	R	02-12	25 IR 2308	*CPH (25 IR 2746) **26 IR 34**
844 IAC 4-4.1-4.1	R	02-12	25 IR 2308	*CPH (25 IR 2746) **26 IR 34**
844 IAC 4-4.1-5	R	02-12	25 IR 2308	*CPH (25 IR 2746) **26 IR 34**
844 IAC 4-4.1-6	R	02-12	25 IR 2308	*CPH (25 IR 2746) **26 IR 34**
844 IAC 4-4.1-7	R	02-12	25 IR 2308	*CPH (25 IR 2746) **26 IR 34**
844 IAC 4-4.1-8	R	02-12	25 IR 2308	*CPH (25 IR 2746) **26 IR 34**
844 IAC 4-4.1-9	R	02-12	25 IR 2308	*CPH (25 IR 2746) **26 IR 34**
844 IAC 4-4.1-10	R	02-12	25 IR 2308	*CPH (25 IR 2746) **26 IR 34**
844 IAC 4-4.1-11	R	02-12	25 IR 2308	*CPH (25 IR 2746) **26 IR 34**
844 IAC 4-4.5	N	02-12	25 IR 2302	*CPH (25 IR 2746) **26 IR 28**
844 IAC 4-5-1	R	02-12	25 IR 2308	*CPH (25 IR 2746) **26 IR 34**
844 IAC 4-6-2	R	02-12	25 IR 2308	*CPH (25 IR 2746) **26 IR 34**
844 IAC 4-6-2.1	N	02-12	25 IR 2308	*CPH (25 IR 2746) **26 IR 34**
844 IAC 4-6-5	R	02-12	25 IR 2308	*CPH (25 IR 2746) **26 IR 34**
844 IAC 4-6-8	R	02-12	25 IR 2308	*CPH (25 IR 2746) **26 IR 34**
844 IAC 4-7-5	R	02-12	25 IR 2308	*CPH (25 IR 2746) **26 IR 34**
844 IAC 5-1-1	A	02-268	26 IR 2117	
844 IAC 5-1-3	A	02-268	26 IR 2118	
844 IAC 5-3	N	02-268	26 IR 2118	
844 IAC 5-4	N	02-268	26 IR 2120	
844 IAC 6-1-4	A	01-431	25 IR 3454	**26 IR 377**
844 IAC 6-3-5	A	01-432	25 IR 3455	**26 IR 378**
844 IAC 6-4-1	A	02-181	26 IR 541	**26 IR 2373**

TITLE 845 BOARD OF PODIATRIC MEDICINE

845 IAC 1-3-1	A	03-46	26 IR 2683	
845 IAC 1-3-2	A	03-46	26 IR 2683	
845 IAC 1-3-3	N	03-46	26 IR 2684	
845 IAC 1-4.1-1	A	03-46	26 IR 2684	

845 IAC 1-4.1-2	A	03-46	26 IR 2684	
845 IAC 1-4.1-4	R	03-46	26 IR 2686	
845 IAC 1-4.1-7	A	03-46	26 IR 2685	
845 IAC 1-5-1	A	03-46	26 IR 2685	
845 IAC 1-5-2	R	01-363	25 IR 3456	*I (26 IR 1104)
	R	02-341	26 IR 2682	
845 IAC 1-5-2.1	N	01-363	25 IR 3455	*I (26 IR 1104)
	N	02-341	26 IR 2682	
845 IAC 1-5-3	A	03-46	26 IR 2685	
845 IAC 1-6-8	R	03-47	26 IR 2686	
845 IAC 1-6-9	N	03-47	26 IR 2686	

TITLE 848 INDIANA STATE BOARD OF NURSING

848 IAC 1-1-2.1	A	02-247	26 IR 2124	**26 IR 3652**
848 IAC 1-1-6	A	02-247	26 IR 2124	**26 IR 3653**
848 IAC 1-1-7	A	02-247	26 IR 2125	**26 IR 3654**
848 IAC 1-1-14	A	02-183	26 IR 2123	**26 IR 3651**
848 IAC 6	N	02-183	26 IR 2121	**26 IR 3649**

TITLE 852 INDIANA OPTOMETRY BOARD

852 IAC 1-1.1-4	A	02-131	25 IR 3869	**26 IR 1944**
852 IAC 1-13-1	A	02-132	25 IR 3869	**26 IR 2373**
852 IAC 1-13-2	A	02-132	25 IR 3870	**26 IR 2374**
852 IAC 1-17	N	02-133	25 IR 3870	**26 IR 1561**

TITLE 856 INDIANA BOARD OF PHARMACY

856 IAC 1-35-1	A	02-172	25 IR 4211	**26 IR 1561**
856 IAC 1-35-4	A	02-172	25 IR 4212	**26 IR 1562**
856 IAC 1-35-6	R	02-172	25 IR 4212	**26 IR 1562**
856 IAC 2-7	N	02-258	26 IR 1725	

TITLE 857 INDIANA OPTOMETRIC LEGEND DRUG PRESCRIPTION ADVISORY COMMITTEE

857 IAC 1-4-1	RA	02-78	25 IR 3883	**26 IR 546**
857 IAC 2-3-16	A	02-123	25 IR 3873	**26 IR 1104**

TITLE 862 PRIVATE DETECTIVES LICENSING BOARD

862 IAC 1-1-6	A	02-302	26 IR 1728	**26 IR 3341**

TITLE 864 STATE BOARD OF REGISTRATION FOR PROFESSIONAL ENGINEERS

864 IAC 1.1-2-2	A	01-405	25 IR 2848	**26 IR 379**
	A	03-125	26 IR 3737	
864 IAC 1.1-2-4	A	01-405	25 IR 2849	**26 IR 380**
864 IAC 1.1-12-1	A	01-405	25 IR 2850	**26 IR 380**
864 IAC 1.1-14	N	03-125	26 IR 3739	

TITLE 865 STATE BOARD OF REGISTRATION FOR LAND SURVEYORS

865 IAC 1-4-8	A	02-56	25 IR 3456	**26 IR 1105**
865 IAC 1-12-28	A	02-56	25 IR 3456	**26 IR 1105**
865 IAC 1-13-4	A	03-41	26 IR 3739	
865 IAC 1-13-7	A	03-41	26 IR 3739	
865 IAC 1-13-20	R	03-41	26 IR 3740	
865 IAC 1-14-13	A	03-41	26 IR 3740	
865 IAC 1-14-14	A	03-41	26 IR 3740	
865 IAC 1-14-15	A	03-41	26 IR 3740	
865 IAC 1-14-20	R	03-41	26 IR 3740	

TITLE 868 STATE PSYCHOLOGY BOARD

868 IAC 2	N	03-60	26 IR 3741	

TITLE 872 INDIANA BOARD OF ACCOUNTANCY

872 IAC 1-1-6.1	A	02-213	26 IR 2465	*AROC (26 IR 3150)
				*ARR (26 IR 3656)
872 IAC 1-1-10	A	02-301	26 IR 2126	**26 IR 3654**
872 IAC 1-1-12	A	02-213	26 IR 2466	*AROC (26 IR 3150)
				*ARR (26 IR 3656)
872 IAC 1-3-14	A	02-213	26 IR 2466	*AROC (26 IR 3150)
				*ARR (26 IR 3656)
872 IAC 1-4	N	02-301	26 IR 2127	**26 IR 3655**
872 IAC 1-5	N	02-213	26 IR 2467	*AROC (26 IR 3150)
				*ARR (26 IR 3656)

TITLE 876 INDIANA REAL ESTATE COMMISSION

876 IAC 1-1-19	A	03-124	26 IR 3744	
876 IAC 1-1-23	A	01-427	25 IR 3874	**26 IR 789**
876 IAC 1-1-30.1	N	02-244	26 IR 2127	**26 IR 3342**
876 IAC 1-4-1	A	03-42	26 IR 3142	
876 IAC 1-4-2	A	01-427	25 IR 3874	**26 IR 789**
	A	03-42	26 IR 3142	
876 IAC 2-16-1	A	02-244	26 IR 2127	**26 IR 3342**
876 IAC 3-2-4	A	02-148	25 IR 4213	**26 IR 1106**
876 IAC 3-2-5	A	02-148	25 IR 4213	**26 IR 1107**
876 IAC 3-2-7	A	02-148	25 IR 4213	**26 IR 1107**
876 IAC 3-3-3	A	03-23	26 IR 3415	
876 IAC 3-3-4	A	03-23	26 IR 3416	
876 IAC 3-3-5	A	03-23	26 IR 3417	
876 IAC 3-3-6				*ERR (26 IR 1109)
876 IAC 3-3-21				*ERR (26 IR 1109)
876 IAC 3-3-22	A	02-148	25 IR 4214	**26 IR 1107**
876 IAC 3-4-8	A	03-23	26 IR 3418	
876 IAC 3-5-1	A	02-245	26 IR 3139	
876 IAC 3-5-1.5	A	02-245	26 IR 3140	
876 IAC 3-5-6.1	N	03-23	26 IR 3418	
876 IAC 3-5-7	A	02-245	26 IR 3141	
876 IAC 3-6-2	A	02-246	26 IR 1728	**26 IR 3043**
876 IAC 3-6-3	A	02-246	26 IR 1729	**26 IR 3044**
876 IAC 3-6-4	A	02-245	26 IR 3141	
876 IAC 3-6-9	A	02-148	25 IR 4214	**26 IR 1108**
876 IAC 4-1-3	A	01-427	25 IR 3876	**26 IR 791**
876 IAC 4-2-2	A	01-369	26 IR 180	**26 IR 788**
876 IAC 4-2-3	A	01-369	26 IR 180	**26 IR 788**
876 IAC 4-2-3.5	N	02-300	26 IR 1730	**26 IR 3342**
876 IAC 4-2-9	A	01-369	26 IR 180	**26 IR 788**

TITLE 880 SPEECH-LANGUAGE PATHOLOGY AND AUDIOLOGY BOARD

880 IAC 1-2	R	02-269	26 IR 879	*AWR (26 IR 2377)
	R	03-53	26 IR 3422	
880 IAC 1-2.1	N	02-269	26 IR 876	*AWR (26 IR 2377)
	N	03-53	26 IR 3419	

TITLE 888 INDIANA BOARD OF VETERINARY MEDICAL EXAMINERS

888 IAC 1.1-6-1	A	02-134	25 IR 3877	**26 IR 1563**
888 IAC 1.1-6-3	A	02-135	25 IR 3878	
888 IAC 1.1-10-1	RA	03-77	26 IR 3148	
888 IAC 1.1-10-2	RA	03-77	26 IR 3148	
888 IAC 1.1-10-3	RA	03-77	26 IR 3148	
888 IAC 1.1-10-4	RA	03-77	26 IR 3148	
888 IAC 1.1-11	N	02-136	25 IR 3879	**26 IR 1563**

TITLE 905 ALCOHOL AND TOBACCO COMMISSION

905 IAC 1-5.2-9	R	03-38	26 IR 2688	
905 IAC 1-5.2-9.1	N	03-38	26 IR 2687	
905 IAC 1-5.2-9.2	N	03-38	26 IR 2687	
905 IAC 1-11.1-1	A	03-39	26 IR 2688	
905 IAC 1-11.1-2	A	03-39	26 IR 2688	
905 IAC 1-13-3	A	03-40	26 IR 2689	
905 IAC 1-13-6	N	03-40	26 IR 2689	
905 IAC 1-15.2-3	A	03-94	26 IR 3745	
905 IAC 1-35.1	N	03-96	26 IR 3745	
905 IAC 1-36-2	A	03-97	26 IR 3747	
905 IAC 1-39	RA	02-272	26 IR 545	**26 IR 1735**
905 IAC 1-40	RA	02-272	26 IR 545	**26 IR 1735**
905 IAC 1-41	RA	02-272	26 IR 545	**26 IR 1735**
905 IAC 1-45	N	02-338	26 IR 2128	*ERR (26 IR 2375)

NONCODE RULES

Animal Health, Indiana State Board of
- N 03-120 *ETR (26 IR 3363)
- N 03-158 *ETR (26 IR 3364)

Education Savings Authority, Indiana
- N 02-256 *ETR (26 IR 59)
- N 02-307 *ETR (26 IR 808)

Family and Social Services, Office of the Secretary of
- N 02-278 *ETR (26 IR 396)
- N 02-279 *ETR (26 IR 396)
- N 02-280 *ETR (26 IR 406)
- N 02-281 *ETR (26 IR 407)
- A 03-181 *ETR (26 IR 3664)
- A 03-182 *ETR (26 IR 3667)

Health, Indiana State Department of
- N 03-1 *ETR (26 IR 1954)
- N 03-2 *ETR (26 IR 1956)
- N 03-86 *ETR (26 IR 2638)
- N 03-87 *ETR (26 IR 2642)

Horse Racing Commission, Indiana
- R 02-296 *ETR (26 IR 395)

Local Government Finance, Department of
- N 03-178 *ETR (26 IR 3658)

Lottery Commission, State
- N 02-257 *ETR (26 IR 54)
- N 02-283 *ETR (26 IR 385)
- N 02-284 *ETR (26 IR 385)
- N 02-285 *ETR (26 IR 386)
- N 02-286 *ETR (26 IR 387)
- N 02-288 *ETR (26 IR 388)
- N 02-289 *ETR (26 IR 389)
- N 02-290 *ETR (26 IR 390) *ERR (26 IR 793)
- N 02-291 *ETR (26 IR 392)
- N 02-308 *ETR (26 IR 800)
- N 02-309 *ETR (26 IR 801)
- N 02-310 *ETR (26 IR 803)
- N 02-311 *ETR (26 IR 804)
- N 02-312 *ETR (26 IR 805)
- N 02-313 *ETR (26 IR 807)
- N 02-346 *ETR (26 IR 1574)
- N 02-347 *ETR (26 IR 1575)
- N 02-348 *ETR (26 IR 1577)
- N 02-349 *ETR (26 IR 1578)
- N 02-351 *ETR (26 IR 1582)
- N 02-352 *ETR (26 IR 1583)
- N 02-354 *ETR (26 IR 1587)
- N 02-355 *ETR (26 IR 1587)
- N 02-356 *ETR (26 IR 1588)
- N 02-357 *ETR (26 IR 1589)
- N 02-358 *ETR (26 IR 1590)
- N 03-15 *ETR (26 IR 1946)
- N 03-16 *ETR (26 IR 1948)
- N 03-49 *ETR (26 IR 2378)
- N 03-78 *ETR (26 IR 2628)
- N 03-79 *ETR (26 IR 2629)
- N 03-80 *ETR (26 IR 2630)
- N 03-81 *ETR (26 IR 2632)
- N 03-82 *ETR (26 IR 2634)
- N 03-83 *ETR (26 IR 2635)
- N 03-84 *ETR (26 IR 2636)
- N 03-105 *ETR (26 IR 3049)
- N 03-106 *ETR (26 IR 3049)
- N 03-107 *ETR (26 IR 3050)
- N 03-108 *ETR (26 IR 3051)
- N 03-109 *ETR (26 IR 3052)
- N 03-110 *ETR (26 IR 3054)
- N 03-111 *ETR (26 IR 3056)
- N 03-114 *ETR (26 IR 3057)
- N 03-115 *ETR (26 IR 3058)
- N 03-116 *ETR (26 IR 3060)
- N 03-117 *ETR (26 IR 3061)
- N 03-118 *ETR (26 IR 3063)
- N 03-119 *ETR (26 IR 3065)
- N 03-137 *ETR (26 IR 3350)
- N 03-138 *ETR (26 IR 3351)
- N 03-139 *ETR (26 IR 3351)
- N 03-140 *ETR (26 IR 3352)
- N 03-141 *ETR (26 IR 3353)
- N 03-142 *ETR (26 IR 3354)
- N 03-143 *ETR (26 IR 3354)
- N 03-144 *ETR (26 IR 3355)
- N 03-145 *ETR (26 IR 3357)
- N 03-147 *ETR (26 IR 3358)

Natural Resources Commission
- N 02-293 *ETR (26 IR 395)
- N 02-330 *ETR (26 IR 1111)
- N 03-26 *ETR (26 IR 1952)
- N 03-27 *ETR (26 IR 1954)
- N 03-28 *ETR (26 IR 2388)
- N 03-51 *ETR (26 IR 2389)
- N 03-85 *ETR (26 IR 2637)
- N 03-88 *ETR (26 IR 2638)
- N 03-176 *ETR (26 IR 3660)
- N 03-177 *ETR (26 IR 3660)

Revenue, Department of State
- N 02-316 *ETR (26 IR 794)

Utility Regulatory Commission, Indiana
- A 03-192 *ETR (26 IR 3659)

Water Pollution Control Board
- N 03-127 *ETR (26 IR 3066)

*Key:

A:	Amended Text
AGA:	Attorney General's Action
AROC:	Administrative Rules Oversight Committee Notice
ARR:	Agency Recalls Rule
AWR:	Agency Withdrew Rule
CPH:	Change in Public Hearing
DAG:	Disapproved by Attorney General
DG:	Disapproved by Governor
ER:	Emergency Rule
ERR:	Errata
ETR:	Emergency Temporary Rule
ETS:	Emergency Temporary Standard
GRAT:	Governor Requires Additional Time
I:	Document Ineffective
N:	New Text
NRA:	Notice of Rule Adoption
OAC:	Objection to Errata
ON:	Other Notices of Administrative Action
R:	Repealed Text
RA:	Readopted Rule
SAC:	Solicitation of Advance Comment
SPE:	Statutory Period for Promulgation Expired
SPE-SE:	Statutory Period for Promulgation Expired; Signed After Expiration
††:	Renumbered or Added in Final Rule

Index

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