

Cause #: 99-24Q
Name: Pendleton Correctional Facility
Administrative Law Judge: William K. Teegarden
Date: September 21, 1999
Commission Action: Affirmed

FINDINGS OF FACT

1. The OSFM is an agency within the meaning of IC 4-21.5.
2. The OSFM is the state agency responsible for enforcing fire codes within the state of Indiana.
3. The FPBSC is the ultimate authority within the meaning of IC 4-21.5 over orders issued by the OSFM.
4. At all time relevant to this proceeding, the DOC operated the state correctional system including the Pendleton Correctional Facility.
5. On April 8, 1999, a duly authorized representative of the OSFM conducted a fire inspection of the F Dormitory of the DOC at Pendleton.
6. As a result of this inspection, the OSFM issued an order dated April 12, 1999, citing several violations of the building and fire codes.
7. On May 18, 1999, the DOC filed a petition for administrative review of the order.
8. To qualify for administrative review, a person must petition for review in writing within 15 days of the time notice of the order was given. See IC 4-21.5-3-7.
9. Notices may be given by regular mail. Whenever mail is used for service, 3 days are added to the appropriate time deadline. See IC 4-21.5-3-2.
10. Since the time allowed for a petition for review is more than 7 days, Saturdays, Sundays, and holidays are counted. See IC 4-21.5-3-2(b).
11. The order written on April 22, 1999, a Thursday, was placed in the U.S. Mail no later than Friday April 23, 1999.
12. A written petition for review was due by Tuesday May 11, 1999, that date

being 18 days (15 days plus 3 days for the use of the mail) following the mailing of the order.

13. The petition for review is dated May 18, 1999.
14. The DOC has offered no legal justification or excuse which would allow a finding that the petition was timely filed.
15. The DOC does not qualify for administrative review because its petition was not timely filed.

NONFINAL ORDER

The decision of the Fire Prevention and Building Safety Commission to deny administrative review to the Pendleton Correctional Facility of the April 22, 1999, Order of the State Fire Marshal is affirmed. The petition for administrative review is dismissed.