
FIRE PREVENTION AND BUILDING SAFETY COMMISSION
Department of Homeland Security**NONRULE POLICY DOCUMENT****TITLE:** Scope of Construction and Maintenance Inspection Programs**DOCUMENT #:** 2021-3-DHS**DATE ADOPTED:** October 01, 2021**ADOPTED BY:** Indiana Department of Homeland Security - Division of Fire and Building Safety**Overview**

This document identifies the scope of the Indiana Department of Homeland Security's (IDHS) fire and building safety law enforcement programs, particularly with respect to inspections of buildings following completion of *construction inspections*.

Background

On April 15, 2005, the IDHS was created by statute as a combination of several existing state agencies. See [IC 10-19-2-1](#). One of these agencies was the Fire and Building Services Department, which contained, among other offices and divisions, the Office of the State Fire Marshal and the Office of the State Building Commissioner. As part of its inclusion in the IDHS, functions that had previously been statutorily reserved for either the Office of the State Fire Marshal or Office of the State Building Commissioner were granted to a newly formed division - the Division of Fire and Building Safety (Division). For example, the requirement to carry out a program to enforce building laws was no longer a function reserved for the Office of the State Building Commissioner, this responsibility was given to the Division as a whole. And, more recently, on July 1, 2021, all responsibilities that had been assigned to the Division were assigned to the IDHS. See P.L. 187-2021, SEC 98.

Over time, due to the centralization of duties, responsibilities, and staff that originally resided with either the Office of the State Fire Marshal or Office of the State Building Commissioner, the scope of the programs for enforcement of building laws and fire safety laws became blurred. The two distinct inspection programs, with distinct inspection staff, became a single building and fire safety inspection program administered by the same inspection staff. No longer were *maintenance inspections* (inspections to, generally, determine compliance with the fire safety laws as defined in [IC 22-12-1-13](#)) only being performed by the Office of the State Fire Marshal or *construction inspections* (inspections conducted to determine compliance with the building laws as defined in [IC 22-12-1-3](#)) only being performed by the Office of the State Building Commissioner. These inspections were now being performed by the same group of inspectors, IDHS inspectors, trained to conduct both *construction* and *maintenance inspections*.

While this centralization of duties generally created efficiencies and other benefits, issues have arisen concerning the performance of new *construction inspections*, and citation of building law violations, during post construction *maintenance inspections*. To address these issues and to eliminate:

- (1) the duplication of inspections;
- (2) retroactive enforcement of changes in interpretations of the law;
- (3) conflicting application of the law between state and local enforcement agencies;
- (4) statute of limitation concerns;
- (5) due process concerns; and
- (6) the lack of finality of construction compliance;

the following policy is hereby adopted.

Policy

In general, *construction inspections* shall occur during construction and prior to occupancy of a building or structure. All violations of the building code ([675 IAC 13](#)), and any other applicable rules of the Fire Prevention and Building Safety Commission (Commission) governing new construction, shall be enforced during these *construction inspections*. Following completion of all *construction inspections*, and a determination of compliance with the rules of the Commission for new construction, inspections of buildings and structures shall be limited to a performance of *maintenance inspections* to ensure the building or structure is maintained in accordance with the rules of the Commission for existing construction - the rules contained in the fire code ([675 IAC 22](#)) and [675 IAC 12-4](#). *Maintenance inspections* shall not include reexaminations of buildings or structures to determine whether the original construction was performed in conformance with the building laws of the State of Indiana. However, *construction inspections* may occur post construction and occupancy if the IDHS: (1) has not performed; and (2) did not have the opportunity to perform, a *construction inspection* of the building or structure.

In jurisdictions where a local unit of government has established a program to perform periodic *construction inspections* in accordance with [675 IAC 12-10-9](#), the IDHS shall not perform *construction inspections* until a determination in accordance with [675 IAC 12-10-9\(c\)](#) is issued to the local unit of government and the

construction inspection fees are reinstated for construction projects occurring within the subject jurisdiction. *Maintenance inspections* may be performed by the IDHS in jurisdictions that have established a program to perform periodic *construction inspections*.

Notwithstanding the above limitations, this policy does not: (1) limit the authority of the IDHS to perform *construction inspections* when a change of use or occupancy occurs or new construction is completed (addition, alteration, remodel, rehabilitation); or (2) prohibit any finding that a building or structure was not maintained in accordance with [675 IAC 12-4-9](#) due to changes occurring after the completion of *construction inspections*.

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