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**TITLE 328 UNDERGROUND STORAGE TANK FINANCIAL
ASSURANCE BOARD**

**FIRST NOTICE OF COMMENT PERIOD
#02-204(FAB)**

**DEVELOPMENT OF AMENDMENTS TO RULES CONCERNING THE UNDERGROUND STORAGE TANK LIABILITY
TRUST FUND**

PURPOSE OF NOTICE

The Indiana Department of Environmental Management (IDEM) is soliciting public comment on amendments to rules of the Financial Assurance Board at 328 IAC 1 and 328 IAC 2. This rule's intent is to provide consistency with the RISC closure options allowed by the statute at IC 13-12-3-2, the Underground Storage Tank Rules and the allowance for payments under the excess liability trust fund (ELTF) rule. IDEM seeks comment on the affected citations listed and any other provisions of Title 328 that may be affected by this rulemaking.

CITATIONS AFFECTED: 328 IAC 1; 328 IAC 2.

AUTHORITY: IC 13-23-8-1; IC 13-23-8-4.5; IC 13-23-8-5; IC 13-23-11-7.

SUBJECT MATTER AND BASIC PURPOSE OF RULEMAKING

The risk integrated system of closure (RISC) guidance, required under IC 13-12-3-2 is now effective and the RISC provisions are being added to the underground storage tank (UST) rules at 329 IAC 9 for tank closures. Because the ELTF rules reference the UST rules, IDEM has determined that the ELTF rules would benefit from clarification as to what costs are reimbursable allowing for the use of the RISC provisions. Clarification will expedite payment to eligible parties required to use RISC for tank closures.

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:

#02-204(FAB) [ELTF Change Rule]

Marjorie Samuel

Rules, Planning and Outreach Section

Office of Land 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 eleventh floor reception desk, Office of Land Quality, Indiana Government Center-North, 100 North Senate Avenue, Indianapolis, Indiana.

Comments may be submitted by facsimile at the IDEM fax number: (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 the Office of Land Quality's Rules, Outreach and Planning Section at (317) 232-7995.

COMMENT PERIOD DEADLINE

Comments must be postmarked or hand delivered by September 6, 2002.

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).

Bruce Palin
Deputy Assistant Commissioner
Office of Land Quality