Indiana Register

Volume 26, Number 2
Pages 321-686

November 1, 2002

Retain this issue as a supplement to the Indiana Administrative Code (See p. 322)

The Indiana Register is on the Internet at: www.in.gov/legislative/

Published By

Indiana Legislative Services Agency

Office of Code Revision
317/232-9557

recycled paper

This issue contains documents officially filed through 4:45 p.m., October 10, 2002

IN THIS ISSUE

INDIANA REGISTER

(ISSN 0193-1520)

is published monthly by the Indiana Legislative Council, Room 302 State House, Indianapolis, Indiana 46204-2789. An order form is on the back of this issue. Subscription price is $60 for volume 26, in advance. PERIODICALS postage paid at Indianapolis, Indiana.

Postmaster: Send change of address to:

Indiana Register
Legislative Services Agency
200 West Washington Street, Suite 302
Indianapolis, IN 46204-2789

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) Indiana Administrative Code (2001).
(2) The 2002 Supplement.
(3) Volumes 25 and 26 of the Indiana Register.

The 1996 Edition of the Indiana Administrative Code, the 2000 Cumulative Supplement, and other volumes of the Indiana Register may be discarded. (Please consider recycling.)

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:
October 10, 2002	November 1, 2002	May 9, 2003	June 1, 2003
November 12, 2002	December 1, 2002	June 10, 2003	July 1, 2003
December 10, 2002	January 1, 2003	July 10, 2003	August 1, 2003
January 10, 2003	February 1, 2003	August 11, 2003	September 1, 2003
February 10, 2003	March 1, 2003	September 10, 2003	October 1, 2003
March 10, 2003	April 1, 2003	October 10, 2003	November 1, 2003
April 10, 2003	May 1, 2003	November 11, 2003	December 1, 2003

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.

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ALPHABETICAL LIST

†Agency's rules are entirely repealed, transferred, or otherwise voided.

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†325.1 Air Pollution Control Board
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930 Indiana Housing Finance Authority

†Agency's rules are entirely repealed, transferred, or otherwise voided.

TITLE 50 DEPARTMENT OF LOCAL GOVERNMENT FINANCE

NOTE: Under IC 6-1.1-31-1, the name of the State Board of Tax Commissioners is changed to Department of Local Government Finance, effective January 1, 2002.

LSA Document #01-367(F)

DIGEST

Adds 50 IAC 3.2 concerning the assessment of mobile and manufactured homes on an annual basis. Repeals 50 IAC 3.1-1, 50 IAC 3.1-2-1, 50 IAC 3.1-2-5, 50 IAC 3.1-2-6, 50 IAC 3.1-2-7, 50 IAC 3.1-2-8, and 50 IAC 3.1-2-9. Effective 30 days after filing with the secretary of state.

50 IAC 3.1-1	**50 IAC 3.1-2-7**
50 IAC 3.1-2-1	**50 IAC 3.1-2-8**
50 IAC 3.1-2-5	**50 IAC 3.1-2-9**
50 IAC 3.1-2-6	**50 IAC 3.2**

SECTION 1. 50 IAC 3.2 IS ADDED TO READ AS FOLLOWS:

ARTICLE 3.2. ASSESSMENT OF MOBILE HOMES

Rule 1. Purpose

50 IAC 3.2-1-1 Purpose
Authority: IC 6-1.1-7-2; IC 6-1.1-31-1
Affected: IC 6-1.1-7

Sec. 1. The purpose of this article is to provide the method for the assessment of annually assessed mobile homes and annually assessed manufactured homes. For purposes of this article, the term "mobile home" shall include a manufactured home. *(Department of Local Government Finance; 50 IAC 3.2-1-1; filed Sep 23, 2002, 10:04 a.m.: 26 IR 326)*

Rule 2. Definitions

50 IAC 3.2-2-1 Definitions
Authority: IC 6-1.1-7-2; IC 6-1.1-31-1
Affected: IC 6-1.1-7

Sec. 1. The definitions in this rule apply throughout this article. *(Department of Local Government Finance; 50 IAC 3.2-2-1; filed Sep 23, 2002, 10:04 a.m.: 26 IR 326)*

50 IAC 3.2-2-2 "Annually assessed mobile home" defined
Authority: IC 6-1.1-7-2; IC 6-1.1-31-1
Affected: IC 6-1.1-7

Sec. 2. An "annually assessed mobile home" is a mobile or manufactured home that is not located on:
(1) a permanent foundation; or
(2) land owned by the mobile home owner.
(Department of Local Government Finance; 50 IAC 3.2-2-2; filed Sep 23, 2002, 10:04 a.m.: 26 IR 326)

50 IAC 3.2-2-3 "Permanent foundation" defined
Authority: IC 6-1.1-7-2; IC 6-1.1-31-1
Affected: IC 6-1.1-7

Sec. 3. A "permanent foundation" is a structural system capable of transposing loads from a structure to the earth at a depth below the established frost line. A permanent foundation consists of a closed perimeter formation made from materials such as concrete, mortared concrete block, or mortared brick extending into the ground below the frost line. It may include cellars, basements, or crawl spaces, but it does not include a pier foundation. *(Department of Local Government Finance; 50 IAC 3.2-2-3; filed Sep 23, 2002, 10:04 a.m.: 26 IR 326)*

50 IAC 3.2-2-4 "Pier foundation" defined
Authority: IC 6-1.1-7-2; IC 6-1.1-31-1
Affected: IC 6-1.1-7

Sec. 4. A "pier foundation" is a noncontinuous series of posts or columns laid in a grid pattern that transmits the load of the superstructure to the ground. Piers may or may not be on footings, and may be constructed of steel, wood, concrete, concrete block, or stone. A pier foundation is not to be considered a permanent foundation. *(Department of Local Government Finance; 50 IAC 3.2-2-4; filed Sep 23, 2002, 10:04 a.m.: 26 IR 326)*

50 IAC 3.2-2-5 "Real property mobile home" defined
Authority: IC 6-1.1-7-2; IC 6-1.1-31-1
Affected: IC 6-1.1-7

Sec. 5. A "real property mobile home" is a mobile or manufactured home that meets one (1) of the following requirements:
(1) Located on land owned by the home owner; or
(2) Located on a permanent foundation.
(Department of Local Government Finance; 50 IAC 3.2-2-5; filed Sep 23, 2002, 10:04 a.m.: 26 IR 326)

50 IAC 3.2-2-6 "Real Property Assessment Manual for 2002" defined
Authority: IC 6-1.1-7-2; IC 6-1.1-31-1
Affected: IC 6-1.1-7

Sec. 6. The "Real Property Assessment Manual for 2002" is the 2002 Real Property Assessment Manual, published by the state board of tax commissioners 50 IAC 2.3-1-1(c), which is hereby incorporated by reference and does not include any later amendments or editions. Copies of the manual are available for a fee of ten dollars ($10) from the Department of Local Government Finance at 100 North Senate, Suite 1058, Indianapolis, Indiana or you may access the manual at no cost on the department's Web site at http://www.in.gov/dlgf/pubs/. *(Department of Local Government Finance; 50 IAC 3.2-2-6; filed Sep 23, 2002, 10:04 a.m.: 26 IR 326; errata filed Sep 27, 2002, 10:23 a.m.: 26 IR 382)*

50 IAC 3.2-2-7 "Real Property Assessment Guidelines for 2002–Version A" defined
Authority: IC 6-1.1-7-2; IC 6-1.1-31-1
Affected: IC 6-1.1-7

Sec. 7. The "Real Property Assessment Guidelines for 2002–Version 'A'" (also referred to in this rule as "the Guidelines"), are the Real Property Assessment Guidelines for 2002–Version 'A', published by the state board of tax commissioners and dated January 1, 2002, which are hereby incorporated by reference. The term does not include any later amendments or editions. Copies of these guidelines are available for a fee of ten dollars ($10) from the Department of Local Government Finance at 100 North Senate, Suite 1058, Indianapolis, Indiana or you may access them at no cost on the department's Web site at http://www.in.gov/dlgf/pubs/. *(Department of Local Government Finance; 50 IAC 3.2-2-7; filed Sep 23, 2002, 10:04 a.m.: 26 IR 327)*

Rule 3. Method

50 IAC 3.2-3-1 Method
Authority: IC 6-1.1-7-2; IC 6-1.1-31-1
Affected: IC 6-1.1-7

Sec. 1. (a) The township assessor of the township within which the mobile home is located shall assess the mobile home for taxation under this article.

(b) A mobile home shall be assessed as real property under 50 IAC 2.3 if the mobile home:
(1) is located on land owned by the owner of the mobile home; or
(2) is located on a permanent foundation even if the land under the mobile home is owned by someone other than the owner of the mobile home.

(c) A mobile home shall be assessed annually in accordance with the personal property rule in effect on January 15 if the mobile home is held for sale in the ordinary course of a trade or business.

(d) The township assessor shall assess mobile homes that do not meet the requirements of subsection (b) or (c), and all exterior features, yard structures, and improvements owned by the mobile home owner and located on the same parcel as the mobile home in accordance with 50 IAC 3.2-2. *(Department of Local Government Finance; 50 IAC 3.2-3-1; filed Sep 23, 2002, 10:04 a.m.: 26 IR 327)*

50 IAC 3.2-3-2 Assessment dates
Authority: IC 6-1.1-7-2; IC 6-1.1-31-1
Affected: IC 6-1.1-2-1; IC 6-1.1-7-7; IC 6-1.1-22-9

Sec. 2. (a) A mobile home that meets the requirements of section 1(d) of this rule shall be assessed on January 15 and taxed at the current year's tax rate. The owner of a mobile home that meets the requirements of section 1(d) of this rule shall pay the tax in accordance with IC 6-1.1-7-7.

(b) A mobile home assessed as real property under section 1(b) of this rule shall be assessed on March 1 and taxed at the following year's rate.

(c) A mobile home assessed as personal property under section 1(c) of this rule shall be assessed on March 1 and taxed at the following year's rate.

(d) A mobile home properly assessed under subsection (a) that becomes real property on or before March 1 of the same year shall be assessed and taxed as real property under subsection (b). Upon the taxpayer furnishing proper documentation to the auditor of two (2) consecutive assessments of the same property as real property, the auditor shall remove the January 15 assessment from the tax rolls. *(Department of Local Government Finance; 50 IAC 3.2-3-2; filed Sep 23, 2002, 10:04 a.m.: 26 IR 327)*

Rule 4. Valuation Guide

50 IAC 3.2-4-1 Criteria for valuation
Authority: IC 6-1.1-7-2; IC 6-1.1-31-1
Affected: IC 6-1.1-7-2

Sec. 1. (a) Township assessors shall use the standard of true tax value as set forth in the Real Property Assessment Manual for 2002 in the assessment of annually assessed mobile homes.

(b) All annually assessed mobile homes assessed after January 14, 2003, shall be assessed in accordance with the methodology that the county assessor has elected, in accordance with 50 IAC 2.3-1-1, for the assessment of real property mobile homes in the county in which the mobile home is assessed.

(c) If the county assessor has selected to assess real property mobile homes under the Real Property Assessment Guidelines for 2002–Version 'A', then the township assessor shall value annually assessed mobile homes in accordance with the guidelines for the assessment of real property mobile homes contained in the Real Property Assessment Guidelines for 2002–Version 'A'.

(d) If the county assessor has selected to assess real property mobile homes under an assessment method other than that described in subsection (c) and the county assessor has obtained the approval of the department of local government finance in accordance with 50 IAC 2.3-1-1(f) for this assessment method, then each township assessor in the county shall use the alternative approved method for the assessment of annually assessed mobile homes.

(e) The procedure for submission and approval of the alternative method shall be in accordance with the 2002 Real Property Assessment Manual, Approval of Mass Appraisal Methods. *(Department of Local Government Finance; 50 IAC 3.2-4-1; filed Sep 23, 2002, 10:04 a.m.: 26 IR 327)*

50 IAC 3.2-4-2 Depreciation
Authority: IC 6-1.1-7-2; IC 6-1.1-31-1
Affected: IC 6-1.1-7

Sec. 2. (a) The depreciation tables in the Real Property Assessment Guidelines for 2002–Version 'A' are calculated for the 2002 reassessment date. Township assessors using the Real Property Assessment Guidelines for 2002–Version 'A' shall use the depreciation tables in the Guidelines for the January 15, 2003, assessment date for annually assessed mobile homes.

(b) The following depreciation tables shall be used in 2004 and thereafter to calculate the depreciation percentage for all annually assessed mobile or manufactured homes:

(1) Pre-HUD code models–depreciation percentages (for units built prior to June 15, 1976):

Age	Custom	Good	Economy
26 years and over	75	80	85

(2) These depreciation percentages shall be used for mobile homes in average condition relative to other comparable mobile homes. If the subject mobile home is in any condition other than average, adjust the applicable depreciation percentage as follows:

(A) If the home is in excellent or good condition, use ten percent (10%) less depreciation for excellent and five percent (5%) less depreciation for good.

(B) If the home is in fair condition, add an additional five percent (5%) depreciation; if in poor condition, add an additional ten percent (10%) depreciation to the classification, and if in very poor condition, add an additional fifteen percent (15%) depreciation, to a maximum of ninety-five percent (95%) to any mobile home.

(C) Post-HUD code models–depreciation percentages (for units built after June 15, 1976):

	Condition Rating					
ACTUAL AGE	EX	G	A	F	P	VP
01	05	05	05	10	15	20
02	05	05	10	15	20	25
03–04	05	10	15	20	25	30
05–06	10	15	20	25	30	35
07–08	10	20	25	30	35	40
09–10	15	25	30	35	40	45
11–12	20	30	35	40	45	50
13–14	25	35	40	45	50	55
15–16	30	40	45	50	55	60
17–18	35	45	50	55	60	65
19–20	40	50	55	60	65	70
21–22	45	55	60	65	70	75
23–24	50	60	65	70	75	80
25–27	55	65	70	75	80	80
28 +	60	70	75	80	80	80

(Department of Local Government Finance; 50 IAC 3.2-4-2; filed Sep 23, 2002, 10:04 a.m.: 26 IR 328)

50 IAC 3.2-4-3 Data collecting on mobile home properties
Authority: IC 6-1.1-7-2; IC 6-1.1-31-1
Affected: IC 6-1.1-1-3

Sec. 3. (a) The department of local government finance shall prepare a worksheet and instructions for the use of assessing officials in collecting data pertaining to the assessment of mobile homes.

(b) Assessing officials shall use the mobile home assessment work sheet or comparable computer software in the collection and processing of data pertaining to the assessment of mobile home properties. *(Department of Local Government Finance; 50 IAC 3.2-4-3; filed Sep 23, 2002, 10:04 a.m.: 26 IR 328)*

SECTION 2. THE FOLLOWING ARE REPEALED: 50 IAC 3.1-1; 50 IAC 3.1-2-1; 50 IAC 3.1-2-5; 50 IAC 3.1-2-6; 50 IAC 3.1-2-7; 50 IAC 3.1-2-8; 50 IAC 3.1-2-9.

LSA Document #01-367(F)
Notice of Intent Published: 25 IR 406
Proposed Rule Published: May 1, 2002; 25 IR 2548
Hearing Held: May 22, 2002
Approved by Attorney General: September 12, 2002
Approved by Governor: September 18, 2002
Filed with Secretary of State: September 23, 2002, 10:04 a.m.
Incorporated Documents Filed with Secretary of State: None

TITLE 170 INDIANA UTILITY REGULATORY COMMISSION

LSA Document #02-44(F)

DIGEST

Amends 170 IAC 4-1-26 concerning electrical line construction and variances. Effective 30 days after filing with the secretary of the state.

170 IAC 4-1-26

SECTION 1. 170 IAC 4-1-26 IS AMENDED TO READ AS FOLLOWS:

170 IAC 4-1-26 Line construction; variances
Authority: IC 8-1-1-3; IC 8-1-2-4
Affected: IC 8-1-2

Sec. 26. (a) In all cases not covered by specific statutes in effect, Part 2, "Safety Rules for the Installation and Maintenance of Overhead Electric Supply and Communication Lines", and Part 3, "Safety Rules for the Installation and Maintenance of Underground Electric Supply and Communication Lines", of the ~~1997~~ **2002** edition of the National Electrical Safety Code as approved by the American National Standards Institute June ~~6, 1996,~~ **14, 2001,** as ANSI Standard C2, are prescribed for overhead and underground construction practice commenced after the date of promulgation of this section.

(b) **The commission incorporates by reference the 2002 National Electrical Safety Code.** Copies ~~of the 1997 edition of the National Electrical Safety Code are available for purchase~~ **may be obtained** from the Institute of Electrical and Electronics Engineers, Inc., 445 Hoes Lane, Piscataway, New Jersey 08855-1331 **or are available for copying at the Indiana Utility Regulatory Commission, Indiana Government Center-South, 302 West Washington Street, Room E306, Indianapolis, Indiana 46204.**

(c) Any public utility wishing to depart from the National Electrical Safety Code:

(1) for the purpose of experimentation or the development of improved methods of construction;

(2) because it works an injustice or expense not justified by the protection secured or is shown to be impractical; or

(3) where equivalent or safer construction can be more readily provided in other ways;

may informally petition for authorization to construct, install, or use materials, equipment, or methods other than specified in this rule, directing such petition to the engineering department of the commission. The petition shall be accompanied by the consent of any other utility whose facilities will be directly affected by the proposed departure from this rule. The engineering department shall forthwith make an investigation and, if satisfied that such petition falls within one (1) or more of the three (3) categories set forth in this subsection and is justified from an engineering standpoint, shall so advise the commission. The petitioning utility and any consenting utility shall thereupon be notified, in writing, that the proposed departure from this rule has been authorized. *(Indiana Utility Regulatory Commission; No. 33629: Standards of Service For Electrical Utilities Rule 24; filed Mar 10, 1976, 9:10 a.m.: Rules and Regs. 1977, p. 356; filed Feb 28, 1986, 9:30 a.m.: 9 IR 1564; filed Oct 7, 1987, 12:30 p.m.: 11 IR 565; filed Oct 15, 1990, 3:28 p.m.: 14 IR 418; filed Jan 28, 1993, 9:00 a.m.: 16 IR 1510; filed Feb 23, 1998, 11:30 a.m.: 21 IR 2325; readopted filed Jul 11, 2001, 4:30 p.m.: 24 IR 4233; filed Sep 27, 2002, 2:33 p.m.: 26 IR 328)*

LSA Document #02-44(F)
Notice of Intent Published: 25 IR 1927
Proposed Rule Published: June 1, 2002; 25 IR 2751
Hearing Held: July 2, 2002
Approved by Attorney General: September 13, 2002
Approved by Governor: September 25, 2002
Filed with Secretary of State: September 27, 2002, 2:33 p.m.
Incorporated Documents Filed with Secretary of State: National Electrical Safety Code, 2002 Edition.

TITLE 345 INDIANA STATE BOARD OF ANIMAL HEALTH

LSA Document #01-392(F)

DIGEST

Amends 345 IAC 8 for the production, transportation, and processing of milk and milk products, including updating matters incorporated by reference. Amends 345 IAC 8-3-2 to add a requirement that Grade A farm bulk milk tanks be equipped with automatic start-up equipment for cooling and agitation. Makes other substantive and technical changes in the law of milk and milk products inspection. Effective 30 days after filing with the secretary of state.

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SECTION 1. 345 IAC 8-2-1.1 IS AMENDED TO READ AS FOLLOWS:

345 IAC 8-2-1.1 Definitions

Authority: IC 15-2.1-3-19; IC 15-2.1-23-6
Affected: IC 15-2.1-2-3.6; IC 15-2.1-4; IC 15-2.1-23; IC 16-42

Sec. 1.1. (a) In the interpretation and enforcement of this ~~rule,~~ **article,** unless the context otherwise requires, the definitions in ~~the Pasteurized Milk Ordinance and Dry Milk Ordinance adopted by reference in 345 IAC 8-3-1, the definitions in~~ IC 15-2.1-2, and the following definitions apply:

(1) "Approved grader of raw milk or raw cream" or "approved grader" has the meaning ~~as~~ set forth in IC 15-2.1-2-3.6.

(2) "Bacterial counts" means bacterial plate counts, direct microscopic counts, and plate loop counts that, whenever mentioned in dairy product standards of identity, are made according to the methods outlined in the current edition of "Standard Methods for the Examination of Dairy Products", published by the American Public Health Association, and the current edition of Official Methods of Analysis of the Association of Official Analytical Chemists, or such methods that are approved by the board.

(3) "Butter" means the food product usually known as butter, and which is made exclusively from milk or cream, or both, with or without common salt, and with or without additional coloring matter, and containing not less than eighty percent (80%) by weight of milk fat, all tolerances having been allowed for.

(4) "Buttermilk" means a fluid product resulting from the manufacture of butter from milk or cream. It contains not less than eight and one-fourth percent (8¼%) of milk solids not fat.

~~(4)~~ **(5)** "Buyer of raw milk" means any milk producer marketing organization, milk plant, receiving station, transfer station, or bulk hauler that takes delivery of raw milk or raw cream and manages the sale of the raw milk or raw cream.

~~(5)~~ **(6)** "Cheese" means natural cheeses, processed cheeses, cheese foods, cheese spreads, and related foods described in the matters incorporated by reference in 345 IAC 8-3-1(e).

(7) "Concentrated milk" means fluid product that is unsterilized and unsweetened, resulting from the removal of a considerable portion of the water from the milk, which, when combined with potable water in accordance with instructions printed on the container, results in a product conforming with the milkfat and the milk solids not fat levels of milk defined in this rule.

(8) "Concentrated milk products" means homogenized concentrated milk, concentrated nonfat milk, concentrated reduced fat or low fat milk, and similar concentrated products made from concentrated milk or concentrate nonfat milk, and which, when combined with potable water in accordance with instructions printed on the container, conform with the definitions of the corresponding milk products in this section.

(9) "Cottage cheese" means the product defined in 21 CFR 133.128.

(10) "Dry curd cottage cheese" means the product defined in 21 CFR 133.129.

(11) "Eggnog or boiled custard" means the product defined in 21 CFR 131.170.

~~(6)~~ **(12)** "Farm bulk tank" or "bulk tank" means the refrigerated tank located on a dairy farm in which raw milk is stored prior to collection by a milk hauler.

(13) "Food allergens" means proteins in foods that are capable of inducing an allergic reaction or response in some individuals. There is scientific consensus that the following foods account for more than ninety percent (90%) of all food allergies:

(A) Peanuts.
(B) Soybeans.
(C) Milk.
(D) Eggs.
(E) Fish.
(F) Crustacea.
(G) Tree nuts.
(H) Wheat.

~~(7)~~ **(14)** "Frozen desserts" means ice cream, frozen custard, ice milk, goat's milk ice cream, sherbets, mellorine, and related foods described in the matters incorporated by reference in 345 IAC 8-3-1(g).

(15) "Frozen milk concentrate" means a frozen milk product with a composition of milkfat and milk solids that are not fat in such proportions that when a given volume of concentrate is mixed with a given volume of water the reconstituted product conforms to the milkfat and the milk solids not fat requirements of whole milk.

(16) "Goat milk" means the normal lacteal secretion, practically free of colostrum, obtained by the complete milking of one (1) or more healthy goats.

(17) "Grade A dry milk and whey products" means products that have been:

(A) produced for use in Grade A pasteurized or aseptically processed milk products; and

(B) manufactured under the provisions of the "Grade A Condensed and Dry Milk Products and Condensed and Dry Whey–Supplement I to the Grade A Pasteurized Milk Ordinance" incorporated by reference in 345 IAC 8-3.

~~(8)~~ **(18)** "Grade A milk plant" means any place, premises, or establishment where Grade A milk products are collected, handled, processed, stored, pasteurized, bottled, prepared, or stored for distribution.

~~(9)~~ **(19)** "Grade A producer" means a milk producer that is producing and selling Grade A raw milk under a Grade A permit issued by the board.

~~(10)~~ **(20)** "Grade A raw milk" means milk ~~which~~ **that** has been produced:

(A) for use in Grade A pasteurized milk products; and

(B) under the provisions of the "Grade A Pasteurized Milk Ordinance–Current Recommendations of the United States Public Health Service".

~~(11)~~ **(21)** "Health authority", "board", or "state board" means the Indiana state board of animal health or its authorized representative.

~~(12)~~ **(22)** "Manufacturing grade milk plant" means any place, premises, or establishment where manufacturing grade milk products are collected, handled, processed, stored, pasteurized, prepared, or stored for distribution.

~~(13)~~ **(23)** "Manufacturing grade milk products" means dairy products not considered Grade A under this rule including cheese, frozen desserts and frozen desserts mixes, and butter.

~~(14)~~ **(24)** "Manufacturing grade producer" means a milk producer that is producing and selling manufacturing grade raw milk.

~~(15)~~ **(25)** "Manufacturing grade raw milk" means raw milk produced on a dairy farm which does not have a currently valid permit issued by the board to sell Grade A raw milk for pasteurization.

~~(16)~~ **(26)** "Milk" ~~has the meaning as set forth in~~ **means** the ~~matters incorporated by reference in 345 IAC 8-3-1(a).~~ **normal lacteal secretion, practically free from colostrum, obtained by the complete milking of one (1) or more healthy cows, sheep, or goats.**

~~(17)~~ **(27)** "Milk plant" means a Grade A milk plant or a manufacturing grade milk plant. But, for the purposes of the matters incorporated by reference at 345 IAC 8-3-1(a) and 345 IAC 8-3-1(b), "milk plant" means a Grade A milk plant only.

~~(18) "Milk products", for the purpose of IC 15-2.1-23, has the meaning as set forth in the matters incorporated by reference in 345 IAC 8-3-1(a). But, milk products, for the purpose of IC 15-2.1-22, IC 15-2.1-23-1, and sections 2 through 5 of this rule, has the meaning as set forth in the matters incorporated by reference in 345 IAC 8-3-1(a) but shall include manufacturing grade milk products.~~

(28) "Milk tank truck driver" means a person who transports raw or pasteurized milk products to or from a milk plant, receiving station, or transfer station.

~~(19)~~ **(29)** "New producer" means any milk producer who has not sold raw milk within a period of ninety (90) days prior to the delivery in question.

~~(20)~~ **(30)** "Producer" means milk producer.

~~(21)~~ **(31)** "Producer's marketing organization" means a milk producer organization which manages the marketing of a milk producer's raw milk.

(32) "Reconstituted or recombined milk and milk products" means milk or milk products defined in this rule that result from reconstituting or recombining or milk constituents with potable water when appropriate.

(33) "Regulatory agency" means the board.

(34) "Sheep milk" means the normal lacteal secretion practically free of colostrum, obtained by the complete milking of one (1) or more healthy sheep.

~~(22)~~ **(35)** "Standard methods" means the "Standard Methods for the Examination of Dairy Products" published by the American Public Health Association.

~~(23)~~ **(36)** "State veterinarian" means the state veterinarian appointed under IC 15-2.1-4 or an official designee.

~~(24)~~ **(37)** "Uniform Indiana Food, Drug, and Cosmetic Act" means the Uniform Food, Drug, and Cosmetic Act at IC 16-42-1 through IC 16-42-4.

(b) Where a definition in a matter incorporated by reference conflicts with a definition in this section, the express provisions of this section shall control. *(Indiana State Board of Animal Health; 345 IAC 8-2-1.1; filed Apr 17, 1998, 9:00 a.m.: 21 IR 3343; errata filed Aug 13, 1998, 1:16 p.m.: 22 IR 125; readopted filed May 2, 2001, 1:45 p.m.: 24 IR 2895; filed Sep 27, 2002, 2:40 p.m.: 26 IR 329)*

SECTION 2. 345 IAC 8-2-1.5 IS ADDED TO READ AS FOLLOWS:

345 IAC 8-2-1.5 "Milk products" defined

Authority: IC 15-2.1-3-19; IC 15-2.1-23-6
Affected: IC 15-2.1-2; IC 15-2.1-23

Sec. 1.5. As used in this article, "milk products" means the following:

(1) Cream, light cream, light whipping cream, heavy cream, heavy whipping cream, whipped cream, and whipped light cream.

(2) Sour cream, acidified sour cream, and cultured cream.

(3) Half-and-half, sour half-and-half, acidified sour half-and-half, and cultured sour half-and-half.

(4) Reconstituted or recombined milk and milk products.

(5) Concentrated milk and concentrated milk products.

(6) Nonfat (skim) milk and reduced fat or low fat milk.

(7) Frozen milk concentrate.

(8) Eggnog.

(9) Buttermilk.

(10) Cultured milk, cultured reduced fat or low fat milk, and cultured nonfat (skim) milk.

(11) Yogurt, low fat yogurt, and nonfat yogurt.

(12) Acidified milk, acidified reduced fat or low fat milk, and acidified nonfat (skim) milk.

(13) Low-sodium milk, low-sodium reduced fat or low fat milk, and low-sodium nonfat (skim) milk.

(14) Lactose-reduced milk, lactose-reduced reduced fat or low fat milk, and lactose-reduced nonfat (skim) milk.

(15) Aseptically processed and packaged milk and milk products.

(16) Milk.

(17) Milk, reduced fat milk, low fat milk, and nonfat (skim) milk that have added microbial organisms.

(18) Any other milk product made by the addition or subtraction of milkfat or addition of safe and suitable optional ingredients for protein, vitamin, or mineral fortification of milk products defined herein.

(19) Dairy foods made by modifying the federally standardized product listed in this section in accordance with 21 CFR 130.10.

(20) Milk and milk products that have been retort processed after packaging or that have been concentrated, condensed, or dried if they are used as an ingredient to produce any milk or milk product defined in this section, or are labeled as Grade A.

(21) Manufacturing grade milk products unless the context indicates Grade A milk products.

(Indiana State Board of Animal Health; 345 IAC 8-2-1.5; filed Sep 27, 2002, 2:40 p.m.: 26 IR 331)

SECTION 3. 345 IAC 8-2-1.7 IS ADDED TO READ AS FOLLOWS:

345 IAC 8-2-1.7 "Pasteurization"; "ultra pasteurization"; "aseptic processing" defined

Authority: IC 15-2.1-3-19; IC 15-2.1-23-6
Affected: IC 15-2.1-2; IC 15-2.1-23

Sec. 1.7. (a) As used in this article, "pasteurization" and "pasteurized" means the process of heating every particle of milk or milk product, in properly designed and operated equipment, to a temperature designated in the following tables, and held continuously at or above that temperature for at least the time that corresponds with the temperature in the following tables:

(1) Table 1 as follows:

Temperature	Time
63 degrees Celsius (145 degrees Fahrenheit)	30 minutes
72 degrees Celsius (161 degrees Fahrenheit)	15 seconds

But, if the fat content of the milk product is ten percent (10%) or more, or if it contains added sweeteners, the specified temperature in the preceding table shall be increased by three (3) degrees Celsius (five (5) degrees Fahrenheit).

(2) Table 2 as follows:

Temperature	Time
89 degrees Celsius (191 degrees Fahrenheit)	1 second
90 degrees Celsius (194 degrees Fahrenheit)	0.5 second
94 degrees Celsius (201 degrees Fahrenheit)	.1 second
96 degrees Celsius (204 degrees Fahrenheit)	.05 second
100 degrees Celsius (212 degrees Fahrenheit)	.01 second

(3) Notwithstanding the preceding tables, eggnog shall be heated to at least the following temperature and time specifications:

Temperature	Time
69 degrees Celsius (155 degrees Fahrenheit)	30 minutes
80 degrees Celsius (175 degrees Fahrenheit)	25 seconds
83 degrees Celsius (180 degrees Fahrenheit)	15 seconds

(b) A pasteurization process that is different than those described in subsection (a) may be used if the following requirements are met:

(1) The process has been officially recognized by the United States Food and Drug Administration to be equally effective.

(2) The state veterinarian approves the procedure as being equally effective.

(c) As used in this article, "ultra pasteurized" means dairy products that have been thermally processed at or above two hundred eighty (280) degrees Fahrenheit for at least two (2) seconds, either before or after packaging, so as to extend shelf life under refrigerated conditions.

(d) As used in this article, "aseptic processing" means the filling of a commercially sterilized cooled product into presterilized containers, followed by hermetical sealing with a presterilized closure, in an atmosphere free of micro-organisms. Aseptic processing shall be performed in accordance with the requirements 21 CFR 113 and the applicable provisions of the Pasteurized Milk Ordinance incorporated by reference in 345 IAC 8-3. *(Indiana State Board of Animal Health; 345 IAC 8-2-1.7; filed Sep 27, 2002, 2:40 p.m.: 26 IR 331)*

SECTION 4. 345 IAC 8-2-1.9 IS ADDED TO READ AS FOLLOWS:

345 IAC 8-2-1.9 General requirements; permits

Authority: IC 15-2.1-3-19; IC 15-2.1-23-2
Affected: IC 15-2.1-23-3

Sec. 1.9. (a) Milk and milk products must be produced, transported, processed, handled, sampled, examined, graded, labeled, and sold in accordance with IC 15-2.1-23 and this article.

(b) Only Grade A pasteurized, ultra pasteurized, or aseptically processed milk and milk products shall be sold to final consumers, restaurants, or retail establishments. A person may not sell pasteurized milk or milk products that have not been maintained at the temperature set forth in Section 7 of the Pasteurized Milk Ordinance adopted by reference in 345 IAC 8-3.

(c) A person shall obtain a permit from the state veterinarian before operating a dairy farm in Indiana. The state veterinarian shall issue the following dairy farm permits:

(1) A Grade A farm permit shall be issued for farms that meet the standards for a Grade A farm in IC 15-2.1-23 and this article.

(2) A manufacturing grade farm permit shall be issued for farms that do not meet the standards for a Grade A farm but do meet the standards for a manufacturing grade farm in IC 15-2.1-23 and this article.

A person may not hold a Grade A farm permit and a manufacturing grade farm permit for the same operation.

(d) A person shall obtain a permit from the state veterinarian before operating a milk plant in Indiana. The state veterinarian shall issue the following milk plant permits:

(1) A Grade A milk plant permit shall be issued for those operations that meet the standards for a Grade A milk plant in IC 15-2.1-23 and this article.

(2) A manufacturing grade milk plant permit shall be issued for those operations that meet the standards for a manufacturing grade milk plant in IC 15-2.1-23 and this article.

(3) A receiving station permit shall be issued for those operations that meet the standards for a receiving station in IC 15-2.1-23 and this article.

(4) A transfer station permit shall be issued for those operations that meet the standards for a transfer station in IC 15-2.1-23 and this article.

(e) The state veterinarian shall issue the following permits

to persons meeting the appropriate requirements in IC 15-2.1-23 and this article:

(1) A milk distributor permit for persons acting as a milk distributor.

(2) A bulk milk hauler/sampler permit to persons acting as a bulk milk hauler/sampler.

(3) Milk tank truck operator for persons operating milk tank trucks.

(4) A permit to operate a milk tank truck cleaning facility.

(5) A permit to manufacture containers for milk or milk products.

(f) All permits issued under this article are subject to the provisions in IC 15-2.1-23-2 and IC 15-2.1-23-3. The state veterinarian may take any action with respect to permits the board is authorized to take under IC 15-2.1-23. *(Indiana State Board of Animal Health; 345 IAC 8-2-1.9; filed Sep 27, 2002, 2:40 p.m.: 26 IR 332)*

SECTION 5. 345 IAC 8-2-2 IS AMENDED TO READ AS FOLLOWS:

345 IAC 8-2-2 Manufactured grade milk products plants; construction; operation; sanitation

Authority: IC 15-2.1-3-19; IC 15-2.1-23-6
Affected: IC 15-2.1-23

Sec. 2. (a) ~~Any building used as~~ A **manufacturing grade** milk plant shall meet the requirements ~~of~~ **in** this section. ~~A receiving station or transfer station shall comply with this subsection and subsections (b) through (p), (r), (t), (u), and (w). Where the provisions of the Pasteurized Milk Ordinance (PMO) and Dry Milk Ordinance (DMO) that relate to facility requirements for a plant producing Grade A milk, Grade A milk products, and Grade A dry milk products differ from the requirements of this section, the requirements of the PMO and DMO shall control with respect to those Grade A facilities.~~

(b) The floors of all rooms in which milk or milk products are handled or processed, or in which milk or milk products utensils are washed or sanitized shall be:

(1) constructed of concrete or other equally impervious and easily cleaned material;

(2) smooth;

(3) properly drained;

(4) provided with trapped drains; and

(5) kept clean;

provided that cold storage rooms **and storage rooms for storing dry ingredients or packaging materials** need not ~~necessarily~~ be provided with drains; however, if no drain is provided, they shall be kept dry at all times.

(c) Walls and ceilings of rooms in which milk or milk products are handled or processed, or in which milk or milk products utensils are washed or sanitized shall:

(1) have smooth, washable, and light-colored surfaces; and

(2) be kept clean.

(d) Unless other effective means are provided to prevent the access of flies and other insects, all openings into the outer air shall be effectively screened and doors shall be self-closing. All screen doors to the outer air, if not of the sliding type, shall open outward. All inner doors opening into processing and packaging areas shall be self-closing. All self-closing doors shall be kept closed.

(e) All rooms shall be provided with natural lighting, artificial lighting, or a combination of both that will furnish at least twenty (20) foot-candles of light in all working areas. Ventilation shall be such that excessive condensation on walls, ceilings, containers, and equipment is prevented. Steam from bottle and can washers, sterilizers, and driers shall be conducted through ducts to the outside of the building.

(f) Milk plants must meet the following requirements:

(1) Operations shall be so located and conducted as to prevent any contamination of clean equipment, milk, or milk products.

(2) All means necessary for the elimination of flies and other insects shall be used, and the plant shall be free from flies and insects.

(3) Pasteurized milk or milk products shall not be permitted to come in contact with unpasteurized milk and equipment with which unpasteurized milk or milk products have been in contact unless such equipment has first been thoroughly cleaned and subjected to bactericidal treatment.

(4) Rooms in which milk, milk products, cleaned utensils, or containers are handled or stored shall not open directly into living quarters.

(5) A covered and enclosed area complying with this rule relating to floors, walls, ceilings, lighting, and ventilation shall be provided to adequately wash and sanitize milk tank trucks.

(6) The processing rooms of a milk plant shall be used for no other purposes than the processing of milk and milk products and the operations incident thereto. However, the preceding sentence shall not in any way be construed as prohibiting the operation of frozen desserts freezers in any room if the premises otherwise comply with the provisions of this section. Steam boilers shall not be located in the pasteurizing, processing, mixing, freezing, drying, cooling, bottling, packaging, or sterilizing room. Refrigerated rooms shall be free from contaminating odors and be kept clean, sanitary, and in good repair.

(7) Raw milk shall not be strained through woven wire cloth. Pasteurized milk, frozen desserts mix, and frozen desserts shall not be strained or filtered except through a metal strainer constructed of not readily corrodible material other than woven wire.

(8) There shall be no raw milk or raw milk product bypass around the pasteurization holding tube or vat.

(9) Receiving tanks, dump vats, and weigh tanks shall be constructed so as to prevent the entrance of dust, dirt, or other contamination. All openings into tanks, vats, and mix reservoirs shall be protected by raised edges or otherwise protected to prevent drainage into the opening from the surface of the tank, vat, or mix reservoir. A milk plant must provide condensation-diverting aprons that are as close to the tank, vat, or mix reservoir as possible on all pipes, thermometers, and other equipment extending into the tank unless a watertight joint with the tank is provided.

(g) All vehicles, conveyances, and containers transporting raw milk and those that are clean and empty intended for raw milk shall be tightly enclosed. Milk **products** or empty containers used for milk **products** shall not be hauled in any unclean vehicle and shall not be hauled in vehicles that are also used for hauling livestock, manure, garbage, or coal.

(h) Every milk plant shall provide toilet facilities for employees. Toilet rooms shall not open directly into any room in which milk, frozen desserts mix, frozen desserts, milk products, equipment, or containers are handled or stored. The doors of all toilet rooms shall be self-closing. Toilet rooms shall be kept in a clean condition, kept in good repair, and be well ventilated. In case privies are used, they shall be:

(1) separate from the building;

(2) sanitary; and

(3) located and properly constructed and maintained so that the waste:

(A) is inaccessible to flies; and

(B) does not pollute the surface soil or contaminate any water supply.

(i) The water supply for a milk plant shall:

(1) be adequate, accessible, and under pressure; and

(2) meet the standards of quality for drinking purposes of the Indiana department of environmental management.

(j) A milk plant shall provide convenient handwashing facilities for employees, including warm running water, soap, and sanitary towels. The use of a common towel is prohibited.

(k) All milk ~~or~~ **and** liquid milk products shall be moved from one (1) piece of equipment to another through sanitary milk piping of a type that can be easily cleaned with a brush, through approved clean-in-place sanitary milk piping, or by other means approved by the ~~board.~~ **state veterinarian.**

(l) Multi-use containers and equipment that come into contact with milk or milk products shall be:

(1) constructed to be smooth and easily cleanable; and

(2) kept in good repair.

All surfaces with which milk or milk products come in contact shall be noncorrodible metal or an unbroken vitreous material free from broken seams, breaks, corrosion, and threaded surfaces. Equipment shall be self-draining, easily accessible, and easily disassembled for cleaning.

(m) Wastes from sinks, drains, toilets, or equipment shall be connected with a disposal system or otherwise disposed of in a manner that complies with the rules of the board, the Indiana state department of health, the local health department, and the Indiana department of environmental management. Covered receptacles shall be provided for waste materials, and such waste materials shall be removed and emptied daily from the work rooms.

(n) Requirements for cleaning and bactericidal treatment of containers and equipment shall be as follows:

(1) Every milk plant shall be equipped with equipment that is capable of producing sufficient hot water or steam for cleaning and sanitizing.

(2) Except as provided in section 2.5 of this rule, all milk or milk products equipment shall be disassembled and the parts thoroughly cleaned after it is used, but at least once every twenty-four (24) hours. Storage tanks must be cleaned when emptied, but at least once every seventy-two (72) hours. The equipment must be cleaned using clean hot water containing a dairy cleanser that is safe for use on dairy equipment according to the manufacturer's recommendation. Soap may not be used. Multi-use containers shall be cleaned before refilling.

(3) This section does not prohibit the cleaning of dairy equipment by a clean-in-place method, provided the individual clean-in-place system and method used and the results obtained comply with the 3-A Sanitary Standards and are approved by the board. Cleaned-in-place systems that are welded or otherwise constructed so as to make daily visual inspection impractical shall be equipped with a temperature recording device installed in the return solution line to record the temperature and time during which the line or equipment is exposed to cleaning and sanitizing. Recording devices and charts shall comply and conform with 3-A Sanitary Standards and be approved by the board prior to installation and operation.

(o) All multi-use milk and milk products containers and equipment shall be sanitized with an effective bactericidal process before they are used. After bactericidal treatment, all bottles, cans, and other multi-use milk and milk products containers and equipment shall be stored, while not in use, in such manner as to be protected from contamination. Between bactericidal treatment and usage, and during usage, containers and equipment shall not be handled, used, or operated in such manner as to permit contamination of the milk or milk products.

(p) Single-service containers shall be:

(1) purchased and stored only in sanitary tubes and cartons; and

(2) kept therein in a clean, dry place.

Single-service articles shall be stored in a sanitary manner between the time that they are removed from the original container and used.

(q) All milk and milk products received for pasteurization or processing shall immediately be cooled in approved equipment to forty-five (45) degrees Fahrenheit or less and maintained at that temperature until pasteurized unless they are to be pasteurized within two (2) hours after receipt. All pasteurized milk and milk products shall be immediately cooled in approved equipment to an average temperature of forty-five (45) degrees Fahrenheit or less, except when recognized standard processing practices dictate higher temperatures for cultured products and related byproducts.

(r) A milk plant must use approved mechanical equipment for packaging. No multi-use container shall be filled or refilled until it is empty and has been cleaned and sanitized.

(s) All persons coming in contact with milk, milk products, containers, or equipment shall:
(1) wear clean outer garments;
(2) wear hair nets, facial hair restraints, caps, or other effective hair restraints; and
(3) keep their hands clean;
at all times they are engaged in activity where they come into contact with milk, milk products, containers, or equipment.

(t) Miscellaneous provisions shall be as follows:
(1) Overflow milk or milk products that have become machine contaminated shall not be sold for human food.
(2) Milk products shall not be returned to the manufacturer for resale after the original package has been opened. Milk products that have been returned to the manufacturer after the original package has been opened must be destroyed.

(u) Frozen desserts in the manufacturer's unbroken package shall have a bacterial plate count of not more than thirty thousand (30,000) per gram and a coliform count of not more than ten (10) per gram. The bacterial plate count shall be considered satisfactory when the results of not more than two (2) of the last four (4) consecutive samples taken on separate days exceed thirty thousand (30,000) per gram. The coliform count shall be considered satisfactory when the results of not more than one (1) of four (4) consecutive samples taken upon separate days exceed ten (10) per gram.

(v) Before **milk plants, including** transfer stations **and** receiving stations ~~and milk plants~~ regulated under this rule are constructed, reconstructed, or extensively altered, construction plans shall be submitted to the board for written approval before work is begun. *(Indiana State Board of Animal Health; HDP 86 Rule 13, Sec 2; filed Apr 26, 1979, 12:00 p.m.: 2 IR 690, eff one hundred twenty (120) days after filing with secretary of state; filed Apr 17, 1998, 9:00 a.m.: 21 IR 3344; errata filed Aug 13, 1998, 1:16 p.m.: 22 IR 126; filed Mar 23, 2000, 4:49 p.m.: 23 IR 1914; readopted filed May 2, 2001, 1:45 p.m.: 24 IR 2895; filed Sep 27, 2002, 2:40 p.m.: 26 IR 333) NOTE: Transferred from the Indiana State Department of Health (410 IAC 8-13-2) to the Indiana State Board of Animal Health (345 IAC 8-2-2) by P.L.138-1996, SECTION 76, effective July 1, 1996.*

SECTION 6. 345 IAC 8-2-3 IS AMENDED TO READ AS FOLLOWS:

345 IAC 8-2-3 Manufacturing grade dairy farms; construction; operation; sanitation

Authority: IC 15-2.1-3-19; IC 15-2.1-23-6
Affected: IC 15-2.1-23

Sec. 3. (a) Manufacturing grade dairy farms must meet the following requirements:
(1) All dairy cattle and goats must comply with IC 15-2.1-23-7 and current board laws relating to the control and eradication of tuberculosis and brucellosis.
(2) Cows, sheep, or goats that show evidence of the secretion of abnormal milk in any quarter shall be milked last or in separate equipment and the milk shall be discarded. Cows, sheep, or goats that have been treated with or that have consumed chemical, medicinal, or radioactive agents which are capable of being secreted in the milk and which, in the judgment of the state veterinarian, may be deleterious to human health shall be milked last or with separate equipment and the milk disposed of as the state veterinarian may direct.

(b) The area where milking is conducted must meet the following requirements:
(1) A separate milking area of adequate size shall be provided.
(2) The milking area shall be provided with the following:
(A) Natural lighting or artificial lighting, or a combination of both, to furnish at least ten (10) footcandles of light in work areas.
(B) Ventilation.
(C) Impervious floors and floor gutters.
(3) Floors, walls, and ceilings shall be constructed of a smooth, easily cleanable material that is light-colored or painted a light color and kept clean and in good repair. The outside of any milking equipment located in the milking area shall be kept clean. Surcingles, antikickers, and milk stools shall be kept clean and stored above the floor.
(4) No swine or fowl shall be allowed in the milking area.

(c) Any person who is milking shall have clean hands and clothing. Cows' flanks, udders, and tails shall be clean at time of milking. Udders shall be washed clean, sanitized, and dried immediately prior to milking. All milk shall be strained in the milkhouse unless a straining receptacle, protected from splash, raised above the floor, and provided with a self-closing lid, is provided. Milk being strained or carried to the milkhouse must be protected from contamination.

(d) A milkhouse of adequate size and conveniently located shall be provided for the handling, straining, and cooling of milk, and for the washing, handling, and storing of utensils

and equipment. The milkhouse must meet the following requirements:

(1) A minimum of twenty (20) footcandles of light from natural or artificial lighting, or a combination of both, shall be provided at all work areas.

(2) Ventilation shall be provided to minimize odors and condensation.

(3) Floors shall be impervious and graded to drain.

(4) Walls and ceilings shall be constructed of a smooth, easily cleanable material that is light-colored or painted a light color.

(5) Vats shall be provided for washing and rinsing of utensils and equipment. Hot water shall be available, and water must be readily accessible.

(6) The construction of the milkhouse shall be sufficiently tight to prevent the entrance of rodents and flies. Flies shall be kept out of the milkhouse. Outer doors shall be self-closing.

(7) Liquid milkhouse wastes shall be disposed of in a manner that will preclude insect breeding or contamination of surface or underground water.

(8) The milk product contact surfaces of all multi-use containers, equipment, and utensils shall be cleaned after each usage and shall be sanitized before each usage.

(9) Equipment and utensils shall be stored and drained completely so as to prevent contamination.

(10) Strainer pads, sock filters, and similar single-service articles are stored in a clean, tight cabinet or container.

(11) Multi-use milk contact equipment must be made of smooth, nonabsorbent, and nontoxic materials and shall be so constructed and maintained so as to be easily cleaned. Single-service articles shall not be reused.

(e) Only pesticides approved by the board are to be used in the milkhouse. Pesticides not approved for use in the milkhouse shall not be stored in the milkhouse.

(f) Medicinals, antibiotics, and approved pesticides may be kept in the milkhouse only in separate tight cabinets or containers provided exclusively for their use. Pesticides must be stored in separate cabinets from animal drugs. Animal drugs must be properly labeled, and lactating drugs must be segregated from nonlactating drugs. Drugs not approved for use in dairy animals must not be used except in compliance with state and federal law.

(g) The floors, walls, ceilings, and surfaces of all milkhouse equipment and appurtenances shall be clean. The milkhouse shall be used for milking operations only, and only those articles directly related to milkhouse activities shall be permitted in the milkhouse. Trash, animals, and fowl shall be kept out of the milkhouse.

(h) Farms with bulk milk coolers shall provide a suitable hose port opening with a tight self-closing cover. The area under the outside of the hose port shall be surfaced with a material that will prevent soiling of the milk transfer hose.

(i) Manure shall be handled in a manner that controls insect breeding. Manure piles or storage areas shall be inaccessible to cows. Cowyards, free stalls, and loafing areas shall be kept clean. Surroundings shall be neat, clean, and free of conditions that could result in rodent harborages or insect attractants and breeding areas. Dead livestock shall be properly disposed of promptly in accordance with requirements of the board.

(j) The water supply for the milkhouse and for washing and sanitizing of utensils shall be:

(1) properly located, constructed, and operated;

(2) adequate;

(3) easily accessible; and

(4) of a safe, sanitary quality.

(k) Every dairy farm shall be provided with a sanitary toilet conveniently located and accessible to those persons performing the milking operation. The toilet shall be constructed and maintained so that the waste is inaccessible to flies and does not pollute the surface soil or contaminate any water supply.

(l) Raw milk from dairy farms that do not have a valid permit from the board to sell Grade A raw milk for pasteurization shall not be stored on such dairy farms in cans for more than forty-eight (48) hours or in a farm bulk tank for more than seventy-two (72) hours. The milk must be cooled to sixty (60) degrees Fahrenheit and maintained at that temperature at the point of origin unless delivered to a milk plant, receiving station, or transfer station within two (2) hours after milking. Auxiliary can milk storage shall not be permitted on dairy farms equipped for bulk milk cooling and storage.

(m) Manufacturing grade raw milk must undergo the following tests and meet the following requirements:

(1) At least four (4) times in any six (6) month period at irregular intervals, a commingled sample of each producer's milk shall be tested for drug residues. When a producer's milk shows a positive test, he or she shall be excluded from all markets immediately and shall not be reinstated until a subsequent test of the producer's milk is negative for drug residues.

(2) Bacteriological, **somatic cell, and drug residue** standards shall be as follows:

(A) Manufacturing grade milk shall ~~be classified in accordance with the values in~~ **meet** the following ~~table:~~ **standards:**

~~Bacterial Estimate Classification~~	~~Standard Plate Count, Direct Microscopic, or Plate Loop Count~~
~~Acceptable~~	~~Not over 1,000,000~~

(i) The bacterial estimate classification shall be "acceptable".

(ii) The bacteria count using the standard plate count, direct microscopic count, or plate loop count methods shall be not more than one million (1,000,000) bacteria per milliliter.

(iii) The somatic cell count shall be not more than one million (1,000,000) cells per milliliter.

(iv) The milk shall not contain drug residues.

(B) Milk not meeting the ~~acceptable standard~~ **standards** in clause (A) shall be designated as undergrade. Undergrade milk may not be sold for human consumption or processing into products for human consumption.

(C) After a producer's milk sample is designated undergrade, the following shall apply:

(i) The producer of milk designated undergrade, shall be notified immediately by the buyer.

(ii) Additional samples of the producer's milk shall be tested and classified by the buyer at least weekly with the buyer immediately notifying the producer of the results.

(iii) A buyer may continue to accept milk from a producer whose milk has been designated undergrade as long as the testing requirements set forth in this clause are complied with, and all undergrade milk is excluded from market.

(3) Plants receiving manufacturing grade milk shall run a direct microscopic somatic cell count, or other approved test, for the detection of abnormal milk four (4) times in any six (6) month period. Confirmatory tests by means of the direct microscopic cell count or the electronic method shall be performed as necessary. Warning letters of excessive somatic cell counts shall be sent to a producer when a test shows somatic cell counts in excess of the legal limit.

(4) After running a screening test outlined in subdivision (3), a confirmatory test must be conducted on any sample with a count exceeding one million (1,000,000) per milliliter. Whenever the somatic cell count indicates the presence of more than one million (1,000,000) per milliliter, the following procedure shall be applied:

(A) A notice shall be sent to the producer notifying him or her of the excessive somatic cell count.

(B) Whenever two (2) of the last four (4) consecutive somatic cell counts exceed one million (1,000,000) per milliliter, a warning notice shall be sent to the producer. The notice shall remain in effect as long as two (2) of the last four (4) consecutive samples exceed one million (1,000,000) per milliliter. In addition to the written notice, an inspection shall be made of the farm facility by a representative of the buyer. A check sample shall be taken after a lapse of three (3) days and within fourteen (14) days of the inspection. If this sample also indicates a high somatic cell count, that milk shall be excluded from the market.

All milk quality tests shall be made in accordance with methods described in the latest edition of "Standard Methods for the Examination of Dairy Products". Samples shall be analyzed at a laboratory approved by the ~~board.~~ **state veterinarian.**

(5) An examination shall be made on the first shipment of milk from producers shipping milk to a plant for the first time, or from a producer who has not shipped milk for a period of ninety (90) days. The milk shall meet all quality standards defined by this rule. Thereafter, the milk shall be tested in accordance with the procedure established for regular shippers.

(6) The milk of a producer which has been excluded due to failure to meet quality standards shall not be accepted by another plant until quality standards are met. The buyer of raw milk shall report to the board, by telephone, the producer(s) excluded or reinstated.

(n) Before milkhouses, milking barns, stables, or parlors regulated under this rule are constructed or extensively altered, construction plans shall be submitted to the board for written approval before work is begun. *(Indiana State Board of Animal Health; HDP 86 Rule 13, Sec 3; filed Apr 26, 1979, 12:00 p.m.: 2 IR 693, eff one hundred twenty (120) days after filing with secretary of state; filed Jan 29, 1986, 3:10 p.m.: 9 IR 1315; filed Apr 17, 1998, 9:00 a.m.: 21 IR 3347; errata filed Aug 13, 1998, 1:13 p.m.: 22 IR 125; errata filed Aug 13, 1998, 1:16 p.m.: 22 IR 126; readopted filed May 2, 2001, 1:45 p.m.: 24 IR 2895; filed Sep 27, 2002, 2:40 p.m.: 26 IR 335) NOTE: Transferred from the Indiana State Department of Health (410 IAC 8-13-3) to the Indiana State Board of Animal Health (345 IAC 8-2-3) by P.L.138-1996, SECTION 76, effective July 1, 1996.*

SECTION 7. 345 IAC 8-2-3.5 IS ADDED TO READ AS FOLLOWS:

345 IAC 8-2-3.5 Milk transportation

Authority: IC 15-2.1-3-19; IC 15-2.1-23-6
Affected: IC 15-2.1-23

Sec. 3.5. (a) Raw milk that is picked up from a farm for delivery to a milk plant shall be collected at the farm only by a person holding a valid bulk milk hauler/sampler permit issued by the state veterinarian. Bulk milk hauler/samplers shall collect milk at dairy farms using the procedures set forth in IC 15-2.1-23, this rule, and the Pasteurized Milk Ordinance (PMO) incorporated by reference 345 IAC 8-3. The state veterinarian may evaluate the equipment and procedures used by a bulk milk hauler/sampler to determine compliance.

(b) Bulk milk hauler/samplers shall attend a training session approved by the state veterinarian as a condition of obtaining a bulk milk hauler/sampler permit. The state veterinarian may issue a conditional bulk milk hauler/sampler permit to an applicant that meets all of the other requirements for obtaining a permit but has not attended an approved training session. The conditional permit may be conditioned on the applicant attending the next available approved training session. The state veterinarian may require additional training to renew a license or to keep a license if a licensee violates the provisions of IC 15-2.1-23 or this article.

(c) Milk plants may accept raw milk from dairy farms

only if it is collected by a permitted bulk milk hauler/sampler. After collection from a dairy farm, milk may be transported by a person holding a valid milk tank truck operator permit or a bulk milk hauler/sampler permit issued by the state veterinarian.

(d) Bulk shipments of milk shall be in milk tank trucks that have been inspected by board personnel and meet the standards for design, construction, maintenance, and operation of milk tank trucks in IC 15-2.1-23 and this article, including Appendix B of the PMO incorporated by reference in 345 IAC 8-3. Milk tank trucks that have been inspected as a part of another state's milk inspection program and hold a current valid permit from that state do not need an Indiana permit. *(Indiana State Board of Animal Health; 345 IAC 8-2-3.5; filed Sep 27, 2002, 2:40 p.m.: 26 IR 337)*

SECTION 8. 345 IAC 8-2-4 IS AMENDED TO READ AS FOLLOWS:

345 IAC 8-2-4 Bulk milk collection; pick-up tankers; samples

Authority: IC 15-2.1-3-19; IC 15-2.1-23-6
Affected: IC 15-2.1-23-4

Sec. 4. (a) Every bulk milk pickup tanker used to collect raw milk on a bulk milk route shall be of sanitary design and construction. The owner of a tank truck shall be responsible for maintaining it and its milk contact equipment in good repair. The bulk milk pickup tanker owner is responsible for making certain the truck and equipment have been cleaned and sanitized at least once every twenty-four (24) hours in a manner and at a location approved by the board. A cleaning and sanitizing tag approved by the board shall be completed and affixed in the rear compartment of the bulk milk pickup tanker each day after cleaning and sanitizing. The bulk milk pickup tanker and its milk contact equipment shall be protected from contamination after being cleaned and sanitized.

(b) Milk in a bulk milk pickup tanker shall be maintained at a temperature of forty-five (45) degrees Fahrenheit or less from the time of collection until delivered to a milk plant, receiving station, or transfer station. If the milk being delivered is manufacturing grade raw milk, the raw milk shall be maintained at a temperature of sixty (60) degrees Fahrenheit or less from the time of collection until delivered to a manufacturing grade milk plant, receiving station, or transfer station.

(c) Tank trucks used to transport milk shall not be used to transport other products unless they have been thoroughly washed and sanitized after having been used to transport such other products. Only products fit for human consumption are authorized to be stored or transported in tank trucks used to transport milk or milk products.

(d) The name and address of the owner of a bulk milk pickup tanker shall be legibly marked on both sides or on the rear of the vehicle. The name of the owner shall be in letters not less than three (3) inches in height provided that markings in use prior to March 1, 1998, may be the same height as the address, and the address shall be in letters not less than one and one-half (1½) inches in height.

(e) Every bulk milk pickup tanker used to collect raw milk on a bulk milk route shall be equipped with the following:

(1) A sample dipper or other sampling device of sanitary construction approved by the board.

(2) Sampling devices protected from contamination.

(3) A sample carrying case constructed of such material and in such a way as to maintain producer raw milk samples at a temperature of thirty-two (32) to forty (40) degrees Fahrenheit from the time such samples are collected until they are delivered to the milk plant, receiving station, or transfer station.

(4) A sample rack approved by the board and of sufficient size to hold at least one (1) sample of raw milk in an upright position from each bulk milk tank of each milk producer represented on the load of raw milk being transported to a milk plant, receiving station, or transfer station, plus one (1) sample to be used for temperature determination.

(f) Each milk hauler shall be equipped with an accurate pocket-type thermometer with an unbreakable stem when collecting milk from dairy farms and shall observe the following sanitary practices in collecting milk:

(1) The hauler's hands and outer clothing shall be clean during all pick-up operations.

(2) The milk shall be smelled through the port opening in the cover of the bulk tank for off-odors prior to raising the lid for a visual examination of the raw milk.

(3) The hauler must visually examine the raw milk in the bulk tank. Milk that is visibly unfit for human consumption in accordance with the provisions of the Uniform Indiana Food, Drug, and Cosmetic Act shall be rejected and not collected. The lid shall be closed immediately after making the visual examination whenever possible.

(4) The milk transfer hose used to withdraw raw milk from the farm bulk tank shall enter the milkhouse only through the port hole provided for that purpose.

(5) Prior to connecting the transfer hose to the outlet port of the farm bulk tank, the outlet port shall be sanitized. If milk has leaked past the core of the outlet valve of the farm bulk tank, the outlet port of the valve shall be washed and sanitized prior to withdrawing the milk.

(6) When the cap from the end of the transfer hose is being removed, it shall be handled in a sanitary manner and stored so as to prevent it from being contaminated while milk is being pumped from the farm bulk tank into the bulk milk pickup tanker.

(7) After the milk has been removed from the farm bulk tank, the bottom of the tank shall be observed for sediment and milk abnormalities.

(8) Conditions of abnormality or sediment shall be noted on the producer's copy of the weight ticket.
(9) The date and time of milk collection, the temperature of the raw milk, and the milk hauler's signature and permit number shall be legibly entered on the weight ticket.
(10) After the milk has been removed from the farm bulk tank, the transfer hose shall be removed and recapped before the farm bulk tank is rinsed with water. After recapping, the transfer hose shall be rinsed free of exterior soil.
(11) A milk hauler shall not collect milk from any dairy farm for delivery to a milk plant, receiving station, or transfer station for use in Grade A milk or milk products unless the farm holds a valid permit from the board authorizing the sale of Grade A raw milk for pasteurization.
(12) At the time of collection of milk from each dairy farm, the milk hauler shall collect only that raw milk that has been stored continuously in the farm bulk tank from the time of milking until the time of milk collection and shall collect the entire volume of milk being stored in the farm bulk tank at the time of collection. All precautions shall be taken to prevent the entrance of flies into the milkhouse.
(13) At least once each month, the milk hauler shall check the accuracy of the thermometer on each of his milk producer's bulk milk tank against his pocket-type thermometer. The temperature obtained from both thermometers shall be entered on the weight ticket. If there is a difference between the readings on the two (2) thermometers, the reading of the **bulk** milk hauler's thermometer shall be reported as the official temperature on that day and on each succeeding day until the thermometer on the bulk milk tank is adjusted or repaired to be accurate.

(g) Every time a milk hauler collects milk from a dairy farm, he or she shall collect a sample of milk from each farm bulk tank after the milk has been thoroughly agitated and before opening the outlet valve. Such sample shall be collected in the following manner:
(1) If a sample dipper is used, it shall be clean and transported between farms on the bulk milk route in a sanitizing solution equivalent to one hundred (100) parts per million chlorine. Other sampling devices shall be kept free of contamination.
(2) After removal from the sanitizing solution, all of the sanitizing solution shall be drained from the sample dipper.
(3) The sample dipper shall then be rinsed twice in the milk in the farm bulk tank and then drained.
(4) A sample of not less than four (4) fluid ounces in volume or other sample sizes approved by the **state** board shall then be collected through the port opening in the cover of the bulk tank and placed in a sterile container.
(5) The sample container shall then be closed and immediately placed in melting ice water in the sample carrying case on the bulk milk pickup tanker in such a way that the top of the sample container is not submerged in the refrigerant. Producer raw milk samples shall be maintained at a temperature of thirty-two (32) to forty (40) degrees Fahrenheit until delivered to the milk plant, receiving station, or transfer station. Such samples shall not be frozen.
(6) Each sample container shall be legibly marked with the date the sample was collected, the temperature of the milk in the farm bulk tank, the route and patron number of the milk producer, and, in the case of Grade A milk producers, the Indiana Grade A permit number of the dairy farm from which the sample was collected.
(7) Prior to or at the time of collecting raw milk from the first milk producer on the bulk milk route, the milk hauler shall collect a sample of milk for temperature determination. Such sample shall be refrigerated in the sample carrying case on the bulk milk pickup tanker until it arrives at the milk plant, receiving station, or transfer station.
(8) Sampling equipment shall be rinsed in clean water immediately after each usage.
(9) If one (1) pint samples are used to conduct sediment tests of each milk producer's raw milk, the milk hauler shall collect and legibly identify such full one (1) pint samples as requested by the milk plant, receiving station, transfer station, or board. A sample dipper of not less than one-half (½) pint capacity, which shall be cleaned and sanitized prior to the collection of each sample, shall be used. Such one (1) pint samples shall be collected and transported in such a manner as to not interfere with the proper conduct of sediment tests.

(h) All manufacturing grade milk bulk tank raw milk shall be collected at least every seventy-two (72) hours, and all manufacturing grade raw milk shipped in cans shall be collected at least every forty-eight (48) hours. These milk collection frequencies may be waived in the case of emergencies. All Grade A bulk tank raw milk shall be collected at least every forty-eight (48) hours, and all Grade A milk shipped in cans shall be collected every twenty-four (24) hours, except in the case of emergencies.

(i) It shall be the responsibility of the milk plant, receiving station, or transfer station to provide competent personnel to receive producer raw milk samples from each bulk milk pickup tanker, to ascertain and record the temperature of the temperature sample, and to see that the samples are properly identified and stored prior to delivery to the laboratory. The milk plant, receiving station, or transfer station shall also be responsible for providing facilities for the storage of producer raw milk samples at a temperature of thirty-two (32) to forty (40) degrees Fahrenheit at which temperature they shall be maintained until they are received by an official or officially designated laboratory for analysis. Producer raw milk samples shall not be frozen, and samples to be used for bacteriological determinations shall not be transferred to another sample container after they have been collected by the milk hauler except under conditions and by personnel approved by the board. Required laboratory analysis should begin within forty-eight (48) hours after the time of sample collection. Results of such analysis on the milk of Grade

A producers shall be submitted to the board on forms and in a manner approved by the board. Milk producers and milk haulers shall not receive notice of which samples are to be used for bacteriological analysis.

(j) Any truck transporting raw, heat-treated, or pasteurized milk and milk products to a milk plant from another milk plant, receiving station, or transfer station must meet the identification and shipping requirements in IC 15-2.1-23-4(c). A shipping manifest must also indicate the bulk tank unit(s) or plant identification number. *(Indiana State Board of Animal Health; HDP 86 Rule 13, Sec 4; filed Apr 26, 1979, 12:00 p.m.: 2 IR 696, eff one hundred twenty (120) days after filing with secretary of state; filed Apr 17, 1998, 9:00 a.m.: 21 IR 3349; errata filed Aug 13, 1998, 1:13 p.m.: 22 IR 125; errata filed Aug 13, 1998, 1:16 p.m.: 22 IR 126; readopted filed May 2, 2001, 1:45 p.m.: 24 IR 2895; filed Sep 27, 2002, 2:40 p.m.: 26 IR 338) NOTE: Transferred from the Indiana State Department of Health (410 IAC 8-13-4) to the Indiana State Board of Animal Health (345 IAC 8-2-4) by P.L.138-1996, SECTION 76, effective July 1, 1996.*

SECTION 9. 345 IAC 8-3-1 IS AMENDED TO READ AS FOLLOWS:

Rule 3. Standards for Milk and Milk Products and Grade A Standards

345 IAC 8-3-1 Incorporation by reference; standards

Authority: IC 15-2.1-3-18; IC 15-2.1-3-19; IC 15-2.1-23-6
Affected: IC 15-2.1-2; IC 15-2.1-23

Sec. 1. (a) ~~Part II of~~ The Grade A Pasteurized Milk Ordinance, **United States Department of Health and Human Services,** Public Health Service, Food and Drug Administration, Publication No. 229 ~~(1995~~ **(2001** revision), referred to as the PMO, including all footnoted language regarding cottage cheese and the appendixes, is hereby incorporated by reference as a rule of the board for regulation of the production, transportation, processing, handling, sampling, examination, grading, labeling, and sale of all Grade A milk and milk products ~~within Indiana~~ **in the state** provided, however, the following parts of the PMO are not incorporated:

(1) Section (16) on penalties.
(2) Section (17) on repeal and date of effect.
(3) Appendix K.

(b) Part II of the Grade A Condensed and Dry Milk Products and Condensed and Dry Whey–Supplement I to the Grade A Pasteurized Milk Ordinance (1995 version), known as the dry milk ordinance or DMO, including the appendixes, is hereby incorporated by reference as a rule of the board for the regulation of the production, manufacture, packaging, labeling, and sale of all Grade A condensed milk and Grade A dry milk products and Grade A condensed whey and Grade A dry whey for use in the preparation of Grade A milk products, provided, however, the following parts of the DMO are not incorporated:

(1) Section (13) on penalties.
(2) Section (14) on repeal and date of effect.
(3) Appendix ~~I~~ **P, "Performance-Based Dairy Farm Inspection System".**

(c) References in the PMO and the DMO to the regulatory agency shall mean and refer to the board.

(d) The board adopts by reference the general provisions relating to food standards set forth by the United States Food and Drug Administration in 21 CFR 130.8, 21 CFR 130.9, 21 CFR 130.10, and 21 CFR 130.11, in effect on April 1, ~~1997.~~ **2001.**

(e) The board adopts by reference the definitions and standards of identity for milk and milk products set forth by the United States Food and Drug Administration in 21 ~~U.S.C.~~ **CFR** 131.3 et seq., titled "Part 131–Milk and Cream", in effect on April 1, ~~1997.~~ **2001.** Milk and milk products must conform to these standards.

(f) The board adopts by reference the definitions and standards of identity for cheeses and related cheese products set forth by the United States Food and Drug Administration in 21 ~~U.S.C.~~ **CFR** 133.3 et seq., titled "Part 133–Cheeses and Related Cheese Products", in effect on April 1, ~~1997.~~ **2001.** Cheese and cheese products must conform to these standards.

(g) The board adopts by reference the definitions and standards of identity for frozen desserts set forth by the United States Food and Drug Administration in 21 ~~U.S.C.~~ **CFR** 135.3 et seq., titled "Part 135–Frozen Desserts", in effect on April 1, ~~1997.~~ **2001.** Frozen desserts must conform to these standards.

(h) The board adopts by reference the current good manufacturing practices for manufacturing, packing, or holding human food set forth by the United States Food and Drug Administration in 21 CFR 110 and 21 CFR 113, in effect on April 1, 2001. The criteria and definitions in 21 CFR 110, 21 CFR 113, and this rule shall apply in determining whether a food is adulterated under IC 15-2.1-23 in that the food has been manufactured under such conditions that it is unfit for human food or the food has been prepared, packed, or held under insanitary conditions under which the product may become contaminated with filth or under which the product may have been made injurious to health.

(i) The board adopts by reference as a rule of the board the food labeling requirements set forth by the United States Food and Drug Administration in 21 CFR 101, but not including Subpart C, in effect on June 1, 2001.

~~(h)~~ **(j)** The board incorporates by reference into this rule the definitions set forth in IC 15-2.1-2 and the matters set forth in ~~IC 15-2.1-22 and~~ IC 15-2.1-23.

~~(i)~~ **(k)** Where the matters incorporated by reference in this section conflict with provisions of this article, **IC 15-2.1-2, or** IC 15-2.1-23, ~~or IC 15-2.1-24,~~ the express provisions of this article and the Indiana Code shall control.

~~(j)~~ **(l)** Incorporated documents are available for public inspection at the board. *(Indiana State Board of Animal Health; 345 IAC 8-3-1; emergency rule filed Jan 27, 1994, 5:00 p.m.: 17 IR 1223, eff Feb 1, 1994; filed Apr 17, 1998, 9:00 a.m.: 21 IR 3354; errata filed Aug 13, 1998, 1:16 p.m.: 22 IR 126; readopted filed May 2, 2001, 1:45 p.m.: 24 IR 2895; filed Sep 27, 2002, 2:40 p.m.: 26 IR 340) NOTE: Transferred from the Indiana State Department of Health (410 IAC 8-14-8.1) to the Indiana State Board of Animal Health (345 IAC 8-3-1) by P.L.138-1996, SECTION 76, effective July 1, 1996.*

SECTION 10. 345 IAC 8-3-2 IS AMENDED TO READ AS FOLLOWS:

345 IAC 8-3-2 Grade A milk production and storage
Authority: IC 15-2.1-3-19; IC 15-2.1-23-6
Affected: IC 15-2.1-23-7

Sec. 2. **The following are required to hold a Grade A dairy farm permit:**

(1) Milk that is produced or processed must meet the chemical, bacteriological, and temperature standards in Section 7 and Table 1 of the PMO adopted by reference in section 1 of this rule.

(2) The farm must meet the sanitation, construction, operation, and other standards in the provisions of the Pasteurized Milk Ordinance adopted by reference in section 1 of this rule, including the following:

(A) Section 7, "Standards for Grade "A" Raw Milk For Pasteurization, Ultra-Pasteurization, or Aseptic Processing", Items 1r through 19r.

(B) Appendix C, "Dairy Farm Construction Standards; Milk Production".

(C) Appendix D, "Standards for Water Sources".

(D) Appendix F, "Sanitization".

(3) The animals on the farm must meet the animal health requirements in IC 15-2.1-23-7 and Section 8 of the Pasteurized Milk Ordinance adopted by reference in section 1 of this rule.

(4) The "administrative procedures" set forth in the Pasteurized Milk Ordinance adopted by reference in section 1 of this rule shall be followed in implementing the standards required in this section.

(5) Before milkhouses, milking barns, stables, or parlors regulated under this rule are constructed or extensively altered, construction plans shall be submitted to the state veterinarian for written approval before work is begun.

(6) Raw milk for pasteurization shall not be stored:

(A) on a dairy farm for more than forty-eight (48) hours; and ~~shall not be stored~~

(B) outside a farm bulk milk tank.

(7) Agitation and refrigeration of all farm bulk milk cooling and holding tanks shall be automatically controlled with automatic controls that will maintain mixed milk temperature between thirty-two (32) degrees Fahrenheit and forty-five (45) degrees Fahrenheit and an interval timer that will activate agitation of the milk for a minimum period of two (2) minutes in every sixty (60) minute interval. Persons holding Grade A permits issued under this article on January 1, 2003, must meet the automatic refrigeration and interval timer requirements in this subsection not later than January 1, 2005. But, all plans for new construction or extensive alteration that are submitted for approval under this section shall meet the refrigeration and interval timer requirements in this subsection. All applicants for a new Grade A permit shall meet the refrigeration and interval timer requirements of this subsection as a condition of receiving the permit.

(Indiana State Board of Animal Health; 345 IAC 8-3-2; emergency rule filed Jan 27, 1994, 5:00 p.m.: 17 IR 1224, eff Feb 1, 1994; filed Apr 17, 1998, 9:00 a.m.: 21 IR 3355; readopted filed May 2, 2001, 1:45 p.m.: 24 IR 2895; filed Sep 27, 2002, 2:40 p.m.: 26 IR 341) NOTE: Transferred from the Indiana State Department of Health (410 IAC 8-14-8.2) to the Indiana State Board of Animal Health (345 IAC 8-3-2) by P.L.138-1996, SECTION 76, effective July 1, 1996.

SECTION 11. 345 IAC 8-3-9 IS ADDED TO READ AS FOLLOWS:

345 IAC 8-3-9 Grade A Milk plants standards
Authority: IC 15-2.1-3-19; IC 15-2.1-23-6
Affected: IC 15-2.1-23

Sec. 9. A person operating a Grade A milk plant shall meet the following requirements:

(1) Milk that is processed must meet the chemical, bacteriological, and temperature standards in Section 7 and Table 1 of the Pasteurized Milk Ordinance adopted by reference in section 1 of this rule. Milk from manufacturing grade dairy farms may not be used.

(2) The milk plant must meet the sanitation, construction, operation, and other standards set forth in the Pasteurized Milk Ordinance adopted by reference in section 1 of this rule, including the following:

(A) Section 6, "The Examination of Milk and Milk Products".

(B) Section 7, "Standards for Grade "A" Pasteurized, Ultra-Pasteurized and Aseptically Processed Milk and Milk Products", Items 1p through 19p.

(C) The personnel health standards and procedures set forth in Sections 13 and 14.

(D) Appendix D, "Standards for Water Sources".

(E) Appendix F, "Sanitization".

(F) Appendix G, "Chemical and Bacteriological Tests".

(G) Appendix H, "Pasteurization Equipment and Procedures".

(H) Appendix I, "Pasteurization Equipment and Controls–Tests".

(I) If a plant fabricates containers, Appendix J, "Standards for the Fabrication of Single-Service Containers and Closures for Milk and Milk Products".

(J) Appendix N, "Drug Residue Testing and Farm Surveillance".

(K) Appendix O, "Vitamin Fortification of Fluid Milk Products".

(3) Milk for pasteurization, ultra-pasteurization, or aseptic processing may be obtained only from dairy farms that hold a valid Grade A dairy farm permit issued under this article, or in the case of milk from outside the state, is a source that is listed on the National Conference of Interstate Milk Shipments interstate milk shippers list as meeting standards equal to or greater than the Grade A standards in the Pasteurized Milk Ordinance incorporated by reference in section 1 of this rule.

(4) The "administrative procedures" set forth in the Pasteurized Milk Ordinance adopted by reference in section 1 of this rule shall be used in implementing the standards required in this section.

(Indiana State Board of Animal Health; 345 IAC 8-3-9; filed Sep 27, 2002, 2:40 p.m.: 26 IR 341) NOTE: Agency cited as 345 IAC 8-3-3, which was renumbered by the publisher as 345 IAC 8-3-9.

SECTION 12. 345 IAC 8-3-10 IS ADDED TO READ AS FOLLOWS:

345 IAC 8-3-10 Labeling

Authority: IC 15-2.1-3-19; IC 15-2.1-23-6
Affected: IC 15-2.1-23

Sec. 10. (a) All packages and containers enclosing milk or milk products shall be labeled in accordance with the applicable requirements of the following:

(1) IC 15-2.1-23 and this article.

(2) The federal Food, Drug, and Cosmetic Act (21 U.S.C. 301 et seq.).

(3) 21 CFR, Chapter I, Subchapter B.

(b) The following shall be marked as set forth in Section 4 of the Pasteurized Milk Ordinance adopted by reference in section 1 of this rule:

(1) Bottles, containers, and packages enclosing milk or milk products.

(2) Milk tank trucks.

(3) Storage tanks.

(4) Cans of raw milk from individual dairy farms.

(c) Labels shall not contain any misleading marks, words, or endorsements. Super grade designations are misleading and are prohibited. Super grade designations are words or symbols that give the consumer the impression that such a grade is significantly safer than "Grade A". Super grade designations include, without limitation, the following terms:

(1) Grade AA Pasteurized.

(2) Selected Grade A Pasteurized.

(3) Special Grade A Pasteurized.

Descriptive labeling terms must not be used in conjunction with the Grade A designation or name of the milk or milk product and must not be false or misleading. *(Indiana State Board of Animal Health; 345 IAC 8-3-10; filed Sep 27, 2002, 2:40 p.m.: 26 IR 342) NOTE: Agency cited as 345 IAC 8-3-4, which was renumbered by the publisher as 345 IAC 8-3-10.*

SECTION 13. 345 IAC 8-4-1 IS AMENDED TO READ AS FOLLOWS:

345 IAC 8-4-1 Drug residues

Authority: IC 15-2.1-3-19; IC 15-2.1-23-6
Affected: IC 15-2.1-2-2.3; IC 15-2.1-23-6.5; IC 15-2.1-23-17

Sec. 1. (a) Milk shall be screened for **the presence of** drug ~~residue violations~~ **residues** as follows:

(1) ~~Except as provided in subdivision (2),~~ **Any milk plant that accepts raw** milk shall ~~be screened for drug residues pursuant to Appendix N of the Pasteurized Milk Ordinance (345 IAC 8-3-1).~~ **test each bulk milk pick-up tanker for beta lactam drug residues. Each bulk milk pick-up tanker shall be sampled after the last producer has been picked up and before any additional commingling of milk using a representative sample from the truck. Samples shall be tested using a test that has been approved by the United States Food and Drug Administration for screening milk for drug residues. Samples shall be tested in a laboratory that is certified by the state veterinarian by an analyst that is certified by the state veterinarian. When a drug residue test is positive, another test shall be run to confirm the positive. When a drug residue test is confirmed positive, samples collected from each producer on the load shall be tested to determine the farm of origin.**

(2) The state veterinarian may implement a testing program to test milk from ~~manufacturing grade dairy farms shall be tested~~ **bulk milk pick-up tankers** for **other** drug residues. ~~pursuant to 345 IAC 8-2-3.~~

(3) The state veterinarian may implement a testing program to test milk from any source for drug residues. Such testing programs may include samples from farm bulk tanks, milk plants, or finished products as part of a monthly quality program or other surveillance program. Samples that test positive for drug residues are subject to the provisions of this section.

(4) Milk plants shall keep records of all drug residue tests that are conducted on bulk milk pick-up tankers and farm bulk milk tanks and their results. The records shall be kept for not less than six (6) months.

(b) All **tests completed under this section must meet the following requirements:**

(1) The test must be a test approved by the United States Food and Drug Administration for screening milk samples for drug residues.

(2) The test must be conducted by an analyst approved by the state veterinarian.

(3) The test must be conducted in a laboratory approved by the state veterinarian.

(4) A test that is being run to confirm a positive drug residue test result must be the same test that was used to obtain the initial positive drug residue result. But, a person may use a different confirmatory test if the state veterinarian approves the use of that confirmatory test. The state veterinarian may approve the use of a confirmatory test that is different from a prior test after evaluating the circumstances surrounding the request and determining that the use of the proposed confirmatory test is consistent with the purposes of this section.

(c) Milk tests positive for drug residues if a test meeting the requirements in subsection (b) indicates the presence of drug residues in the milk at any level.

(d) Whenever milk tests positive for drug residues and is confirmed the following apply:

(1) The milk that tests positive for drug residues **is adulterated under IC 15-2.1-2-2.3 and** must be disposed of in a manner that removes it from the human and animal food chain or that acceptably reconditions the milk under United States Health and Human Services–Food and Drug Administration compliance policy guidelines. ~~In all cases of drug residue violations, a producer may not resume shipping milk until~~

(2) The state veterinarian shall determine the origin of the contaminated milk. Milk from the farm of origin creates an imminent hazard to the public health. The state veterinarian shall suspend the Grade A farm permit or manufacturing grade farm permit as the case may be and no milk may be removed from the farm until the permit is reinstated.

(3) When a drug test ~~conducted by a certified laboratory~~ shows the producer's milk is negative for drug residues, ~~and~~ the ~~test results are reported to the office of the~~ state veterinarian **may reinstate the farm permit.**

~~(c)~~ **(e)** All positive drug residue test results must be called into the office of the state veterinarian immediately, and a written report of the test results must be faxed or delivered to the office of the state veterinarian within twenty-four (24) hours of the test. The producer whose milk tested positive must be notified of the positive drug residue test immediately. The company that conducted the test is responsible for the reporting requirements in this subsection.

~~(d)~~ **(f)** A producer whose milk tests positive for drug residues shall pay a fine and participate in drug residue education activities as follows:

(1) The following is imposed on a producer for the first positive test for drug residues within a twelve (12) month period:

(A) The positive producer must pay a fine to the board equal to the result of the following equation:

(DP) (2 days) ($3) - (PR)

However, if the result is less than five dollars ($5), then the fine is five dollars ($5).

(B) The positive producer must, in conjunction with his or her veterinarian and an official of the board, complete the "Milk and Dairy Beef Residue Prevention Protocol" and provide proof of completion to the board, office of the state veterinarian within thirty (30) days of the drug residue violation. Failure to complete the protocol and submit proof of completion within thirty (30) days will result in action to suspend the producer's permit.

(2) The following is imposed for a second positive test for drug residues within a twelve (12) month period:

(A) The positive producer must pay a fine to the board equal to the result of the following equation:

(DP) (4 days) ($3)

However, if the result is less than five dollars ($5), then the fine is five dollars ($5).

(B) The positive producer must, in conjunction with his or her veterinarian and an official of the board, complete the "Milk and Dairy Beef Residue Prevention Protocol" and provide proof of completion to the board, office of the state veterinarian within thirty (30) days of the drug residue violation. Failure to complete the protocol and provide proof of completion will result in action to suspend the producer's permit.

(C) The producer must attend a producer education program or meeting designated by the state veterinarian. The producer is responsible for paying registration and material fees and other costs associated with attending the education program or meeting. The producer must provide proof of attendance to the state veterinarian within ten (10) days of completion of the program or meeting.

(3) The third positive test result for drug residues within a twelve (12) month period shall result in the following:

(A) The board revoking a producer's Grade A permit if the producer has one.

(B) The sanctions for a second offense set forth in subdivision (2) are imposed.

(C) The producer must submit to the state veterinarian a set of written procedures that he or she will follow to prevent future drug residue violations. The procedures must be submitted with the proof of completion required in subdivision (2)(B) and must be specific, practical, and reasonably likely to lessen the possibility of a drug residue violation when followed by the producer.

(D) After a producer's Grade A permit is revoked for a third offense violation under this rule, he or she shall not receive a new Grade A permit for a revocation period of thirty (30) days from the date of the revocation. After the revocation period, the state veterinarian must issue a conditional Grade A permit to a producer that has applied for a permit if the following requirements are met:

(i) The producer has met all of the requirements of this rule at the time of application.

(ii) The producer meets all other requirements of the board for obtaining a Grade A permit.

The permit will be issued on the condition that all of the requirements of this rule must be completed within the time frames set forth in this rule. A permit issued under this subdivision automatically becomes unconditional after the producer fully complies with all of the provisions of this rule.

(4) For each drug residue violation in a twelve (12) month period in excess of three (3), the producer is subject to the penalties for a third offense in subdivision (3), ~~are imposed,~~ but for Grade A producers the revocation period will begin on the date his or her permit is revoked and run for a period equal to the length of the revocation period imposed after the producer's last drug residue violation times two (2). For example, the revocation period for a fourth offense in a twelve (12) month period is sixty (60) days, and for a fifth offense the revocation period is one hundred twenty (120) days.

~~(e)~~ **(g)** The following definitions apply throughout this section:

(1) "DP" or "daily production" means the amount of milk, measured by hundred weight, produced by the positive producer in one (1) day, measured on the day in which the drug residue violation occurred.

(2) "PR" or "producer reimbursement" means an amount assessed against the positive producer to reimburse others for milk contaminated by the positive producer's contaminated milk, not including the value of the positive producer's contaminated milk for which he or she was not paid.

(3) "Revocation period" means the period after a Grade A producer's permit is revoked under this rule that he or she may not apply for a Grade A permit.

~~(f)~~ **(h)** The following shall apply to penalties imposed by this section:

(1) In cases where the positive producer holds a Grade A permit from the board, the provisions in this section shall operate in place of and as an equivalent to the penalties in Part II(B) of Appendix N of the Pasteurized Milk Ordinance.

(2) All monetary penalties must be paid by the producer and must be received by the office of the state veterinarian within sixty (60) days of notice of the drug residue violation.

(3) The state veterinarian may, by special permit, allow a producer that objects to the imposition of a fine to dump two (2) days of milk production on a first offense and four (4) days of milk production on the second or third offense instead of paying a monetary fine where payment of a fine would impose undue hardship on a producer. The state veterinarian may set the conditions under which the milk is to be dumped and may require documentation from the producer showing the circumstances under which the milk was dumped.

(4) ~~The producer reimbursement must not be deducted from the producer's fine on the first offense unless the producer provides to the office of the state veterinarian~~ Proof that ~~the~~ **a** producer reimbursement was in fact ~~paid. Proof that the producer reimbursement was paid~~ **assessed** must be submitted to the office of the state veterinarian within sixty (60) days of notice of the drug residue violation along with any monetary penalty due.

(5) No penalty may exceed one thousand dollars ($1,000) for a first offense or two thousand dollars ($2,000) for a subsequent offense. Civil penalties collected under this section must be deposited in the dairy drug residue abatement fund established under IC 15-2.1-23-17.

~~(g)~~ **(i)** The ~~board will~~ **state veterinarian may** suspend the permit of a producer that does not comply with the requirements of this rule within the designated time periods allowed under this rule **until such time as** the ~~state veterinarian shall assess producers that do not provide proof of producer reimbursement payments, if an option after a first offense, or pay the required penalty within sixty (60) days of notice of the drug residue~~ violation ~~an additional penalty of ten dollars ($10) per day until such time as the required information or money, including any additional penalties imposed under this section,~~ is ~~received in the office of the state veterinarian. The state veterinarian may waive the imposition of additional penalties under this section if the producer can show that the failure to produce the required documentation or money was due to unforeseen circumstances beyond the control of the producer and that imposition of additional penalties would be unreasonable under the circumstances.~~ **remedied.**

~~(h)~~ **(j)** The following are examples that illustrate the calculation of the fine imposed by this rule:

(1) First offense:

(A) total positive truck load CWT: 500

(B) positive producer's CWT on positive tanker (two (2) days' production): 100

(C) producer's daily production CWT: 50

(D) co-op requires producer to pay for other producers' milk that is contaminated at fifteen dollars ($15) per CWT.

Penalty = (DP) (2 days) ($3) - (PR).
= [50 (2) ($3)] - [(500 - 100) ($15)].
= [$300 fine] - [$6,000 reimbursement paid to other producers].

Because the reimbursement to other producers exceeded the fine, no money is payable to the state as long as **proof of** the reimbursement **assessment** is ~~actually paid and proof of the payment~~ is provided to the board.

(2) First offense:

(A) total positive truck load CWT: 500

(B) positive producer's CWT on positive tanker (two (2) days' production): 400

(C) producer's daily production CWT: 200

(D) co-op requires producer to pay for other producers' milk that is contaminated at fifteen dollars ($15) per CWT.

Penalty = (DP) (2 days) ($3) - (PR).
= [200 (2) ($3)] - [(500 - 400) ($15)].
= [$1,200 fine] - [$1,500 reimbursement paid to other producers].

Because the reimbursement to other producers exceeded the fine, no money is payable to the state as long as **proof of** the reimbursement **assessment** is ~~actually paid and proof of the payment is~~ provided to the board.

(3) First offense:
(A) total positive truck load CWT: 500
(B) positive producer's CWT on positive tanker (two (2) days' production): 500
(C) producer's daily production CWT: 250
(D) co-op requires producer to pay for other producers' milk that is contaminated at fifteen dollars ($15) per CWT.

Penalty = (DP) (2 days) ($3) - (PR).
= [250 (2) ($3)] - [(500 - 500) ($15)].
= [$1,500 fine] - [$0 reimbursement paid to other producers].

Because there was no reimbursement to other producers, all of the ~~one thousand five hundred dollar ($1,500)~~ fine is payable to the state, **but the fine is limited by this section to one thousand dollars ($1,000).**

(4) First offense:
(A) Positive bulk tank on monthly quality check or otherwise.
(B) Producer's daily production (CWT): 50

Penalty = (DP) (2 days) ($3) - (PR).
= [50 (2) ($3)] - 0.

Because there was no reimbursement to other producers, all of the three hundred dollar ($300) fine is payable to the state.

(5) Second offense:
(A) total positive truck load CWT: 500
(B) positive producer's CWT on positive tanker (two (2) days' production): 100
(C) producer's daily production (CWT): 50
(D) co-op requires producer to pay for other producers' milk that is contaminated at fifteen dollars ($15) per CWT.

Penalty = (DP) (4 days) ($3).
= 50 (4) ($3).

Because this is a second offense, no reimbursement is recognized and all of the six hundred dollar ($600) fine is paid to the state.

(6) Fourth offense:
(A) total positive truck load CWT: 500
(B) positive producer's CWT on positive tanker (two (2) days' production): 100
(C) producer's daily production (CWT): 50
(D) co-op requires producer to pay for other producers' milk that is contaminated at fifteen dollars ($15) per CWT.

Penalty = (DP) (4 days) ($3).
= 50 (4) ($3).

Because this is a fourth offense, no reimbursement is recognized and all of the six hundred dollar ($600) fine is paid to the state. A Grade A producer's permit will be revoked for a period of one hundred twenty (120) days after which time he or she may reapply for a Grade A permit.

(Indiana State Board of Animal Health; 345 IAC 8-4-1; filed Apr 17, 1998, 9:00 a.m.: 21 IR 3355; errata filed Aug 13, 1998, 1:16 p.m.: 22 IR 126; readopted filed May 2, 2001, 1:45 p.m.: 24 IR 2895; filed Sep 27, 2002, 2:40 p.m.: 26 IR 342)

LSA Document #01-392(F)
Notice of Intent Published: 25 IR 832
Proposed Rule Published: June 1, 2002; 25 IR 2758
Hearing Held: July 2, 2002
Approved by Attorney General: September 12, 2002
Approved by Governor: September 27, 2002
Filed with Secretary of State: September 27, 2002, 2:40 p.m.
Incorporated Documents Filed with Secretary of State: Grade A Pasteurized Milk Ordinance, 2001 revision. U.S. Department of Health and Human Services, Public Health Service, Food, and Drug Administration; and various provisions of 21 CFR relating to the definition and standard of identity for milk and cream, cheese and cheeses, and frozen desserts, manufacturing practices for manufacturing, packing, or holding human food, and food labeling requirements.

TITLE 345 INDIANA STATE BOARD OF ANIMAL HEALTH

LSA Document #01-413(F)

DIGEST

Amends 345 IAC 1-3 to impose restrictions on the movement of cervids into Indiana. Amends 345 IAC 2-7 to require cervid owners to register locations housing cervids with the state veterinarian and participate in a chronic wasting disease certification program that includes record keeping, identification, death loss reporting, and perimeter fencing requirements. Amends 345 IAC 2-7 to establish requirements for chronic wasting disease positive, suspect, and exposed herds. Makes other changes in the law of animal disease control. Effective 30 days after filing with the secretary of state.

345 IAC 1-3-30 **345 IAC 2-7-4**
345 IAC 2-7-1 **345 IAC 2-7-5**
345 IAC 2-7-3

SECTION 1. 345 IAC 1-3-30 IS AMENDED TO READ AS FOLLOWS:

345 IAC 1-3-30 Chronic wasting disease
Authority: IC 15-2.1-3-19
Affected: IC 15-2.1-3-13; IC 15-2.1-21-6

Sec. 30. **(a) Chronic wasting disease (CWD) is not known**

to exist in the state. CWD has been diagnosed in captive and wild cervids in other states and Canadian provinces. CWD presents a health hazard to the animals of the state that could result in substantial damage to the domestic cervid industry in the state and the state's wild cervid population. Preventing the spread of CWD from cervids in other states is the best currently available method for addressing the CWD threat to animals in the state. The state veterinarian shall continue to evaluate the risks associated with CWD and the available methods for protecting animals in the state from CWD. The state veterinarian shall update the board on his findings. In the interim, because of the current CWD threat, the following provisions apply until May 1, 2003:

(1) Notwithstanding any other provision of this rule, a person may not move a cervid into the state. A person may not move cervid semen or cervid embryos into the state.

(2) Notwithstanding subdivision (1), the following apply:

(A) A person may transport a cervid, cervid semen, and cervid embryos directly through the state without stopping and unloading the animal, semen, or embryos in the state.

(B) Cervid semen and cervid embryos sent out of the state for processing and storage may be brought back into the state if the following conditions are met:

(i) The person must first apply to the state veterinarian for a pre-entry permit to bring the cervid semen or embryos into the state. The state veterinarian may require from the applicant any information that is relevant to evaluating the disease risk associated with the movement. The state veterinarian may require that the application for a permit be in writing and be submitted not less than forty-eight (48) hours prior to the movement date.

(ii) The cervid semen or embryos may not be moved into the state unless the state veterinarian issues a pre-entry permit for the movement.

(iii) The state veterinarian may issue a pre-entry permit to move cervid semen and cervid embryos into the state if the epidemiology as it relates to CWD indicates that the proposed movement is consistent with reasonable animal health precautions.

(C) The state veterinarian may permit the movement of any animal, semen, or embryo into the state for the purpose of research or to facilitate the diagnosis, treatment, prevention, or control of disease.

(b) After May 1, 2003, a person may not transport into Indiana a cervid that originates from a herd that is located in a state where ~~chronic wasting disease~~ **CWD** has been diagnosed within the sixty (60) months immediately prior to the date of transportation into Indiana unless one (1) of the following sets of conditions are met:

(1) The animal originates from a herd that meets the following criteria:

(A) No animal in the herd and no animal that originated from the herd has tested positive for ~~chronic wasting disease~~ **CWD** within the sixty (60) months immediately prior to the date of transportation into Indiana.

(B) The herd has been enrolled in or subject to an official state or federal surveillance program whereby the herd has been monitored for ~~chronic wasting disease~~ **CWD** for not less than sixty (60) consecutive months and the owner of the herd is in compliance with the surveillance program requirements.

(2) The state veterinarian issues a permit to transport the animal into Indiana for the purpose of slaughter, research, or to facilitate the diagnosis, treatment, prevention, or control of disease.

The state veterinarian shall maintain a list of states where ~~chronic wasting disease~~ **CWD** has been diagnosed. *(Indiana State Board of Animal Health; 345 IAC 1-3-30; filed Jan 4, 2001, 1:59 p.m.: 24 IR 1338; readopted filed May 2, 2001, 1:45 p.m.: 24 IR 2895; filed Sep 12, 2002, 1:07 p.m.: 26 IR 345)*

SECTION 2. 345 IAC 2-7-1 IS AMENDED TO READ AS FOLLOWS:

345 IAC 2-7-1 Definitions

Authority: IC 15-2.1-3-19
Affected: IC 15-2.1-2; IC 15-2.1-3-13; IC 15-2.1-4

Sec. 1. The following definitions and the definitions in IC 15-2.1-2 apply throughout this rule:

(1) "Board" means the Indiana state board of animal health appointed under IC 15-2.1-3.

(2) "Certification program" means the CWD certification program in sections 3 and 4 of this rule.

~~(2)~~ **(3)** "Cervidae" or "cervid" means all members of the cervidae family **and hybrids,** including deer, elk, moose, caribou, reindeer, and related species. ~~and hybrids thereof.~~

~~(3)~~ **(4)** "Chronic wasting disease" or "CWD" means a transmissible spongiform encephalopathy of cervids.

~~(4)~~ **(5)** "CWD ~~affected" and "affected"~~ **exposed animal"** means ~~a cervid~~ **an animal** that **is, or** has been, ~~diagnosed as having chronic wasting disease based on laboratory test results, clinical signs,~~ **in the last five (5) years, part of a CWD positive or CWD exposed herd.**

(6) "CWD exposed herd" means a herd in which a CWD positive or exposed animal has resided within sixty (60) months prior to the diagnosis of CWD.

(7) "CWD negative animal" means an animal that has been subjected to an official CWD test that resulted in a negative classification.

(8) "CWD positive animal" means an animal that has been diagnosed as having CWD based on official laboratory test results.

(9) "CWD positive herd" means a herd in which a CWD positive animal resided at the time it was diagnosed and ~~epidemiologic investigation.~~ **that has not been released from quarantine.**

~~(5)~~ **(10)** "CWD ~~affected herd"~~ **suspect"** and ~~"affected herd"~~ **"suspect"** means **laboratory evidence or clinical signs suggest** a ~~herd from which any animal has been diagnosed with~~ **diagnosis of** CWD, **but laboratory results are not yet available or have been inconclusive.**

~~(6)~~ ~~"CWD exposed"~~ ~~and~~ ~~"exposed"~~ **(11) "Herd"** means **an animal or** a ~~designation applied to cervids~~ **group of animals** that ~~have had contact with CWD affected animals~~ **are under common ownership** or **supervision and that are grouped on one (1) or more parts of a single premises, or on two (2) or more separate premises but on which animals have been interchanged or had direct or indirect contact** with ~~animals from a CWD affected herd.~~ **one another.**

(12) "Herd plan" means a written herd management agreement developed by the herd owner, the herd owner's veterinarian, and the state veterinarian, and approved by the state veterinarian, that states the steps that will be taken to eradicate CWD from a CWD positive, CWD exposed, or CWD suspect herd.

~~(7)~~ **(13)** "High risk animal" means a cervid that may have been exposed to CWD. The state veterinarian shall determine which animals are high risk animals based on an epidemiological investigation that includes evaluation of animal movements, housing, location, and probable contacts with ~~affected~~ **CWD positive, CWD exposed, or CWD suspect** animals.

~~(8) "Monitoring program" means the CWD monitoring program created in sections 3 and 4 of this rule.~~

~~(9)~~ **(14)** "Official test" means a ~~disease~~ **CWD** detection test approved by the state veterinarian conducted in a laboratory approved by the state veterinarian.

(15) "Owner" means a person who legally owns an animal. The state veterinarian may include as an owner a person who possesses an animal under a permit issued by the United States government or the Indiana department of natural resources, whether or not the permit holder actually has ownership rights in the animal, if it furthers the purposes of this rule.

~~(10)~~ **(16)** "Quarantine" means an order restricting the movement of animals onto or off of a premises.

~~(11)~~ **(17)** "State veterinarian" means the state veterinarian appointed under IC 15-2.1-4 or his authorized agent.

(Indiana State Board of Animal Health; 345 IAC 2-7-1; filed Jan 4, 2001, 1:59 p.m.: 24 IR 1339; readopted filed May 2, 2001, 1:45 p.m.: 24 IR 2895; filed Sep 12, 2002, 1:07 p.m.: 26 IR 346)

SECTION 3. 345 IAC 2-7-3 IS AMENDED TO READ AS FOLLOWS:

345 IAC 2-7-3 Herd registration

Authority: IC 15-2.1-3-19
Affected: IC 15-2.1-3-13; IC 15-2.1-18-9; IC 15-2.1-18-11

Sec. 3. (a) The owner of ~~an elk~~ **a cervid** located in Indiana must meet the following requirements:

(1) ~~Each elk herd must be registered~~ **The owner shall register** with the state veterinarian **each location where his or her cervids are kept.**

(2) Every animal in the herd must be uniquely identified. ~~in a manner prescribed by~~ The state veterinarian **shall prescribe the methods by which cervids shall be identified.**

(3) The owner must keep a **complete, accurate, and current herd inventory. A herd inventory shall include the following:**

(A) A record of each animal that is part of the herd ~~including~~ **and its identification.**

(B) A record of each animal that is added to the herd, **including the date the animal is added** and **the source of the animal. If the source of the animal is from outside the owner's herd, the name and address of the source.**

(C) A record of each animal that is removed from the herd, **including the date removed and the name and address of the animal's destination.**

(4) Upon request of the state veterinarian, the owner **or custodian of the animals** must **do the following:**

(A) Provide the state veterinarian **access to or** a **copy of the** written herd inventory. ~~including each animal's identification.~~

~~(4) The owner must~~ **(B)** Present each animal in the herd to the state veterinarian for inspection and verification of identification. ~~upon registration and annually thereafter. The herd inventory provided to the state veterinarian shall be updated not less than annually.~~

(C) Provide access to any animal in the herd for testing, identification, or evaluation.

(5) Upon the death of any animal in the herd for any reason the owner shall immediately notify the state veterinarian. The state veterinarian ~~will~~ **may** inspect any dead cervid ~~that is eighteen (18) months of age or older~~ and take tissues **or other material** necessary **or helpful** for ~~a laboratory test for chronic wasting disease.~~ **detecting CWD.** The owner shall dispose of the remaining carcass as directed by the state veterinarian.

(6) The herd must be enclosed in a perimeter fence that is made from materials that will prevent cervids from entering or leaving through the structure, has no openings that will allow ingress or egress, and measures at least eight (8) feet from the ground to the top of the fence at all parts of the structure. The state veterinarian may approve a perimeter fence enclosing smaller cervids that is lower than eight (8) feet if the fence is likely to contain the animals.

(b) The state veterinarian may ~~grant a waiver from the requirement in subsection (a)(5) if~~ **conduct** an epidemiologic evaluation of ~~the~~ **any cervid** herd, ~~indicates that~~ **including** testing ~~the deceased~~ **any** animal ~~would not further~~ **if it furthers** the goal of ~~chronic wasting~~ **animal** disease surveillance and control. The state veterinarian ~~shall~~ **may** consider **all relevant**

factors, including the length of time the herd has been under a CWD surveillance program, the herd's health history, the potential effects of any additions to the herd, and the potential effect of wild cervids on the herd when ~~considering waivers~~ **evaluating herds** under this subsection.

(c) The requirements in this section do not apply to a person possessing a dead wild cervid taken pursuant to a hunting permit issued by the Indiana department of natural resources. *(Indiana State Board of Animal Health; 345 IAC 2-7-3; filed Jan 4, 2001, 1:59 p.m.: 24 IR 1339; readopted filed May 2, 2001, 1:45 p.m.: 24 IR 2895; filed Sep 12, 2002, 1:07 p.m.: 26 IR 347)*

SECTION 4. 345 IAC 2-7-4 IS AMENDED TO READ AS FOLLOWS:

345 IAC 2-7-4 Chronic wasting disease certified herd status

Authority: IC 15-2.1-3-19
Affected: IC 15-2.1-3-13

Sec. 4. (a) An owner of a cervid herd located in Indiana ~~may~~ **shall** obtain a ~~chronic wasting disease monitored~~ **CWD certified** status for the herd from the ~~board~~ **state veterinarian** by complying with the ~~following~~ requirements **in this section and section 3 of this rule.**

~~(1) The owner of the herd must submit an application for participation in the monitoring program to the state veterinarian.~~

~~(2) Every animal in the applicant's herd must be uniquely identified in a manner prescribed by the state veterinarian.~~

~~(3) The owner must keep a record of each animal that is part of the herd, including a record of each animal that is added to the herd and each animal that is removed from the herd. The owner must provide the state veterinarian a written herd inventory including each animal's identification.~~

~~(4) The owner must present each animal in the herd to the state veterinarian for inspection and verification of identification upon beginning the monitoring program and annually thereafter. The herd inventory provided to the state veterinarian shall be updated not less than annually.~~

~~(5) Upon the death of any animal in the herd for any reason, the owner shall immediately notify the state veterinarian. The state veterinarian will inspect any dead cervid that is eighteen (18) months of age or older and take tissues necessary for a laboratory test for chronic wasting disease. The owner shall dispose of the remaining carcass as directed by the state veterinarian.~~

~~(6) The owner shall pay for any fees associated with testing an animal other than elk from his or her herd for chronic wasting disease, including any fees necessary for tissue collection and laboratory diagnostic costs. The state veterinarian may allow the owner to utilize state or federal funds, if available, to pay for the costs of testing for CWD in lieu of the herd owner paying for testing.~~

~~(b) The state veterinarian may grant a waiver from the requirement in subsection (a)(5) if an epidemiologic evaluation of the herd indicates that testing the deceased animal would not further the goal of chronic wasting disease surveillance and control. When considering waivers under this subsection, the state veterinarian shall consider the following:~~

~~(1) The length of time the herd has been in the surveillance program.~~

~~(2) The herd's health history.~~

~~(3) The potential effects of any additions to the herd.~~

~~(4) The potential effect of wild cervids on the herd.~~

~~(c)~~ **(b) The state veterinarian may award** a cervid owner ~~may receive~~ the following ~~chronic wasting disease~~ **CWD** herd statuses ~~while participating~~ in the ~~chronic wasting disease monitoring~~ **CWD certification** program: ~~described in this section:~~

(1) Level One status after one (1) year of ~~participation.~~ **compliance.**

(2) Level Two status after two (2) years of ~~participation.~~ **compliance.**

(3) Level Three status after three (3) years of ~~participation.~~ **compliance.**

(4) Level Four status after four (4) years of ~~participation.~~ **compliance.**

(5) Level Five **or "certified"** status after five (5) or more years of ~~participation.~~ **compliance.**

(6) Unknown status prior to the first complete year of ~~participation.~~ **compliance or if a herd is not in compliance.**

(7) ~~Status pending status if the herd has been identified as a~~ CWD ~~affected~~ **positive, CWD suspect,** or CWD exposed herd.

~~(d)~~ **(c)** If an animal is added to a herd, the ~~chronic wasting disease monitored~~ **CWD certification** status of a herd will be altered as follows:

(1) The ~~chronic wasting disease~~ **CWD** status will not change if the animal that is added to the herd originated from a herd that has ~~a chronic wasting disease monitored status equal to or greater than~~ **been in an equivalent CWD certification program for at least as long as** the recipient herd.

(2) If the animal that is added to the herd originated from a herd that has **been in** a ~~chronic wasting disease monitored status lower~~ **CWD certification program for less time** than the recipient herd, the recipient herd's **certification** status will be lowered to the status of the lowest status cervid added.

(3) A new herd that is assembled on a premises where ~~chronic wasting disease~~ **CWD** has never been diagnosed retains the **certification** status of the lowest status animal brought into the new herd.

~~(e)~~ **(d)** The state veterinarian may suspend, revoke, or lower the ~~monitoring~~ **certification** program status of a herd ~~if:~~ **for the following reasons:**

(1) A herd is found to be CWD positive, CWD suspect, or CWD exposed.

(2) The herd owner does not meet the requirements under this section. ~~or~~

(3) The herd owner violates **the requirements for moving cervids into Indiana in 345 IAC 1-3 or** any provision of this rule.

(Indiana State Board of Animal Health; 345 IAC 2-7-4; filed Jan 4, 2001, 1:59 p.m.: 24 IR 1340; readopted filed May 2, 2001, 1:45 p.m.: 24 IR 2895; filed Sep 12, 2002, 1:07 p.m.: 26 IR 348)

SECTION 5. 345 IAC 2-7-5 IS AMENDED TO READ AS FOLLOWS:

345 IAC 2-7-5 CWD positive, CWD suspect, and CWD exposed animals

Authority: IC 15-2.1-3-19
Affected: IC 15-2.1-3-13; IC 15-2.1-15-1; IC 15-2.1-18-9; IC 15-2.1-18-11

Sec. 5. (a) Whenever an animal is determined to be CWD ~~affected;~~ **positive,** the state veterinarian shall **take steps to prevent, detect, contain, and eradicate CWD and may do the following:**

(1) Quarantine animals, carcasses, and feed or other material.

(2) Condemn animals, carcasses, and feed or other material.

(3) Specify the means of disposal for condemned items.

(4) Conduct a complete epidemiologic investigation to determine the specific cause and source of the disease and to determine the population infected with and exposed to the disease.

(5) Take steps that are necessary or helpful to prevent, detect, contain, and eradicate CWD.

(b) Whenever a cervid is determined to be ~~affected with chronic wasting disease~~ **CWD positive, a herd plan shall be developed. The herd plan shall include** the following: ~~apply:~~

(1) The ~~affected animal or its carcass shall be condemned~~ **specific conditions of the quarantine imposed** by the state veterinarian **under subsection (a).**

(2) The ~~affected herd shall be quarantined by~~ **specific conditions for** the ~~state veterinarian~~ **disposal of condemned items and death loss from the herd.**

(3) ~~The affected~~ **A plan for cleaning and disinfecting the CWD positive** herd premises ~~shall be cleaned and disinfected~~ according to directions prescribed by the state veterinarian. ~~that are~~ **The plan shall be** designed to minimize the likelihood that ~~chronic wasting disease~~ **CWD** is spread.

(4) ~~The affected herd owner shall enroll in~~ **A plan for assessing** the ~~monitoring program in section 4 of this rule.~~ **health of animals in** the ~~affected~~ herd. ~~owner~~ **The plan** shall ~~participate in the monitoring program until such time as Level Five status is achieved.~~

~~(5) The state veterinarian may release the affected herd from quarantine upon the owner completing one (1)~~ **address each** of the following: ~~requirements:~~

~~(A) Obtaining Level Five status in the monitoring program.~~

~~(B) Isolating all high risk~~ **(A) Testing some or all of the** animals ~~from any other animal and testing the high risk animals~~ for CWD. ~~If all animals test negative for CWD, the quarantine may be released upon completion of Level Three status in the monitoring program.~~

~~(C)~~ **(B)** Depopulating **some or** all **of the** animals in the herd.

(C) Inspections by state or federal officials and other surveillance measures.

(D) Animal identification requirements.

(E) Herd inventory requirements.

(5) If necessary, parameters for separation of animals, captive and wild.

(6) Parameters for restocking or adding to the herd.

(7) Any other measures necessary to prevent, detect, and eradicate CWD.

(c) The **following apply to CWD exposed and CWD suspect herds:**

(1) The state veterinarian may quarantine a CWD exposed **or CWD suspect** herd.

(2) The state veterinarian may: ~~order a premises that contains or that contained exposed animals cleaned and disinfected according to directions prescribed by~~

(A) condemn animals in the ~~state veterinarian that are designed to minimize the likelihood that chronic wasting disease is spread. The owner of a CWD exposed~~ herd; **and**

(B) order testing of any animal in the herd.

(3) A herd plan shall ~~enter~~ **be developed for** the herd. ~~in~~ The ~~monitoring program until such time as Level Three status in~~ **herd plan shall meet** the ~~monitoring program is obtained. The state veterinarian may allow an owner of an exposed herd to leave the monitoring program prior to achieving Level Three status if an epidemiological investigation indicates that the likelihood of CWD transmission to, within, or from the herd is remote.~~ **requirements in subsection (b).**

(d) A cervid owner shall follow and implement the provisions of a herd plan developed for the owner's herd under this section.

(e) The state veterinarian may release a quarantine imposed on a CWD positive, CWD suspect, or CWD exposed herd after the provisions of the herd plan developed under this section have been completed. *(Indiana State Board of Animal Health; 345 IAC 2-7-5; filed Jan 4, 2001, 1:59 p.m.: 24 IR 1340; readopted filed May 2, 2001, 1:45 p.m.: 24 IR 2895; filed Sep 12, 2002, 1:07 p.m.: 26 IR 349)*

LSA Document #01-413(F)
Notice of Intent Published: 25 IR 1196
Proposed Rule Published: June 1, 2002; 25 IR 2774
Hearing Held: July 2, 2002
Approved by Attorney General: August 27, 2002

Approved by Governor: September 10, 2002
Filed with Secretary of State: September 12, 2002, 1:07 p.m.
Incorporated Documents Filed with Secretary of State: None

TITLE 460 DIVISION OF DISABILITY, AGING, AND REHABILITATIVE SERVICES

LSA Document #01-337(F)

DIGEST

Adds 460 IAC 1-8 concerning personal services attendants for individuals in need of self-directed in-home care. Effective 30 days after filing with the secretary of state.

460 IAC 1-8

SECTION 1. 460 IAC 1-8 IS ADDED TO READ AS FOLLOWS:

Rule 8. Personal Services Attendant for Individuals in Need of Self-Directed In-Home Care

460 IAC 1-8-1 Definitions

Authority: IC 12-8-8-4; IC 12-9-2-3; IC 12-10-17-19
Affected: IC 12-10-10; IC 12-10-17; IC 12-15-34-1; IC 16-25; IC 25-1-9-2; IC 25-1-9-3

Sec. 1. (a) The definitions in this section apply throughout this rule.

(b) "Ancillary services" means services ancillary to the basic services provided to an individual in need of self-directed in-home care who needs at least one (1) of the basic services listed in subsection (d). The term includes the following:

(1) Homemaker type services, including shopping, laundry, cleaning, and seasonal chores.

(2) Companion type services, including transportation, letter writing, mail reading, and escort services.

(3) Assistance with cognitive tasks, including managing finances, planning activities, and making decisions.

(c) "Attendant care services" means those basic and ancillary services, which the individual chooses to direct and supervise a personal services attendant to perform, that enable an individual in need of self-directed in-home care to live in the individual's home and community rather than in an institution and to carry out functions of daily living, self-care, and mobility.

(d) "Basic services" means a function that could be performed by the individual in need of self-directed in-home care if the individual were not physically disabled. The term includes the following:

(1) Assistance in getting in and out of beds, wheelchairs, and motor vehicles.

(2) Assistance with routine bodily functions, including:
(A) health related services as defined in subsection (f);
(B) bathing and personal hygiene;
(C) dressing and grooming; and
(D) feeding, including preparation and cleanup.

(e) "Geographic area" means one (1) county of the state.

(f) "Health related services" means those medical activities that, in the written opinion of the attending physician submitted to the case manager of the individual in need of self-directed in-home care, could be performed by the individual if the individual were physically capable, and if the medical activities can be safely performed in the home, and either:

(1) are performed by a person who has been trained or instructed on the performance of the medical activities by an individual in need of self-directed in-home care who is, in the written opinion of the attending physician submitted to the case manager of the individual in need of self-directed in-home care, capable of training or instructing the person who will perform the medical activities; or

(2) are performed by a person who has received training or instruction from a licensed health professional, within the professional's scope of practice, in how to properly perform the medical activity for the individual in need of self-directed in-home care.

(g) "Individual in need of self-directed in-home care" means an individual with a disability, or person responsible for making health related decisions for the individual with a disability, who:

(1) is approved to receive Medicaid waiver services under 42 U.S.C. 1396n(c), or is a participant in the community and home options to institutional care for the elderly and disabled program under IC 12-10-10;

(2) is in need of attendant care services because of impairment;

(3) requires assistance to complete functions of daily living, self-care, and mobility, including those functions included in attendant care services;

(4) chooses to self-direct a paid personal services attendant to perform attendant care services; and

(5) assumes the responsibility to initiate self-directed in-home care and exercise judgment regarding the manner in which those services are delivered, including the decision to employ, train, and dismiss a personal services attendant.

(h) "Licensed health professional" means the following:

(1) A registered nurse.

(2) A licensed practical nurse.

(3) A physician with an unlimited license to practice medicine or osteopathic medicine.

(4) A licensed dentist.

(5) A licensed chiropractor.
(6) A licensed optometrist.
(7) A licensed pharmacist.
(8) A licensed physical therapist.
(9) A certified occupational therapist.
(10) A certified psychologist.
(11) A licensed podiatrist.
(12) A licensed speech-language pathologist or audiologist.

(i) "Personal services attendant" means an individual who is registered to provide attendant care services under this rule and who has entered into a contract with an individual and acts under the individual's direction to provide attendant care services that could be performed by the individual if the individual were physically capable.

(j) "Self-directed in-home health care" means the process by which an individual, who is prevented by a disability from performing basic and ancillary services that the individual would perform if not disabled, chooses to direct and supervise a paid personal services attendant to perform those services in order for the individual to live in the individual's home and community rather than an institution. *(Division of Disability, Aging, and Rehabilitative Services; 460 IAC 1-8-1; filed Oct 2, 2002, 9:13 a.m.: 26 IR 350)*

460 IAC 1-8-2 Exclusions from rule
Authority: IC 12-8-8-4; IC 12-9-2-3; IC 12-10-17-19
Affected: IC 12-15-34-1; IC 16-25; IC 25-1-9-2; IC 25-1-9-3

Sec. 2. This rule does not apply to the following:
(1) An individual who provides attendant care services and who is employed by and under the direct control of a home health agency (as defined in IC 12-15-34-1).
(2) An individual who provides attendant care services and who is employed by and under the direct control of a licensed hospice program under IC 16-25.
(3) An individual who provides attendant care services and who is employed by and under the control of an employer that is not the individual who is receiving the services.
(4) A practitioner (as defined in IC 25-1-9-2) who is practicing under the scope of the practitioner's license (as defined in IC 25-1-9-3).
(Division of Disability, Aging, and Rehabilitative Services; 460 IAC 1-8-2; filed Oct 2, 2002, 9:13 a.m.: 26 IR 351)

460 IAC 1-8-3 Attendant care service provider registration requirement; preclusion
Authority: IC 12-8-8-4; IC 12-9-2-3; IC 12-10-17-19
Affected: IC 12-10-10; IC 12-10-17; IC 12-15

Sec. 3. (a) An individual desiring to provide attendant care services must register with the division.

(b) An individual may not provide attendant care services for compensation from Medicaid or the community and home options to institutional care for the elderly and disabled program for an individual in need of self-directed in-home care services unless the individual seeking to provide attendant care services is registered with the division.

(c) An individual who is a legally responsible relative of an individual in need of self-directed in-home care, including a parent of a minor individual and a spouse, is precluded from providing attendant care services for that individual for compensation under this section. *(Division of Disability, Aging, and Rehabilitative Services; 460 IAC 1-8-3; filed Oct 2, 2002, 9:13 a.m.: 26 IR 351)*

460 IAC 1-8-4 Requirements to become registered as attendant care service provider; certificate
Authority: IC 12-8-8-4; IC 12-9-2-3; IC 12-10-17-19
Affected: IC 5-2-5; IC 12-10-17; IC 16-28-13

Sec. 4. (a) In order to be registered with the division, an individual must submit the following:
(1) A personal résumé containing information concerning the individual's qualifications, work experience, and any credentials the individual may hold. The individual must certify that the information contained in the résumé is true and accurate.
(2) The individual's limited criminal history check from the Indiana central repository for criminal history information under IC 5-2-5 or another source allowed by law.
(3) If applicable, the individual's state nurse aide registry report, referred to in IC 16-28-13, from the state department of health. This subdivision does not require an individual to be a nurse aide.
(4) Three (3) letters of reference.
(5) A registration fee of zero dollars ($0).
(6) Proof that the individual is at least eighteen (18) years of age.
(7) Any other information required by the division.

(b) Subject to section 9(c) of this rule, if the requirements of subsection (a) are satisfactorily met, the division shall issue a certificate of registration for the period required under IC 12-10-17, effective on the date that the certificate of registration is issued. *(Division of Disability, Aging, and Rehabilitative Services; 460 IAC 1-8-4; filed Oct 2, 2002, 9:13 a.m.: 26 IR 351)*

460 IAC 1-8-5 File maintained by division
Authority: IC 12-8-8-4; IC 12-9-2-3; IC 12-10-17-19
Affected: IC 12-10-17

Sec. 5. The division shall maintain a file for each personal services attendant that contains the following:
(1) Comments related to the provision of attendant care services, including periodic reports on the quality of services provided by the personal services attendant, submitted by an individual in need of self-directed in-home care who has employed the personal services attendant; and

(2) The items described in section 4(a)(1) through 4(a)(4) of this rule.

(Division of Disability, Aging, and Rehabilitative Services; 460 IAC 1-8-5; filed Oct 2, 2002, 9:13 a.m.: 26 IR 351)

460 IAC 1-8-6 Renewal of registration

Authority: IC 12-8-8-4; IC 12-9-2-3; IC 12-10-17-19
Affected: IC 12-10-17

Sec. 6. (a) A personal services attendant may renew the personal services attendant's registration by doing the following:

(1) Updating any information in the file described in section 5 of this rule that has changed; and

(2) Paying the fee required under section 4(a)(5) of this rule.

(b) The limited criminal history check required under section 4(a)(2) of this rule and the nurse aide registry report described in section 4(a)(3) of this rule must be updated every two (2) years. *(Division of Disability, Aging, and Rehabilitative Services; 460 IAC 1-8-6; filed Oct 2, 2002, 9:13 a.m.: 26 IR 352)*

460 IAC 1-8-7 Information available from division

Authority: IC 12-8-8-4; IC 12-9-2-3; IC 12-10-17-19
Affected: IC 5-14-3; IC 12-10-17

Sec. 7. Upon request, an individual in need of self-directed in-home care shall receive from the division the following:

(1) Without charge, a list of personal services attendants who are registered with the division and available within the geographic area requested.

(2) A copy of the information of a specified personal services attendant who is on file with the division under section 5 of this rule. The division may charge a fee in accordance with IC 5-14-3, not to exceed five dollars ($5), for shipping, handling, and copying expenses.

(Division of Disability, Aging, and Rehabilitative Services; 460 IAC 1-8-7; filed Oct 2, 2002, 9:13 a.m.: 26 IR 352)

460 IAC 1-8-8 Contract required

Authority: IC 12-8-8-4; IC 12-9-2-3; IC 12-10-17-19
Affected: IC 12-10-17-16

Sec. 8. The individual in need of self-directed in-home care and the personal services attendant must each sign a contract, in a form approved by the division, that includes, at a minimum, the following:

(1) The responsibilities of the personal services attendant.

(2) The frequency the personal services attendant will provide attendant care services.

(3) The duration of the contract.

(4) The hourly wage of the personal services attendant. The wage may not be less than the federal minimum wage or more than the rate that the recipient is eligible to receive under a Medicaid home and community based services waiver or the community and home options to institutional care for the elderly and disabled program for attendant care services.

(5) Reasons and notice agreements for early termination of the contract.

(Division of Disability, Aging, and Rehabilitative Services; 460 IAC 1-8-8; filed Oct 2, 2002, 9:13 a.m.: 26 IR 352)

460 IAC 1-8-9 Appeals and review

Authority: IC 12-8-8-4; IC 12-9-2-3; IC 12-10-17-20
Affected: IC 4-21.5-3; IC 4-21.5-5

Sec. 9. (a) The division, through designated representatives, shall investigate complaints by or on behalf of an individual in need of self-directed in-home care concerning the neglect, abuse, mistreatment, or misappropriation of property of an individual in need of self-directed in-home care by a personal services attendant.

(b) The division shall make a determination as to whether or not a personal services attendant neglected, abused or misappropriated the property of an individual in need of self-directed in-home care by a personal services attendant. The finding shall be entered into the personal services attendant's file with the division. The division shall give the personal services attendant notice of its determination.

(c) If the division determines that a personal services attendant neglected, abused, or misappropriated the property of an individual in need of self-directed care, the division may remove the personal services attendant from the list of registered personal services attendants and revoke or deny the certificate of registration.

(d) If the division determines that a personal services attendant neglected, abused, or misappropriated the property of an individual in need of self-directed care, the division shall give written notice to the personal services attendant of the procedures and time limit for seeking administrative review of the division's determination pursuant to this section.

(e) A personal services attendant found by representatives of the division to have committed neglect, abuse, mistreatment or misappropriation of property of an individual in need of self-directed in-home care and who disagrees with the decision may petition for administrative review of the decision. The petition must be in writing, show that the petitioner was directly affected by the decision, and contain the specific issues for review and the rationale for the petitioner's position. The petition must be filed within fifteen (15) days after the petitioner is given notice of the decision. The petition must be filed with the director of the division.

(f) Upon receiving timely notice of an appeal, the director or

the director's designee shall appoint an administrative law judge to conduct the proceedings on review. The proceedings shall be conducted in accordance with IC 4-21.5-3.

(g) Upon exhaustion of the administrative remedies in subsections (c) and (d), a personal services attendant who is dissatisfied with the outcome may file a petition for judicial review pursuant to IC 4-21.5-5. The petition must be filed in a court of competent jurisdiction within thirty (30) days after receiving notice of the final agency decision. The petition must be served upon the director of the division, the attorney general, and any other party to the agency proceeding. *(Division of Disability, Aging, and Rehabilitative Services; 460 IAC 1-8-9; filed Oct 2, 2002, 9:13 a.m.: 26 IR 352)*

460 IAC 1-8-10 Nurse aide registry
Authority: IC 12-8-8-4; IC 12-9-2-3; IC 12-10-17-20
Affected: IC 16-28-13

Sec. 10. At the conclusion of all appeals taken, or if no appeal is taken, upon determination by the division of the merits of a complaint, a personal services attendant found to have committed neglect, abuse, mistreatment, or misappropriation of property of an individual in need of self-directed in-home care shall be placed on the state nurse aide registry referred to in IC 16-28-13. *(Division of Disability, Aging, and Rehabilitative Services; 460 IAC 1-8-10; filed Oct 2, 2002, 9:13 a.m.: 26 IR 353)*

LSA Document #01-337(F)
Notice of Intent Published: 25 IR 126
Proposed Rule Published: May 1, 2002; 25 IR 2557
Hearing Held: May 23, 2002
Approved by Attorney General: September 23, 2002
Approved by Governor: September 25, 2002
Filed with Secretary of State: October 2, 2002, 9:13 a.m.
Incorporated Documents Filed with Secretary of State: None

TITLE 610 DEPARTMENT OF LABOR

LSA Document #01-340(F)

DIGEST

Adds 610 IAC 4-6 concerning the rules for reporting and recording work related injuries and illnesses, pursuant to the revised federal rules for reporting and recording work related injuries and illnesses, found in 29 CFR 1904. Repeals 610 IAC 4-4. Effective 30 days after filing with the secretary of state.

610 IAC 4-4
610 IAC 4-6

SECTION 1. 610 IAC 4-6 IS ADDED TO READ AS FOLLOWS:

Rule 6. Recording and Reporting Occupational Injuries and Illnesses

610 IAC 4-6-1 Purpose
Authority: IC 22-1-1-2; IC 22-8-1.1-48.1
Affected: IC 22-8-1.1-3.1; IC 22-8-1.1-43.1

Sec. 1. (a) The purpose of this rule is to require employers to record and report work related fatalities, injuries, and illnesses.

(b) Recording or reporting a work related injury, illness, or fatality does not mean that:
(1) the employer or employee was at fault;
(2) an Indiana or federal Occupational Safety and Health Act (OSHA) rule has been violated; or
(3) the employee is eligible for workers' compensation or other benefits.

(c) All employers covered by the Indiana Occupational Safety and Health Act (IOSHA) (IC 22-8-1.1 et seq.) are covered by this rule. Sections 2 through 4 of this rule describe which employers do not have to keep OSHA injury and illness records unless Indiana occupational safety & health administration (IOSHA), the federal Occupational Safety and Health Administration (OSHA), or the Bureau of Labor Statistics (BLS) informs them in writing that they must keep records. Under sections 2 through 4 of this rule, employers with ten (10) or fewer employees and business establishments in certain industry classifications are partially exempt from keeping OSHA injury and illness records.

(d) Sections 5 through 14 of this rule describe the work related injuries and illnesses that an employer must enter into the OSHA records and explains *[sic., explain]* **the OSHA forms that employers must use to record work related fatalities, injuries, and illnesses.**

(e) Under section 8 of this rule, IOSHA believes most significant injuries and illnesses will result in one (1) of the criteria listed in section 8(a) of this rule. However, there are some significant injuries, such as a punctured eardrum or a fractured toe or rib, for which neither medical treatment nor work restrictions may be recommended. In addition, there are some significant progressive diseases, such as byssinosis, silicosis, and some types of cancer, for which medical treatment or work restrictions may not be recommended at the time of diagnosis but are likely to be recommended as the disease progresses. OSHA believes that cancer, chronic irreversible diseases, fractured or cracked bones, and punctured eardrums are generally considered significant injuries and illnesses and must be recorded at the initial diagnosis even if medical treatment or work restrictions are not recommended, or are postponed, in a particular case. *(Department of Labor; 610 IAC 4-6-1; filed Sep 26, 2002, 11:22 a.m.: 26 IR 353)*

610 IAC 4-6-2 Partial exemption for employers with 10 or fewer employees

Authority: IC 22-1-1-2; IC 22-8-1.1-48.1
Affected: IC 22-8-1.1-3.1; IC 22-8-1.1-43.1

Sec. 2. (a) Basic requirement *[sic., requirements]* **for partial exemptions based on the number of employees are as follows:**

(1) If an employer had ten (10) or fewer employees at all times during the last calendar year, that employer does not need to keep Occupational Safety and Health Administration (OSHA) injury and illness records unless federal OSHA, the Indiana occupational safety and health administration (IOSHA), or the Bureau of Labor Statistics informs the employer in writing that the employer must keep records under section 24 or 25 of this rule. However, all employers covered by the Indiana Occupational Safety and Health Act must report to IOSHA any workplace incident that results in a fatality or hospitalization of employees as required by section 23 of this rule.

(2) If an employer had more than ten (10) employees at any time during the last calendar year, that employer must keep OSHA injury and illness records unless that employer's establishment is classified as a partially exempt industry under section 3 of this rule.

(b) This section shall be implemented as follows:

(1) The partial exemption for size is based on the number of employees in the entire company.

(2) To determine if an employer is exempt because of size, the employer needs to determine the company's peak employment during the last calendar year. If the employer had no more than ten (10) employees at any time in the last calendar year, then the company qualifies for the partial exemption for size.

(Department of Labor; 610 IAC 4-6-2; filed Sep 26, 2002, 11:22 a.m.: 26 IR 354)

610 IAC 4-6-3 Partial exemption for establishments in certain industries

Authority: IC 22-1-1-2; IC 22-8-1.1-48.1
Affected: IC 22-8-1.1-3.1; IC 22-8-1.1-43.1

Sec. 3. (a) Basic requirements for partial exemptions for establishments in certain industries are as follows:

(1) If a private-sector employer's business establishment is classified in a specific low hazard retail, service, finance, insurance, or real estate industry, as described in subsection (b), that employer does not need to keep Occupational Safety and Health Administration (OSHA) injury and illness records unless the government asks the employer to keep the records under section 24 or 25 of this rule.

(2) Private-sector employers with the following Standard Industrial Classification (SIC) codes do not need to keep OSHA injury and illness records unless the government asks the employer to keep the records under section 24 or 25 of this rule:

(A) 525x Hardware Stores.
(B) 542x Meat and Fish Markets.
(C) 544x Candy, Nut, and Confectionary Stores.
(D) 545x Dairy Products Stores.
(E) 546x Retail Bakeries.
(F) 549x Miscellaneous Food Stores.
(G) 551x New and Used Car Dealers.
(H) 552x Used Car Dealers.
(I) 554x Gasoline Service Stations.
(J) 557x Motorcycle Dealers.
(K) 56xx Apparel and Accessory Stores.
(L) 573x Radio, Television, and Computer Stores.
(M) 58xx Eating and Drinking Places.
(N) 591x Drug Stores and Proprietary Stores.
(O) 592x Liquor Stores.
(P) 594x Miscellaneous Shopping Goods Stores.
(Q) 599x Retail Stores Not Elsewhere Classified.
(R) 60xx Depository Institutions, Banks, and Savings Institutions.
(S) 61xx Nondepository Institutions.
(T) 62xx Security and Commodity Brokers.
(U) 63xx Insurance Carriers.
(V) 64xx Insurance Agents, Brokers, and Services.
(W) 653x Real Estate Agents and Managers.
(X) 654x Title Abstract Offices.
(Y) 67xx Holding and Other Investment Offices.
(Z) 722x Photographic Studios, Portrait.
(AA) 723x Beauty Shops.
(BB) 724x Barber Shops.
(CC) 725x Shoe Repair and Shoeshine Parlors.
(DD) 726x Funeral Service and Crematories.
(EE) 729x Miscellaneous Personal Services.
(FF) 731x Advertising Services.
(GG) 732x Credit Reporting and Collection Services.
(HH) 733x Mailing, Reproduction, and Stenographic Services.
(II) 737x Computer and Data Processing Services.
(JJ) 738x Miscellaneous Business Services.
(KK) 764x Reupholstery and Furniture Repair.
(LL) 78xx Motion Picture.
(MM) 791x Dance Studios, Schools, and Halls.
(NN) 792x Producers, Orchestras, Entertainers.
(OO) 793x Bowling Centers.
(PP) 801x Offices and Clinics of Medical Doctors.
(QQ) 802x Offices and Clinics of Dentists.
(RR) 803x Offices of Osteopathic Physicians.
(SS) 804x Offices of Other Health Practitioners.
(TT) 807x Medical and Dental Laboratories.
(UU) 809x Health and Allied Services Not Elsewhere Classified.
(VV) 81xx Legal Services.
(WW) 82xx Educational Services, Schools, Colleges, Universities, and Libraries.
(XX) 832x Individual and Family Services.

(YY) 835x Child Day Care Services.
(ZZ) 839x Social Services Not Elsewhere Classified.
(AAA) 841x Museums and Art Galleries.
(BBB) 86xx Membership Organizations.
(CCC) 87xx Engineering, Accounting, Research, Management, and Related Services.
(DDD) 899x Services Not Elsewhere Classified.

However, all employers must report to the Indiana occupational safety and health administration any workplace incident that results in a fatality or the hospitalization of employees as required by section 23 of this rule.

(3) If one (1) or more of an employer's establishments are classified in a nonexempt industry, that employer must keep OSHA injury and illness records for all of such establishments unless the employer is partially exempted because of size under section 2 of this rule.

(b) Implementation for partial exemption for establishments in certain industries shall be as follows:

(1) The partial industry classification exemption applies only to business establishments in the retail, services, finance, insurance, or real estate industries (SICs 52xx-89xx). Business establishments classified in the:
(A) agriculture;
(B) mining;
(C) construction;
(D) manufacturing;
(E) transportation;
(F) communication;
(G) electric, gas, and sanitary services; or
(H) wholesale trade;
are not eligible for the partial industry classification exemption.

(2) The partial industry classification exemption applies to individual business establishments. If an employer has several business establishments engaged in different classes of business activities, some of the employer's establishments may be required to keep records, while others may be exempt.

(3) Employers determine their SIC code by using the Standard Industrial Classification Manual, Executive Office of the President, Office of Management and Budget. Employers may contact the Indiana occupational safety and health administration office for help in determining the SIC.

(Department of Labor; 610 IAC 4-6-3; filed Sep 26, 2002, 11:22 a.m.: 26 IR 354)

610 IAC 4-6-4 Keeping records for more than one agency
Authority: IC 22-1-1-2; IC 22-8-1.1-48.1
Affected: IC 22-8-1.1-3.1; IC 22-8-1.1-43.1

Sec. 4. (a) If an employer creates records to comply with another government agency's injury and illness record keeping requirements, the Indiana occupational safety and health administration (IOSHA) will consider those records as meeting the record keeping requirements in this rule if the federal Occupational Safety and Health Administration (OSHA) accepts the other agency's records under a memorandum of understanding with that agency, or if the other agency's records contain the same information that this rule requires the employer to record. Employers may contact IOSHA for help in determining whether the records kept meet IOSHA's requirements.

(b) All employers, including those partially exempted by reason of company size or industry classification, must report to IOSHA any workplace incident that results in a fatality or the hospitalization of employees as required by section 23 of this rule. *(Department of Labor; 610 IAC 4-6-4; filed Sep 26, 2002, 11:22 a.m.: 26 IR 355)*

610 IAC 4-6-5 Recording criteria
Authority: IC 22-1-1-2; IC 22-8-1.1-48.1
Affected: IC 22-8-1.1-3.1; IC 22-8-1.1-43.1

Sec. 5. (a) Each employer required by this rule to keep records of fatalities, injuries, and illnesses must record each fatality, injury, and illness that:
(1) is work related;
(2) is a new case; and
(3) meets one (1) or more of the general recording criteria listed in section 8 of this rule or the application to specific cases of sections 9 through 13 of this rule.

(b) The following sections of this rule address each topic:
(1) Section 6 of this rule addresses the determination of work relatedness.
(2) Section 7 of this rule addresses the determination of a new case.
(3) Section 8 of this rule addresses general recording criteria.
(4) Sections 9 through 13 of this rule address additional criteria for cases including:
(A) needlestick and sharps injury cases;
(B) tuberculosis cases;
(C) hearing loss cases;
(D) medical removal cases; and
(E) musculoskeletal disorder cases.

(c) If no employee has experienced an injury or illness, no record is required. If an employee has experienced an injury or an illness, but the injury or illness is not work related, then the employer is not required to record the injury or illness. If an employee has experienced a work related injury or illness, and the injury or illness is not a new case, the employer is required to update the previously recorded injury or illness entry if necessary. If an employee experiences a work related injury or illness and the injury or illness is a new case, the employer should consult section 8 of this rule and determine if general recording criteria are

met. If so, the employer is required to record the injury or illness. *(Department of Labor; 610 IAC 4-6-5; filed Sep 26, 2002, 11:22 a.m.: 26 IR 355)*

610 IAC 4-6-6 Determination of work relatedness

Authority: IC 22-1-1-2; IC 22-8-1.1-48.1
Affected: IC 22-8-1.1-3.1; IC 22-8-1.1-43.1

Sec. 6. (a) Basic requirements for determining work relatedness are that employers must consider an injury or illness to be work related if an event or exposure in the work environment either caused or contributed to the resulting condition or significantly aggravated a preexisting injury or illness. Work relatedness is presumed for injuries and illnesses resulting from events or exposures occurring in the work environment, unless an exception in subsection (b)(2) specifically applies.

(b) Implementation of this section is as follows:

(1) The work environment is defined as the establishment and other locations where one (1) or more employees are working or are present as a condition of their employment. The work environment includes not only physical locations, but also the equipment or materials used by the employee during the course of his or her work.

(2) An injury or illness occurring in the work environment that falls under one (1) of the following exceptions is not work related, and therefore is not recordable:

(A) At the time of the injury or illness, the employee was present in the work environment as a member of the general public rather than as an employee.

(B) The injury or illness involves signs or symptoms that surface at work but result solely from a nonwork related event or exposure that occurs outside the work environment.

(C) The injury or illness results solely from voluntary participation in a wellness program or in a medical, fitness, or recreational activity, such as blood donation, physical examination, flu shot, exercise class, racquetball, or baseball.

(D) The injury or illness is solely the result of an employee eating, drinking, or preparing food or drink for personal consumption (whether bought on the employer's premises or brought in). For example, if the employee is injured by choking on a sandwich while in the employer's establishment, the case would not be considered work related. However, if the employee is made ill by ingesting food that has been contaminated by workplace contaminants (such as lead), or gets food poisoning from food supplied by the employer, the case is considered work related.

(E) The injury or illness is solely the result of an employee doing personal tasks, unrelated to their employment, at the establishment outside of the employee's assigned working hours.

(F) The injury or illness is solely the result of personal grooming, self medication for a nonwork related condition, or is intentionally self-inflicted.

(G) The injury or illness is caused by a motor vehicle accident and occurs on a company parking lot or company access road while the employee is commuting to or from work.

(H) The illness is the common cold or flu. However, contagious diseases such as tuberculosis, brucellosis, hepatitis A, or plague are considered work related if the employee is infected at work.

(I) The illness is a mental illness. Mental illness will not be considered work related unless the employee voluntarily provides the employer with an opinion from a physician or other licensed health care professional with appropriate training and experience (including psychiatrist, psychologist, psychiatric nurse) stating that the employee has a mental illness that is work related.

(3) If it is not obvious whether the precipitating event or exposure occurred in the work environment or occurred away from work, the employer must evaluate the employee's work duties and environment to decide whether or not one (1) or more events or exposures in the work environment either caused or contributed to the resulting condition or significantly aggravated a preexisting condition.

(4) A preexisting injury or illness has been significantly aggravated, for purposes of Occupational Safety and Health Administration (OSHA) injury and illness record keeping, when an event or exposure in the work environment results in any of the following:

(A) Death, provided that the preexisting injury or illness would likely not have resulted in death but for the occupational event or exposure.

(B) Loss of consciousness, provided that the preexisting injury or illness would likely not have resulted in loss of consciousness but for the occupational event or exposure.

(C) One (1) or more days away from work, days of restricted work, or days of job transfer that otherwise would not have occurred but for the occupational event or exposure.

(D) Medical treatment in a case where no medical treatment was needed for the injury or illness before the workplace event or exposure, or a change in medical treatment was necessitated by the workplace event or exposure.

(5) An injury or illness is a preexisting condition if it resulted solely from a nonwork related event or exposure that occurred outside the work environment.

(6) Injuries and illnesses that occur while an employee is on travel status are work related if, at the time of the injury or illness, the employee was engaged in work activities in the interest of the employer. Examples of such activities include travel to and from customer

contacts, conducting job tasks, and entertaining or being entertained to transact, discuss, or promote business (work related entertainment includes only entertainment activities being engaged in at the direction of the employer). Injuries or illnesses that occur when the employee is on travel status do not have to be recorded if they meet one (1) of the following exceptions:

(A) If the employee while traveling has taken up temporary residence, for example, in a hotel, motel, inn, or other paid lodging, for one (1) or more days, the employer must evaluate the employee's activities in the same manner as the employer must evaluate the activities of a nontraveling employee. When the employee checks into the temporary residence, the employee has left the work environment. When the employee begins work each day, the employee reenters the work environment. The employer does not need to consider injuries or illnesses work related if they occur while the employee is commuting between the temporary residence and the job location.

(B) If the employee has taken a detour for personal reasons. Injuries or illnesses are not considered work related if they occur while the employee is on a personal detour from a reasonably direct route of travel.

(7) Injuries and illnesses that occur while an employee is working at home, including work in a home office, will be considered work related if the injury or illness occurs while the employee is performing work for pay or compensation in the home, and the injury or illness is directly related to the performance of work rather than to the general home environment or setting. For example, if an employee:

(A) drops a box of work documents and injures his or her foot, the case is considered work related;

(B) has a fingernail that is punctured by a needle from a sewing machine used to perform garment work at home, becomes infected and requires medical treatment, the injury is considered work related;

(C) is injured because he or she trips on the family dog while rushing to answer a work phone call, the case is not considered work related; or

(D) is working at home and is electrocuted because of faulty home wiring, the injury is not considered work related.

(Department of Labor; 610 IAC 4-6-6; filed Sep 26, 2002, 11:22 a.m.: 26 IR 356)

610 IAC 4-6-7 Determination of new cases

Authority: IC 22-1-1-2; IC 22-8-1.1-48.1
Affected: IC 22-8-1.1-3.1; IC 22-8-1.1-43.1

Sec. 7. (a) Employers must consider an injury or illness to be a new case if either of the following occur:

(1) The employee has not previously experienced a recorded injury or illness of the same type that affects the same part of the body.

(2) The employee previously experienced a recorded injury or illness of the same type that affected the same part of the body but had recovered completely (all signs and symptoms had disappeared) from the previous injury or illness and an event or exposure in the work environment caused the sign or symptoms to reappear.

(b) Implementation for determination of new cases is as follows:

(1) For occupational illnesses where the signs or symptoms may recur or continue in the absence of an exposure in the workplace, the case must only be recorded once. Examples may include occupational cancer, asbestosis, byssinosis, and silicosis.

(2) When an episode or recurrence was caused by an event or exposure in the workplace, the incident must be treated as a new case.

(3) Employers are not required to seek the advice of a physician or other licensed health care professional. However, if an employer does seek such advice, the employer must follow the physician or other licensed health care professional's recommendation about whether the case is a new case or a recurrence. If the employer receives recommendations from two (2) or more physicians or other licensed health care professionals, the employer must decide which recommendation is the most authoritative (best documented, best reasoned, or most authoritative), and record the case based upon that recommendation.

(Department of Labor; 610 IAC 4-6-7; filed Sep 26, 2002, 11:22 a.m.: 26 IR 357)

610 IAC 4-6-8 General recording criteria

Authority: IC 22-1-1-2; IC 22-8-1.1-48.1
Affected: IC 22-8-1.1-3.1; IC 22-8-1.1-43.1

Sec. 8. (a) Employers must consider an injury or illness to meet the general recording criteria, and therefore to be recordable, if it results in any of the following:

(1) Death.
(2) Days away from work.
(3) Restricted work or transfer to another job.
(4) Medical treatment beyond first aid.
(5) Loss of consciousness.

Employers must also consider a case to meet the general recording criteria if it involves a significant injury or illness diagnosed by a physician or other licensed health care professional, even if it does not result in death, days away from work, restricted work or job transfer, medical treatment beyond first aid, or loss of consciousness.

(b) Implementation for general recording criteria is as follows:

(1) A work related injury or illness must be recorded if it results in one (1) or more of the following:

(A) Death, see subdivision (2).

(B) Days away from work, see subdivision (3).

(C) Restricted work or transfer to another job, see subdivision (4).

(D) Medical treatment beyond first aid, see subdivision (5).

(E) Loss of consciousness, see subdivision (6).

(F) A significant injury or illness diagnosed by a physician or other licensed health care professional, see subdivision (7).

(2) Employers must record an injury or illness that results in death by entering a check mark on the Occupational Safety and Health Administration (OSHA) 300 Log in the space for cases resulting in death. Employers must also report any work related fatality to the Indiana occupational safety and health administration as required by section 23 of this rule.

(3) When an injury or illness involves one (1) or more days away from work, you must record the injury or illness on the OSHA 300 Log with a check mark in the space for cases involving days away and an entry of the number of calendar days away from work in the number of days column. If the employee is out for an extended period of time, the employer must enter an estimate of the days that the employee will be away and update the day count when the actual number of days is known. Requirements for counting days shall be as follows:

(A) Employers must begin counting days away on the day after the injury occurred or the illness began.

(B) Employers must record these injuries and illnesses on the OSHA 300 Log using the check box for cases with days away from work and enter the number of calendar days away recommended by the physician or other licensed health care professional. If a physician or other licensed health care professional recommends days away, the employer should encourage his or her employee to follow that recommendation. However, the days away must be recorded whether the injured or ill employee follows the physician or licensed health care professional's recommendation or not. If the employer receives recommendations from two (2) or more physicians or other licensed health care professionals, the employer may decide which recommendation is the most authoritative and record the case based upon that recommendation.

(C) When a physician or other licensed heath care professional recommends that the worker return to work but the employee stays at home, the employer must end the count of days away from work on the date the physician or other licensed health care professional recommends that the employee return to work.

(D) The employer must count the number of calendar days the employee was unable to work as a result of the injury or illness, regardless or whether or not the employee was scheduled to work on those days. Weekend days, holidays, vacation days, or other days off are included in the total number of days recorded if the employee would not have been able to work on those days because of a work related injury or illness.

(E) In cases in which a worker is injured or becomes ill on a Friday and reports to work on a Monday, and was not scheduled to work on the weekend, the employer must record this case only if the employer receives information from a physician or other licensed health care professional indicating that the employee should not have worked, or should have performed only restricted work, during the weekend. If so, the employer must record the injury or illness as a case with days away from work or restricted work and enter the day counts, as appropriate.

(F) In cases in which a worker is injured or becomes ill on the days before scheduled time off such as a holiday, a planned vacation, or a temporary plant closing, the employer must record a case of this type only if the employer receives information from a physician or other licensed health care professional indicating that the employee should not have worked, or should have performed only restricted work, during the scheduled time off. If so, the employer must record the injury or illness as a case with days away from work or restricted work and enter the day counts, as appropriate.

(G) The employer may "cap" the total days away at one hundred eighty (180) calendar days. The employer is not required to keep track of the number of calendar days away from work if the injury or illness resulted in more than one hundred eighty (180) calendar days away from work or days of job transfer or restriction. In such a case, entering one hundred eighty (180) in the total days away column will be considered adequate.

(H) If the employee leaves the employer's company for some reason unrelated to the injury or illness, such as retirement, a plant closing, or to take another job, the employer may stop counting days away from work or days of restriction/job transfer. If the employee leaves the employer's company because of the injury or illness, the employer must estimate the total number of days away or days of restriction/job transfer and enter the day count on the OSHA 300 Log.

(I) If a case occurs in one (1) year but results in days away during the next calendar year, the employer must only record the injury or illness once. The employer must enter the number of calendar days away for the injury or illness on the OSHA 300 Log for the year in which the injury or illness occurred. If the employee is still away from work because of the injury or illness when the employer prepares the annual summary, the employer shall estimate the total number of calendar days the employer expects the employee to be away from work, use this number to calculate the total for the annual summary, and then update the initial log entry later when the day count is known or reaches the one hundred eighty (180) day cap.

(4) When an injury or illness involves restricted work or job transfer but does not involve death or days way from work, the employer must record the injury or illness on the OSHA 300 Log by placing a check mark in the space for job transfer or restriction and an entry of the number of restricted or transferred days in the restricted workdays column, based upon the following:

(A) Restricted work occurs when, as the result of a work related injury or illness:

(i) the employer keeps the employee from performing one (1) or more of the routine functions of his or her job, or from working the full workday that he or she would otherwise have been scheduled to work; or

(ii) a physician or other licensed health care professional recommends that the employee not perform one (1) or more of the routine functions of his or her job, or not work the full workday that he or she would otherwise have been scheduled to work.

(B) For record keeping purposes, an employee's routine functions are those work activities the employee regularly performs at least once per week.

(C) Employers do not have to record restricted work or job transfers if the employer, or the physician or other licensed health care professional, imposes the restriction or transfer only for the day on which the injury occurred or the illness began.

(D) A recommended work restriction is recordable only if it affects one (1) or more of the employee's routine job functions. To determine whether this is the case, the employer must evaluate the restriction in light of the routine functions of the injured or ill employee's job. If the restriction from the employer or the physician or other licensed health care professional keeps the employee from:

(i) performing one (1) or more of his or her routine job functions; or

(ii) working the full workday that the injured or ill employee would otherwise have worked;

the employee's work has been restricted and the employer must record the case.

(E) A partial day of work is recorded as a day of job transfer or restriction for record keeping purposes, except for the day on which the injury occurred or the illness began.

(F) If the injured or ill worker produces fewer goods or services than he or she would have produced prior to the injury or illness, but otherwise performs all of the routine functions of his or her work, then the case is considered restricted work only if the worker does not work the full shift that he or she would otherwise have worked.

(G) If the employer is not clear about the physician or other licensed health care professional's recommendation, the employer may ask that person whether the employee can do all of his or her routine job functions and work all of his or her normally assigned work shift. If the answer to both of these questions is "Yes", then the case does not involve a work restriction and does not have to be recorded as such. If the answer to one (1) or both of these questions is "No", the case involves restricted work and must be recorded as a restricted work case. If the employer is unable to obtain the additional information from the physician or other licensed health care professional who recommended the restriction, the employer must record the injury or illness as a case involving restricted work.

(H) If a physician or other licensed health care professional recommends a job restriction meeting IOSHA's definition, but the employee does all of his or her routine job functions anyway, the employer must record the injury or illness on the OSHA 300 Log as a restricted work case. If a physician or other licensed health care professional recommends a job restriction, the employer should ensure that the employee complies with that restriction. If the employer receives recommendations from two (2) or more physicians or other licensed health care professionals, the employer may decide which recommendation is the most authoritative and record the case based upon that recommendation.

(I) If the employer assigns an injured or ill employee to a job other than his or her regular job for part of the day, the case involves transfer to another job. This does not include the day on which the injury or illness occurred.

(J) Both job transfer and restricted work cases are recorded in the same box on the OSHA 300 Log. For example, if the employer assigns, or a physician or other licensed health care professional recommends that the employer assign an injured or ill worker to his of her routine job duties for part of the day and to another job for the rest of the day, the injury or illness involves a job transfer. Employers must record an injury or illness that involves a job transfer by placing a check in the box for job transfer.

(K) The employer must count days of job transfer or restriction in the same way the employer counts days away from work, using subdivision (3)(A) through (3)(H), above. The only difference is that, if the employer permanently assigns the injured or ill employee to a job that has been modified or permanently changed in a manner that eliminates the routine functions the employee was restricted from performing, the employer may stop the day count when the modification is made permanent. The employer must count at least one (1) day of restricted work or job transfer for such cases.

(5) If a work related injury or illness results in medical treatment beyond first aid, the employer must record it on the OSHA 300 Log. If the injury or illness did not involve death, one (1) or more days away from work, one (1) or more days of restricted work, or one (1) or more days of job transfer, the employer shall enter a check mark in the box for cases where the employee received medical treatment but remained at work and was not transferred or restricted, based upon the following:

(A) As used in this rule, "medical treatment" means the management and care of a patient to combat disease or disorder. For purposes of this rule, the term does not include any of the following:

(i) Visits to a physician or other licensed health care professional solely for observation or counseling.

(ii) The conduct of diagnostic procedures, such as x-rays and blood tests, including the administration of prescription medications used solely for diagnostic purposes, for example, eye drops to dilate pupils.

(iii) "First aid" as defined in clause (B) below.

(B) As used in this rule, "first aid" means the following:

(i) Using a nonprescription medication at nonprescription strength (for medications available in both prescription and nonprescription form, a recommendation by a physician or other licensed health care professional to use a nonprescription medication at prescription strength is considered medical treatment for record keeping purposes).

(ii) Administering tetanus immunizations (other immunizations, such as hepatitis B vaccine or rabies vaccine, are considered medical treatment).

(iii) Cleaning, flushing, or soaking wounds on the surface of the skin.

(iv) Using wound coverings, such as bandages, Band-Aids™, or gauze pads, or using butterfly bandages or Steri-Strips™ (other wound closing devices, such as sutures or staples, are considered medical treatment).

(v) Using hot or cold therapy.

(vi) Using any nonrigid means of support, such as elastic bandages, wraps, nonrigid back belts (devices with rigid stays or other systems designed to immobilize parts of the body are considered medical treatment for record keeping purposes).

(vii) Using temporary immobilization devices while transporting an accident victim, for example, splints, slings, neck collars, or backboards.

(viii) Drilling of a fingernail or toenail to relieve pressure, or draining fluid from a blister.

(ix) Using eye patches.

(x) Removing foreign bodies from the eye using only irrigation or a cotton swab.

(xi) Removing splinters or foreign material from areas other than the eye by irrigation, tweezers, cotton swabs, or other simple means.

(xii) Using finger guards.

(xiii) Using massages (physical therapy or chiropractic treatment are considered medical treatment for record keeping purposes).

(xiv) Drinking fluids for relief of heat stress.

(C) Clause (B) contains a complete list of all treatments considered first aid for purposes of this rule.

(D) IOSHA considers the treatments listed in clause (B) to be first aid regardless of the professional status of the person providing the treatment. Even when these treatments are provided by a physician or other licensed health care professional, they are considered first aid for the purposes of this rule. Similarly, IOSHA considers treatment beyond first aid to be medical treatment even when it is provided by someone other than a physician or other licensed health care professional.

(E) If a physician or other licensed health care professional recommends medical treatment, the employer should encourage the injured or ill employee to follow that recommendation. However, the employer must record the case even if the injured or ill employee does not follow the physician or other licensed health care professional's recommendation.

(6) Employers must record a work related injury or illness if the worker becomes unconscious, regardless of the length of time the employee remains unconscious.

(7) Work related cases involving cancer, chronic irreversible disease, a fractured or cracked bone, or a punctured eardrum must always be recorded under the general criteria at the time of diagnosis by a physician or other licensed health care professional. These are "significant" diagnosed injuries or illnesses that are recordable even if they do not result in death, days away from work, restricted work or job transfer, medical treatment beyond first aid, or loss of consciousness.

(Department of Labor; 610 IAC 4-6-8; filed Sep 26, 2002, 11:22 a.m.: 26 IR 357)

610 IAC 4-6-9 Recording criteria for needlestick and sharps injuries

Authority: IC 22-1-1-2; IC 22-8-1.1-48.1
Affected: IC 22-8-1.1-3.1; IC 22-8-1.1-43.1

Sec. 9. (a) The employer must record all work related needlestick injuries and cuts from sharp objects that are contaminated with another person's blood or other potentially infectious material (as defined by 29 CFR 1910.1030(b)). The employer must enter the case on the Occupational Safety and Health Administration (OSHA) 300 Log as an injury. To protect the employee's privacy, the employer may not enter the employee's name on the OSHA 300 Log (see the requirements for privacy cases in section 14 of this rule).

(b) Implementation of needlestick and sharps injuries recording is as follows:

(1) As used in this rule, "other potentially infectious materials" has the meaning as set forth in the OSHA Bloodborne Pathogens standard at 29 CFR 1910.1030(b), including the following:

(A) Human bodily fluids, tissues, and organs.

(B) Other materials infected with the HIV or hepatitis B (HBV) virus, such as laboratory cultures or tissues from experimental animals.

(2) The employer must record cuts, lacerations, punctures, and scratches only if they are work related and involve contamination with another person's blood or other potentially infectious material. If the cut, laceration, or scratch involves a clean object, or a contaminant other than blood or other potentially infectious material, the employer must record the case only if it meets one (1) or more of the recording criteria in section 8 of this rule.

(3) If an employer records an injury and the employee is later diagnosed with an infectious bloodborne disease, then the employer must update the classification of the case on the OSHA 300 Log if the case results in death, days away from work, restricted work, or job transfer. The employer must also update the description to identify the infectious disease and change the classification of the case from an injury to an illness.

(4) If one (1) of an employer's employees is splashed or exposed to blood or other potentially infectious material without being cut or scratched, the employer needs to record such an incident on the OSHA 300 Log as an illness if it:

(A) results in the diagnosis of a bloodborne illness, such as HIV, hepatitis B, or hepatitis C; or

(B) meets one (1) or more of the recording criteria in section 8 of this rule.

(Department of Labor; 610 IAC 4-6-9; filed Sep 26, 2002, 11:22 a.m.: 26 IR 360)

610 IAC 4-6-10 Recording criteria for cases involving medical removal under OSHA standards

Authority: IC 22-1-1-2; IC 22-8-1.1-48.1
Affected: IC 22-8-1.1-3.1; IC 22-8-1.1-43.1

Sec. 10. (a) If an employee is medically removed under the medical surveillance requirements of an Occupational Safety and Health Act (OSHA) standard, the employer must record the case on the OSHA 300 Log.

(b) The employer shall record cases involving medical removal as follows:

(1) The employer must enter each medical removal case on the OSHA 300 Log as either a case involving days away from work or a case involving restricted work activity, depending on how the employer decides to comply with the medical removal requirement. If the medical removal is the result of a chemical exposure, the employer must enter the case on the OSHA 300 Log by checking the "poisoning" column.

(2) Not all of OSHA's standards have medical removal provisions. Some OSHA standards, such as the standards covering bloodborne pathogens and noise, do not have medical removal provisions. Many OSHA standards that cover specific chemical substances have medical removal provisions. These standards include, but are not limited to, lead, cadmium, methylene chloride, formaldehyde, and benzene.

(3) The employer does not need to record the case on the OSHA 300 Log if the case involves voluntary medical removal before the medical removal levels required by an OSHA standard.

(Department of Labor; 610 IAC 4-6-10; filed Sep 26, 2002, 11:22 a.m.: 26 IR 361)

610 IAC 4-6-11 Recording criteria for cases involving occupational hearing loss

Authority: IC 22-1-1-2; IC 22-8-1.1-48.1
Affected: IC 22-8-1.1-3.1; IC 22-8-1.1-43.1

Sec. 11. (a) Beginning on January 1, 2003, if an employee's hearing test (audiogram) reveals that a standard threshold shift (STS) has occurred, the employer must record the case on the Occupational Safety and Health Administration (OSHA) 300 Log by checking the "hearing loss" column.

(b) Beginning on January 1, 2003, implementation of this section shall be as follows:

(1) As used in this rule, "STS" has the meaning as set forth in the occupational noise exposure standard at 29 CFR 1910.95(g)(10)(i) as a change in hearing threshold, relative to the most recent audiogram for that employee, of an average of ten (10) decibels or more at two thousand (2,000), three thousand (3,000), and four thousand (4,000) hertz in one (1) or both ears.

(2) If the employee has never previously experienced a recordable hearing loss, the employer must compare the employee's current audiogram with that employee's baseline audiogram. If the employee has previously experienced a recordable hearing loss, the employer must compare the employee's current audiogram with the employee's revised baseline audiogram (the audiogram reflecting the employee's previous recordable hearing loss case).

(3) When comparing audiogram results, the employer may adjust the results for the employee's age when the audiogram was taken using Table F-1 or F-2, as appropriate, in Appendix F of 29 CFR 1910.95.

(4) If the employer retests the employee's hearing within thirty (30) days of the first test, and the retest does not confirm the STS, the employer is not required to record the hearing loss case on the OSHA 300 Log. If the retest confirms the STS, the employer must record the hearing loss illness within seven (7) calendar days of the retest.

(5) Hearing loss is presumed to be work related if the employee is exposed to noise in the workplace at an eight (8) hour time-weighted average of eighty-five (85) decibels or greater, or to a total noise dose of fifty percent (50%), as defined in 29 CFR 1910.95. For hearing loss cases where the employee is not exposed to this level of noise, the employer must use the criteria in section 6 of this rule to determine if the hearing loss is work related.

(6) If a physician or other licensed health care professional determines that the hearing loss is not work related or has not been significantly aggravated by occupational noise exposure, the employer is not required to consider the case work related or to record the case on the OSHA 300 Log.

(c) Until December 31, 2002, employers are required to record a work related hearing loss averaging twenty-five (25) decibels or more at two thousand (2,000), three thousand (3,000), and four thousand (4,000) hertz in either ear on the OSHA 300 Log. When comparing audiogram results, the employer must use the employee's original baseline audiogram for comparison. The employer may make a correction for presbycusis (aging) by using the tables in Appendix F of 29 CFR 1910.95. *(Department of Labor; 610 IAC 4-6-11; filed Sep 26, 2002, 11:22 a.m.: 26 IR 361)*

610 IAC 4-6-12 Recording criteria for work related tuberculosis cases

Authority: IC 22-1-1-2; IC 22-8-1.1-48.1
Affected: IC 22-8-1.1-3.1; IC 22-8-1.1-43.1

Sec. 12. (a) If any employee has been occupationally exposed to anyone with a known case of active tuberculosis (TB), and that employee subsequently develops a tuberculosis infection, as evidenced by a positive skin test or diagnosis by a physician or other licensed health care professional, the employer must record the case on the Occupational Safety and Health Administration 300 Log by checking the "respiratory condition" column.

(b) Work related tuberculosis cases shall be recorded based on the following:

(1) The employer does not have to record a positive TB skin test result obtained at a preemployment physical because the employee was not occupationally exposed to a known case of active tuberculosis in the workplace.

(2) The employer may line-out or erase from the OSHA 300 Log a recorded TB case not caused by occupational exposure under the following circumstances:

(A) The worker is living in a household with a person who has been diagnosed with active TB.

(B) The public health department has identified the worker as a contact of an individual with a case of active TB unrelated to the workplace.

(C) A medical investigation shows that the employee's infection was caused by exposure to TB away from work or proves that the case was not related to the workplace TB exposure.

(Department of Labor; 610 IAC 4-6-12; filed Sep 26, 2002, 11:22 a.m.: 26 IR 362)

610 IAC 4-6-13 Recording criteria for cases involving work related musculoskeletal disorders

Authority: IC 22-1-1-2; IC 22-8-1.1-48.1
Affected: IC 22-8-1.1-3.1; IC 22-8-1.1-43.1

Sec. 13. (a) Beginning January 1, 2003, if any employee experiences a recordable work related musculoskeletal disorder (MSD), the employer must record it on the Occupational Safety and Health Administration (OSHA) 300 Log by checking the "musculoskeletal disorder" column.

(b) Beginning January 1, 2003, cases involving musculoskeletal disorders shall be recorded based on the following:

(1) MSDs are disorders of the muscles, nerves, tendons, ligaments, joints, cartilage, and spinal discs. MSDs do not include disorders caused by slips, trips, falls, motor vehicle accidents, or other similar accidents. Examples of MSDs include the following:

(A) Carpal tunnel syndrome.
(B) Rotator cuff syndrome.
(C) De Quervain's disease.
(D) Trigger finger.
(E) Tarsal tunnel syndrome.
(F) Sciatica.
(G) Epicondylitis.
(H) Tendinitis.
(I) Raynaud's phenomenon.
(J) Carpet layers knee.
(K) Herniated spinal disc.
(L) Low back pain.

(2) There are no special criteria for determining which musculoskeletal disorders to record. An MSD case is recorded using the same process the employer would use for any other injury or illness. If a musculoskeletal disorder is work related, and is a new case, and meets one (1) or more of the general recording criteria, the employer must record the musculoskeletal disorder as follows:

(A) Use section 6 of this rule to determine if the MSD is work related.

(B) Use section 7 of this rule to determine if the MSD is a new case.

(C) Use the following to determine if the MSD meets one (1) or more of the general recording criteria:

(i) Section 8(b)(3) of this rule for cases involving days away from work.

(ii) Section 8(b)(4) of this rule for cases involving restricted work or transfer to another job.

(iii) Section 8(b)(5) of this rule for cases involving medical treatment beyond first aid.

(3) The symptoms of an MSD are treated the same as symptoms for any other injury or illness. If an employee has pain, tingling, burning, numbness, or any other subjective symptom of an MSD, and the symptoms are work related, and the case is a new case that meets the recording criteria, the employer must record the case on the OSHA 300 Log as a musculoskeletal disorder.

(c) Until December 31, 2002, the employer is required to

record work related injuries and illnesses involving the following:

(1) Muscles.

(2) Nerves.

(3) Tendons.

(4) Ligaments.

(5) Joints.

(6) Cartilage.

(7) Spinal discs.

The employer must record work related injuries and illnesses involving the items contained in this subsection in accordance with the requirements contained in sections 6, 7, and 14 of this rule. For entry (M) on the OSHA 300 Log, the employer must check either the entry for injury or "all other illnesses". *(Department of Labor; 610 IAC 4-6-13; filed Sep 26, 2002, 11:22 a.m.: 26 IR 362)*

610 IAC 4-6-14 Forms

Authority: IC 22-1-1-2; IC 22-8-1.1-48.1
Affected: IC 22-8-1.1-3.1; IC 22-8-1.1-43.1

Sec. 14. (a) Employers must use Occupational Safety and Health Administration (OSHA) 300, 300-A, and 301 forms, or equivalent forms, for recordable injuries and illnesses. The OSHA 300 form is called the Log of Work Related Injuries and Illnesses, the 300-A is the Summary of Work Related Injuries and Illnesses, and the OSHA 301 form is called the Injury and Illness Incident Report.

(b) Employers shall use the forms based on the following:

(1) To complete the OSHA 300 Log, the employer must enter information about the employer's business at the top of the OSHA 300 Log, enter a one (1) or two (2) line description for each recordable injury or illness, and summarize this information on the OSHA 300-A at the end of the year.

(2) The employer must complete an OSHA 301 Incident Report form, or an equivalent form, for each recordable injury or illness entered on the OSHA 300 Log.

(3) The employer must enter each recordable injury or illness on the OSHA 300 Log and 301 Incident Report within seven (7) calendar days of receiving information that a recordable injury or illness has occurred.

(4) An equivalent form is one that has the same information, is as readable and understandable, and is completed using the same instructions as the OSHA form it replaces. Many employers use an insurance form instead of the OSHA 301 Incident Report, or supplement an insurance form by adding any additional information required by OSHA.

(5) Records may be kept by computer, provided the computer can produce equivalent forms when they are needed, as described under sections 20 and 24 of this rule.

(6) There are situations where employers do not put the employee's name on the forms for privacy reasons. If an employer has a privacy concern case, the employer may not enter the employee's name on the OSHA 300 Log. Instead, the employer must enter "privacy case" in the space normally used for the employee's name. This will protect the privacy of the injured or ill employee when another employee, a former employee, or an authorized employee representative is provided access to the OSHA 300 Log under section 20(b)(2) of this rule. The employer must keep a separate, confidential list of the case numbers and employee names for the employer's privacy concern cases so the employer can update the cases and provide the information to the government if asked to do so.

(7) The employer must consider the following injuries or illnesses to be privacy concern cases:

(A) An injury or illness to an intimate body part or the reproductive system.

(B) An injury or illness resulting from a sexual assault.

(C) Mental illnesses.

(D) HIV infection, hepatitis, or tuberculosis.

(E) Needlestick injuries and cuts from sharp objects that are contaminated with another person's blood or other potentially infectious material (see section 9 of this rule for definitions).

(F) Other illnesses, if the employee independently and voluntarily requests that his or her name not be entered on the log.

(G) Beginning January 1, 2003, musculoskeletal disorders are not considered privacy concern cases.

(H) This subdivision is a complete list of all injuries and illnesses considered privacy concern cases for purposes of this rule.

(8) If an employer has a reasonable basis to believe that information describing the privacy concern case may be personally identifiable even though the employee's name has been omitted, the employer may use discretion in describing the injury or illness on both the OSHA 300 and 301 forms. The employer must enter enough information to identify the cause of the incident and the general severity of the injury or illness, but the employer does not need to include details of an intimate or private nature. For example, a sexual assault case could be described as injury from assault, or an injury to a reproductive organ could be described as lower abdominal injury.

(9) If an employer decides to voluntarily disclose the Forms 300 and 301 to persons other than government representatives, employees, former employees, or authorized representatives (as required by sections 20 and 24 of this rule), the employer must remove or hide the employees' names and other personally identifying information, except for the following cases. The employer may disclose the forms with personally identifying information only to:

(A) an auditor or consultant hired by the employer to evaluate the safety and health program;

(B) the extent necessary for processing a claim for workers' compensation or other insurance benefits; and

(C) a public health authority or law enforcement agency for uses and disclosures for which consent, authorization, or opportunity to agree or object is not required under Department of Health and Human Services Standards for Privacy of Individually Identifiable Health Information, 45 CFR 164.512.

(Department of Labor; 610 IAC 4-6-14; filed Sep 26, 2002, 11:22 a.m.: 26 IR 363)

610 IAC 4-6-15 Multiple business establishments

Authority: IC 22-1-1-2; IC 22-8-1.1-48.1
Affected: IC 22-8-1.1-3.1; IC 22-8-1.1-43.1

Sec. 15. (a) Employers must keep a separate Occupational Safety and Health Administration (OSHA) 300 Log for each establishment that is expected to be in operation for one (1) year or longer.

(b) Implementation of the record keeping requirements for multiple business establishments is as follows:

(1) Employers must keep OSHA injury and illness records for short term establishments, that is, establishments that will exist for less than one (1) year. However, the employer does not have to keep a separate OSHA 300 Log for each such establishment. The employer may keep one (1) OSHA 300 Log that covers all of the employer's short term establishments. The employer may also include the short term establishments' recordable injuries and illnesses on an OSHA 300 Log that covers short term establishments for individual company divisions or geographic regions.

(2) The employer may keep the records for an establishment at a headquarters or other central location if the employer can:

(A) transmit information about the injuries and illnesses from the establishment to the central location within seven (7) calendar days of receiving information that a recordable injury or illness has occurred; and

(B) produce and send the records from the central location to the establishment within the time frames required by sections 20 and 24 of this rule when the employer is required to provide records to a government representative, employees, former employees, or employee representatives.

(3) When recording cases for employees who work at several different locations or who do not work at any of an employer's establishments at all, the employer must link each of its employees with one (1) of its establishments for record keeping purposes. The employer must record the injury and illness on the OSHA 300 Log of the injured or ill employee's establishment, or on an OSHA 300 Log that covers that employee's short term establishment.

(4) The following governs recording an injury or illness when an employee of one (1) of the employer's establishments is injured or becomes ill while visiting or working at another of the employer's establishments, or while working away from any of the employer's establishments:

(A) If the injury or illness occurs at one (1) of the employer's establishments, the employer must record the injury or illness on the OSHA 300 Log of the establishment at which the injury or illness occurred.

(B) If the employee is injured or becomes ill and is not at one (1) of the employer's establishments, the employer must record the case on the OSHA 300 Log at the establishment at which the employee normally works.

(Department of Labor; 610 IAC 4-6-15; filed Sep 26, 2002, 11:22 a.m.: 26 IR 364)

610 IAC 4-6-16 Covered employees

Authority: IC 22-1-1-2; IC 22-8-1.1-48.1
Affected: IC 22-8-1.1-3.1; IC 22-8-1.1-43.1

Sec. 16. (a) The employer must record on the Occupational Safety and Health Administration (OSHA) 300 Log the recordable injuries and illnesses of all employees on the employer's payroll, whether they are labor, executive, hourly, salary, part-time, seasonal, or migrant workers. The employer must also record the recordable injuries and illnesses that occur to employees who are not on the employer's payroll if the employer supervises these employees on a day-to-day basis. If the employer's business is organized as a sole proprietorship or partnership, the owner or partners are not considered employees for record keeping purposes.

(b) Employee coverage is based on the following:

(1) If a self-employed person is injured or becomes ill while doing work at an employer's business, the employer does not need to record the injury or illness. Self-employed individuals are not covered by the Indiana occupational safety and health act (IOSHA) or this rule.

(2) The employer must record the injuries and illnesses of employees obtained from a temporary help service, leasing service, or supply service, if the employer supervises these employees on a day-to-day basis.

(3) When an injury or illness occurs to a contractor's employee at the employer's establishment, recording is governed by the following:

(A) If the contractor's employee is under the day-to-day supervision of the contractor, the contractor is responsible for recording the injury or illness.

(B) If another employer supervises the contractor employee's work on a day-to-day basis, the supervising employer must record the injury or illness.

(4) The personnel supply service, temporary help service, employee leasing service, or contractor need not also record the injuries or illnesses occurring to temporary, leased, or contract employees that another employer supervises on a day-to-day basis. The employer and the temporary help service, employee leasing service, personnel supply service, or contractor should coordinate their

efforts to make sure that each injury and illness is recorded only once, either on the employer's OSHA 300 Log (if the employer provides day-to-day supervision) or on the other employer's OSHA 300 Log (if that company provides day-to-day supervision).

(Department of Labor; 610 IAC 4-6-16; filed Sep 26, 2002, 11:22 a.m.: 26 IR 364)

610 IAC 4-6-17 Annual summary

Authority: IC 22-1-1-2; IC 22-8-1.1-48.1
Affected: IC 22-8-1.1-3.1; IC 22-8-1.1-43.1

Sec. 17. (a) At the end of each calendar year, the employer must do the following:

(1) Review the Occupational Safety and Health Administration (OSHA) 300 Log to verify that the entries are complete and accurate and make corrections to any deficiencies identified.

(2) Create an annual summary of injuries and illnesses recorded on the OSHA 300 Log.

(3) Certify the summary.

(4) Post the annual summary.

(b) Implementation of the annual summary requirements is as follows:

(1) The employer must review the OSHA 300 Log entries at the end of the year as extensively as necessary to make sure that they are complete and correct.

(2) To complete the annual summary, employers must do the following:

(A) Total the columns on the OSHA 300 Log (if the employer had no recordable cases, enter zeros for each column total).

(B) Enter the following:

(i) The calendar year covered.

(ii) The company's name.

(iii) The establishment name.

(iv) The establishment address.

(v) The annual average number of employees covered by the OSHA 300 Log.

(vi) The total hours worked by all employees covered by the OSHA 300 Log.

(C) If the employer is using an equivalent form other than the OSHA 300-A summary form, as permitted under section 7(b)(4) of this rule, the summary used must also include the employee access and employer penalty statements found on the OSHA 300-A Summary form.

(3) A company executive must certify that he or she has examined the OSHA 300 Log and that he or she reasonably believes, based on his or her knowledge of the process by which the information was recorded, that the annual summary is correct and complete.

(4) The company executive who certifies the log must be one (1) of the following persons:

(A) An owner of the company (only if the company is a sole proprietorship or partnership).

(B) An officer of the corporation.

(C) The highest ranking company official working at the establishment.

(D) The immediate supervisor of the highest ranking company official working at the establishment.

(5) The employer must post a copy of the annual summary in each establishment in a conspicuous place or places where notices to employees are customarily posted. The employer must ensure that the posted annual summary is not altered, defaced, or covered by other material.

(6) The employer must post the summary no later than February 1 of the year following the year covered by the records and keep the posting in place until April 30.

(Department of Labor; 610 IAC 4-6-17; filed Sep 26, 2002, 11:22 a.m.: 26 IR 365)

610 IAC 4-6-18 Retention and updating

Authority: IC 22-1-1-2; IC 22-8-1.1-48.1
Affected: IC 22-8-1.1-3.1; IC 22-8-1.1-43.1

Sec. 18. (a) Employers must save each of the following for five (5) years following the end of the calendar year that these records cover:

(1) The Occupational Safety and Health Administration (OSHA) 300 Log.

(2) The privacy case list (if one exists).

(3) The annual summary.

(4) The OSHA 301 Incident Report forms.

(b) The employer shall retain and update records as follows:

(1) During the five (5) year storage period, the employer must update the employer's stored OSHA 300 Logs to include newly discovered recordable injuries or illnesses and to show any changes that have occurred in the classification of previously recorded injuries and illnesses. If the description or outcome of a case changes, the employer must remove or line out the original entry and enter the new information.

(2) The employer is not required to update the annual summary, but may do so.

(3) The employer is not required to update the OSHA 301 Incident Reports, but may do so.

(Department of Labor; 610 IAC 4-6-18; filed Sep 26, 2002, 11:22 a.m.: 26 IR 365)

610 IAC 4-6-19 Change in business ownership

Authority: IC 22-1-1-2; IC 22-8-1.1-48.1
Affected: IC 22-8-1.1-3.1; IC 22-8-1.1-43.1

Sec. 19. If an employer's business changes ownership, that employer is responsible for recording and reporting work related injuries and illnesses only for that period of the year during which that employer owned the establishment. The employer must transfer the records required under this rule to the new owner. The new owner must save all records of the

establishment kept by the prior owner, as required by section 18 of this rule, but need not update or correct the records of the prior owner. *(Department of Labor; 610 IAC 4-6-19; filed Sep 26, 2002, 11:22 a.m.: 26 IR 365)*

610 IAC 4-6-20 Employee involvement
Authority: IC 22-1-1-2; IC 22-8-1.1-48.1
Affected: IC 22-8-1.1-3.1; IC 22-8-1.1-43.1

Sec. 20. (a) An employer's employees and their representatives must be involved in the record keeping system in the following ways:

(1) The employer must inform each employee of how he or she is to report an injury or illness to the employer.

(2) The employer must provide limited access to the employer's injury and illness records for the employees and their representatives.

(b) The employer must do the following to make sure that employees report work related injuries and illnesses to the employer:

(1) The employer must set up a way for employees to report work related injuries and illnesses promptly.

(2) The employer must tell each employee how to report work related injuries and illnesses to the employer.

(c) The employer's employees, former employees, their personal representatives, and their authorized employee representatives have the right to access the Occupational Safety and Health Administration (OSHA) injury and illness records, with some limitations, pursuant to the following:

(1) An authorized employee representative is an authorized collective bargaining agent of employees.

(2) A personal representative of an employee or former employee is:

(A) any person that the employee or former employee designates as such, in writing; or

(B) the legal representative of a deceased or legally incapacitated employee or former employee.

(3) When an employee, former employee, personal representative, or authorized employee representative asks for copies of an employer's current or stored OSHA 300 Log for an establishment the employee or former employee has worked in, the employer must give the requester a copy of the relevant OSHA 300 Log by the end of the next business day.

(4) Removing the names of the employees or any other information from the OSHA 300 Log before the employer gives copies to an employee, former employee, or employee representative is prohibited. The employer must leave the names on the 300 Log. However, to protect the privacy of injured and ill employees, the employer may not record the employee's name on the OSHA 300 Log for certain privacy concern cases, as specified in section 14 of this rule.

(5) The employer must provide requested access to the OSHA 301 Incident Report in the following cases:

(A) When an employee, former employee, or personal representative asks for a copy of the OSHA 301 Incident Report describing an injury or illness to that employee or former employee, the employer must give the requester a copy of the OSHA 301 Incident Report containing that information by the end of the next business day.

(B) When an authorized employee representative asks for copies of the OSHA 301 Incident Reports for an establishment where the agent represents employees under a collective bargaining agreement, the employer must give copies of those forms to the authorized employee representative within seven (7) calendar days. The employer is only required to give the authorized employee representative information from the OSHA 301 Incident Report section titled "Tell us about the case". The employer must remove all other information from the copy of the OSHA 301 Incident Report or the equivalent substitute form that it gives to the authorized employee representative.

(6) Charging for the copies is prohibited. The employer may not charge for these copies the first time they are provided. However, if one (1) of the designated persons asks for additional copies, the employer may assess a reasonable charge for retrieving and copying the records. *(Department of Labor; 610 IAC 4-6-20; filed Sep 26, 2002, 11:22 a.m.: 26 IR 366)*

610 IAC 4-6-21 Prohibition against discrimination
Authority: IC 22-1-1-2; IC 22-8-1.1-48.1
Affected: IC 22-8-1.1-3.1; IC 22-8-1.1-38.1

Sec. 21. Section 11(c) of the federal Occupational Safety and Health Act (OSHA) and IC 22-8-1.1-38.1 prohibit the employer from discriminating against an employee for reporting a work related fatality, injury, or illness. That provision of the Act also protects the employee who files a safety and health complaint, asks for access to the records required in this rule, or otherwise exercises any rights afforded by the OSHA. *(Department of Labor; 610 IAC 4-6-21; filed Sep 26, 2002, 11:22 a.m.: 26 IR 366)*

610 IAC 4-6-22 Keeping alternative records
Authority: IC 22-1-1-2; IC 22-8-1.1-48.1
Affected: IC 22-8-1.1-3.1; IC 22-8-1.1-43.1

Sec. 22. (a) If a private sector employer wishes to keep records in a different manner from the manner prescribed by this rule, the employer may submit a petition to the Assistant Secretary of Labor for Occupational Safety and Health, U.S. Department of Labor, Washington, D.C. 20210. The Indiana occupational safety and health administration (IOSHA) will recognize permission to vary records issued by the federal Occupational Safety and Health Administration.

(b) A public sector employer who wishes to keep records in a different manner from the manner prescribed by this rule may submit a petition to the commissioner of the Indiana department of labor (commissioner). The employer can obtain permission to keep different records only if the employer shows that the alternative record keeping system:

(1) collects the same information as this rule requires;

(2) meets the purposes of the Indiana and federal Occupational Safety and Health Acts; and

(3) does not interfere with the administration of the Occupational Safety and Health Acts.

(c) Implementation of the rules governing the keeping of different records:

(1) The employer must include the following items in the petition to keep different records:

(A) Employer's name and address.

(B) The address or addresses of the business establishment or establishments involved.

(C) A description of why the employer is seeking a different record keeping system.

(D) A description of the different record keeping procedures the employer proposes to use.

(E) A description of how the proposed procedures will collect the same information as would be collected under this rule and achieve the purpose of the Acts.

(F) A statement that the employer has informed his or her employees of the petition by giving them or their authorized representative a copy of the petition and by posting a statement summarizing the petition in the same way as notices are posted under 610 IAC 4-3-2(a).

(2) The commissioner will take the following steps to process the petition:

(A) The commissioner will offer the employer's employees and their authorized representatives an opportunity to submit written data, views, and arguments about the employer's petition to keep different records.

(B) The commissioner may allow the public to comment on the petition by publishing the petition in the Indiana Register. If the petition is published, the notice will establish a public comment period and may include a schedule for a public meeting on the petition.

(C) After reviewing the petition to keep different records and any comments from the employees and the public, the commissioner will decide whether or not the proposed record keeping procedures will meet the purposes of the Indiana Occupational Safety and Health Act, and will not otherwise interfere with that Act, and will provide the same information as this rule provides. If the employer's procedures meet the criteria, the commissioner will obtain the advice of the federal Occupational Safety and Health Administration (OSHA) concerning the petition. If federal OSHA declines to grant approval for the different records, such decision shall be binding on the commissioner.

(D) If the employer's procedures meet the criteria and are approved by federal OSHA, the commissioner may allow the different records subject to such conditions as he or she finds appropriate.

(E) If the commissioner allows the keeping of different records, the Indiana occupational safety and health administration (IOSHA) will publish a notice in the Indiana Register to announce the grant of the petition. The notice will include the practices the commissioner allows the employer to use, any conditions that apply, and the reasons for allowing the employer to keep records that vary.

(3) Use of proposed record keeping procedures during the application process is prohibited. If an employer applies for permission to keep different records, the employer may not use his or her proposed record keeping procedures while the commissioner is processing the petition. Alternative record keeping practices are only allowed after the different record keeping method is approved. Employers must comply with the requirements of this rule while the commissioner is reviewing the petition to keep different records.

(4) The petition to keep different records affects previous record keeping citations and penalties as follows. If an employer has already been cited by IOSHA for not following this rule, his or her petition will have no effect on the citation and penalty. In addition, the commissioner may elect not to review an employer's petition to keep different records if it includes an element for which the employer has been cited and the citation is still under review by a court or the IOSHA Board of Safety Review.

(5) Revocation of the right to keep different records at a later date is permitted. The commissioner may revoke an employer's different record keeping procedures if he or she has good cause. The procedures for revoking permission to keep different records will follow the same process as outlined in subsection (b)(2). Except in cases of willfulness or where necessary for public safety, the commissioner will:

(A) notify the employer in writing of the facts or conduct that may warrant revocation of an employer's permission to keep different records; and

(B) provide the employer, the employer's employees, and authorized employee representatives with an opportunity to participate in the revocation procedures.

(See sections 24 through 25 of this rule).

(Department of Labor; 610 IAC 4-6-22; filed Sep 26, 2002, 11:22 a.m.: 26 IR 366)

610 IAC 4-6-23 Reporting fatalities and multiple hospitalization incidents

Authority: IC 22-1-1-2; IC 22-8-1.1-48.1
Affected: IC 22-8-1.1-3.1; IC 22-8-1.1-43.1

Sec. 23. (a) Within forty-eight (48) hours after the death of any employee from a work related incident or the in-

patient hospitalization of five (5) or more employees as a result of a work related incident, the employer must orally report the fatality/multiple hospitalization by telephone or in person to the Indiana occupational safety and health administration (IOSHA). The employer shall contact IOSHA by calling 1-317-232-2693. The employer may also use the federal Occupational Safety and Health Administration toll-free central telephone number, 1-800-321-OSHA (1-800-321-6742).

(b) The employer must report fatalities and multiple hospitalization incidents as follows:

(1) Reporting the incident by leaving a facsimile transmission or e-mail is prohibited. If IOSHA is closed and the employer cannot talk to a person at IOSHA, the employer must report the fatality or multiple hospitalization incident by calling 1-317-232-2693 or 1-800-321-OSHA.

(2) The employer must give IOSHA the following information for each fatality or multiple hospitalization incident:

(A) The establishment name.

(B) The location of the incident.

(C) The time of the incident.

(D) The number of fatalities or hospitalized employees.

(E) The names of any injured employees.

(F) The employer's contact person and his or her phone number.

(G) A brief description of the incident.

(3) The employer does not have to report all fatality or multiple hospitalization incidents resulting from a motor vehicle accident. If the motor vehicle accident occurs on a public street or highway, and does not occur in a construction work zone, the employer does not have to report the incident to IOSHA. However, these injuries must be recorded on the employer's OSHA injury and illness records, if the employer is required to keep such records.

(4) Reporting a fatality or multiple hospitalization incident that occurs on a commercial or public transportation system is not required. Employers do not have to call IOSHA to report a fatality or multiple hospitalization incident if it involves a commercial airplane, train, subway, or bus accident. However, these injuries must be recorded on the employer's IOSHA injury and illness records, if the employer is required to keep such records.

(5) Reporting a fatality caused by a heart attack at work is required. IOSHA will then decide whether to investigate the incident, depending on the circumstances of the heart attack.

(6) Reporting a fatality or hospitalization that occurs long after the incident is not required. The employer must only report each fatality or multiple hospitalization incident that occurs within thirty (30) days of an incident.

(7) If an employer does not learn of a reportable incident at the time it occurs and the incident would otherwise be reportable under this section, the employer must make the report within forty-eight (48) hours of the time the incident is reported to the employer or to any of the employer's agents or employees.

(Department of Labor; 610 IAC 4-6-23; filed Sep 26, 2002, 11:22 a.m.: 26 IR 367)

610 IAC 4-6-24 Providing records to government representatives

Authority: IC 22-1-1-2; IC 22-8-1.1-48.1
Affected: IC 22-8-1.1-3.1; IC 22-8-1.1-43.1

Sec. 24. (a) When an authorized government representative asks for the records kept under this rule, the employer must provide copies of the records within four (4) business hours.

(b) Providing records to government representatives is governed by the following:

(1) The government representatives authorized to receive the records required under this rule are the following:

(A) A representative of the commissioner of labor conducting an inspection or investigation under the Indiana Occupational Safety and Health Act.

(B) A representative of the federal Occupational Safety and Health Administration.

(C) A representative of the Secretary of Health and Human Services (including the National Institute for Occupational Safety and Health–NIOSH) conducting an investigation under Section 20(b) of the Occupational Safety and Health Act.

(2) The federal Occupational Safety and Health Administration and the Indiana occupational safety and health administration will consider the employer's response to be timely if the employer gives the records to the government representative within four (4) business hours of the request. If an employer maintains the records at a location in a different time zone, the employer may use the business hours of the establishment at which the records are located when calculating the deadline.

(Department of Labor; 610 IAC 4-6-24; filed Sep 26, 2002, 11:22 a.m.: 26 IR 368)

610 IAC 4-6-25 Requests from the Bureau of Labor Statistics for data

Authority: IC 22-1-1-2; IC 22-8-1.1-48.1
Affected: IC 22-8-1.1-3.1; IC 22-8-1.1-43.1

Sec. 25. (a) If an employer receives a Survey of Occupational Injuries and Illnesses Form from the Bureau of Labor Statistics (BLS), or a BLS designee, he or she must promptly complete the form and return it following the instructions contained on the survey form.

(b) Employers shall respond to requests from the Bureau of Labor Statistics as follows:

(1) Not every employer must send data to the BLS. Each year, the BLS sends injury and illness survey forms to randomly selected employers and uses the information to create the nation's occupational injury and illness statistics. In any year, some employers will receive a BLS survey form and others will not. An employer does not have to send injury and illness data to the BLS unless he or she receives a survey form.

(2) If an employer receives a Survey of Occupational Injuries and Illnesses Form from the BLS, or a BLS designee, he or she must promptly complete the form and return it, following the instructions contained on the survey form.

(3) An employer must respond to a BLS survey form even if he or she is normally exempt from keeping OSHA injury and illness records. Even if an employer is exempt from keeping injury and illness records under sections 2 through 4 of this rule, the BLS may inform the employer in writing that it will be collecting injury and illness information from the employer in the coming year. If the employer receives such a letter, the employer must keep the injury and illness records required by sections 6 through 14 of this rule and make a survey report for the year covered by the survey.

(4) All employers who receive a survey form must respond to the survey.

(Department of Labor; 610 IAC 4-6-25; filed Sep 26, 2002, 11:22 a.m.: 26 IR 368)

610 IAC 4-6-26 Retention and updating of old forms

Authority: IC 22-1-1-2; IC 22-8-1.1-48.1
Affected: IC 22-8-1.1-3.1; IC 22-8-1.1-43.1

Sec. 26. Each employer must save the employer's copies of the Occupational Safety and Health Administration 200 and 101 forms for five (5) years following the year to which they relate, and continue to provide access to the data as though these forms were the OSHA 300 and 301 forms. The employer is not required to update the old 200 and 101 forms. *(Department of Labor; 610 IAC 4-6-26; filed Sep 26, 2002, 11:22 a.m.: 26 IR 369)*

610 IAC 4-6-27 Definitions

Authority: IC 22-1-1-2; IC 22-8-1.1-48.1
Affected: IC 22-8-1.1-1

Sec. 27. (a) The Indiana OSH Act (IOSHA) means the Indiana Occupational Safety and Health Act codified at IC 22-8-1.1 et seq. The definitions found in IC 22-8-1.1-1 and related interpretations apply to such terms when used in this rule.

(b) The federal Occupational Safety and Health Act means the Occupational Safety and Health Act of 1970 codified at 29 U.S.C. 651 et seq.

(c) The Acts means both the Indiana Occupational Safety and Health Act and the federal Occupational Safety and Health Act as described in subsections (a) and (b).

(d) An establishment is a single physical location where business is conducted or where services or industrial operations are performed. For activities where employees do not work at a single physical location, such as construction, transportation, communications, electric, gas, and sanitary services, and similar operations, the establishment is represented by main or branch offices, terminals, or stations, that either supervise such activities or are the base from which personnel carry out these activities as follows:

(1) Normally, one (1) business location has only one (1) establishment. Under limited conditions, the employer may consider two (2) or more separate businesses that share a single location to be separate establishments. An employer may divide one (1) location into two (2) or more establishments only when the following occur:

(A) Each of the establishments represents a distinctly separate business.

(B) Each business is engaged in a different economic activity.

(C) No one (1) industry description in the Standard Industrial Classification Manual (1987) applies to the joint activities of the establishments.

(D) Separate reports are routinely prepared for each establishment on the number of employees, their wages and salaries, sales or receipts, and other business information. For example, if an employer operates a construction company at the same location as a lumber yard, the employer may consider each business to be a separate establishment.

(2) An establishment can include more than one (1) physical location, but only under certain conditions. An employer may combine two (2) or more physical locations into a single establishment only when the following occur:

(A) The employer operates the locations as a single business operation under common management.

(B) The locations are all located in close proximity to each other.

(C) The employer keeps one (1) set of business records for the locations, such as records on the number of employees, their wages and salaries, sales or receipts, and other kinds of business information. For example, one (1) manufacturing establishment might include the main plant, a warehouse a few blocks away, and an administrative services building across the street.

(3) If an employee telecommutes from home, his or her home is not considered a separate establishment and a separate 300 Log is not required. Employees who telecommute must be linked to one (1) of your establishments under section 15 of this rule.

(e) An injury or illness is an abnormal condition or disorder. Injuries include cases, such as, but not limited to,

a cut, fracture, sprain, or amputation. Illnesses include both acute and chronic illnesses, such as, but not limited to, a skin disease, respiratory disorder, or poisoning. (Note: Injuries and illnesses are recordable only if they are new, work related cases that meet one (1) or more of the recording criteria contained in this rule).

(f) A physician or other licensed health care professional is an individual whose legally permitted scope of practice, that is, license, registration, or certification, allows him or her to independently perform, or be delegated the responsibility to perform, the activities described by this rule.

(g) "Employer" means any individual or type of organization, including the state and all its political subdivisions, that has in its employ one (1) or more individuals. *(Department of Labor; 610 IAC 4-6-27; filed Sep 26, 2002, 11:22 a.m.: 26 IR 369)*

SECTION 2. 610 IAC 4-4 IS REPEALED.

LSA Document #01-340(F)
Notice of Intent Published: 25 IR 126
Proposed Rule Published: December 1, 2001; 25 IR 874
Hearing Held: December 31, 2001
Approved by Attorney General: September 25, 2002
Approved by Governor: September 25, 2002
Filed with Secretary of State: September 26, 2002, 11:22 a.m.
Incorporated Documents Filed with Secretary of State: None

TITLE 804 BOARD OF REGISTRATION FOR ARCHITECTS AND LANDSCAPE ARCHITECTS

LSA Document #02-20(F)

DIGEST

Amends 804 IAC 1.1-3-1 to revise the fees charged and collected by the board of registration for architects and landscape architects. Effective 30 days after filing with the secretary of state.

804 IAC 1.1-3-1

SECTION 1. 804 IAC 1.1-3-1 IS AMENDED TO READ AS FOLLOWS:

804 IAC 1.1-3-1 Fees charged by board
Authority: IC 25-1-8-2; IC 25-4-1-3; IC 25-4-2
Affected: IC 25-4-1-16; IC 25-4-2-8

Sec. 1. (a) The state board of registration for architects **and landscape architects** shall charge and collect the following fees:

(1) For submitting an application for examination for registration as an architect or landscape architect, a fee of ~~fifteen~~ **fifty** dollars ~~($15).~~ **$50.**

(2) For the examination or reexamination of an ~~application~~ **applicant** for ~~a~~ registration to practice as an architect or landscape architect, a fee in an amount determined by the board which may not exceed the cost of the examination administration ~~therefor~~ **thereof** and grading thereof which is charged to the board plus twenty percent (20%) of such charge.

(3) For the processing and review of qualifications for registration as an architect or landscape architect by reciprocity ~~eighty~~ **with a NCARB or CLARB record, one hundred** dollars ~~($80).~~ **($100).**

(4) For the processing and review of qualifications for registration as an architect or landscape architect by reciprocity in the absence of a NCARB or CLARB record, four hundred dollars ($400).

~~(4)~~ **(5)** For issuance of the original certificate of registration to practice as an architect or landscape architect either following passage of the examination or ~~approved~~ **approval** as a reciprocal applicant:

(A) When the certificate of registration is dated between December 1 of an even-numbered year and November 30 of the following odd-numbered year, inclusive, ~~ten~~ **fifty** dollars ~~($10).~~ **($50).**

(B) When the certificate of registration is dated between December 1 of an odd-numbered year and November 30 of the following even-numbered year, inclusive, ~~twenty~~ **one hundred** dollars ~~($20).~~ **($100).**

~~(5)~~ **(6)** For the biennial renewal of the registration to practice as an architect or landscape architect, ~~fifteen~~ **one hundred** dollars ~~($15)~~ **($100)** payable prior to November 30 of each odd-numbered year.

~~(6)~~ **(7)** For the restoration of an expired registration to practice as an architect or landscape architect, ~~ten~~ **one hundred** dollars ~~($10)~~ **($100)** for each license year or part of a license year of delinquency, plus all unpaid renewal fees.

~~(7)~~ **(8)** For the replacement or duplicate certificate of registration to practice as an architect or landscape architect, ten dollars ($10).

(8) For issuance of a temporary certificate of registration to an out-of-state landscape architect, for a period not to exceed one (1) year or for the duration of a specific project for a specific site, a fee of seventy-five dollars ($75).

(9) **For the** proctoring **of examinations taken in this state for purposes of registration in other states, a** fee ~~is fifty~~ **of seventy-five** dollars ~~($50).~~ **($75). This fee shall be in addition to the examination fee.**

(b) All fees are nonrefundable, nontransferable and all examination fees are nonapplicable in any case to succeeding examinations. *(Board of Registration for Architects and Landscape Architects; 804 IAC 1.1-3-1; filed Mar 25, 1980, 9:15 a.m.: 3 IR 954; filed Oct 19, 1981, 10:30 a.m.: 4 IR 2845; filed Jan 8, 1982, 10:10 a.m.: 5 IR 395; filed Apr 26, 1983, 9:31 a.m.: 6 IR 1082; filed Sep 22, 1983, 3:30 p.m.: 6 IR 2415; filed Nov 14, 1985, 8:39 a.m.: 9 IR 762; filed Jun 28, 1996,*

9:45 a.m.: 19 IR 3085; readopted filed May 10, 2001, 2:40 p.m.: 24 IR 3235; filed Sep 27, 2002, 2:28 p.m.: 26 IR 370)

LSA Document #02-20(F)
Notice of Intent Published: 25 IR 1672
Proposed Rule Published: July 1, 2002; 25 IR 3446
Hearing Held: August 14, 2002
Approved by Attorney General: September 13, 2002
Approved by Governor: September 23, 2002
Filed with Secretary of State: September 27, 2002, 2:28 p.m.
Incorporated Documents Filed with Secretary of State: None

TITLE 828 STATE BOARD OF DENTISTRY

LSA Document #02-112(F)

DIGEST

Adds 828 IAC 0.5-2-6 concerning fees related to approval of sponsors of continuing education. Amends 828 IAC 1-5-1 concerning approval of study clubs as sponsors of continuing education. Adds 828 IAC 1-5-1.5 concerning approval of study clubs as sponsors of continuing education. Amends 828 IAC 1-5-2 concerning approval of organizations or individuals as sponsors of continuing education. Adds IAC 1-5-2.5 concerning approval of organizations or individuals as sponsors of continuing education. Amends 828 IAC 1-6-1 concerning renewal requirements for dental hygienists. Effective 30 days after filing with the secretary of state.

828 IAC 0.5-2-6 **828 IAC 1-5-2**
828 IAC 1-5-1 **828 IAC 1-5-2.5**
828 IAC 1-5-1.5 **828 IAC 1-6-1**

SECTION 1. 828 IAC 0.5-2-6 IS ADDED TO READ AS FOLLOWS:

828 IAC 0.5-2-6 Continuing education; sponsor approval fees
Authority: IC 25-1-8-2; IC 25-13-1-5; IC 25-14-1-13
Affected: IC 25-13-1-8; IC 25-13-2-2; IC 25-14-1-10; IC 25-14-3-2

Sec. 6. (a) This section applies to study clubs applying for approval under IC 25-13-2-2(12) or IC 25-14-3-2(12).

(b) This section applies to organizations or individuals applying for approval under IC 25-13-2-2(18) or IC 25-14-3-2(18).

(c) The board shall charge and collect the following fees related to the approval of study clubs, organizations, and individuals as sponsors of continuing education:

(1) Study club application for approval	**$ 250**
(2) Organization or individual application for approval	**$ 250**

(State Board of Dentistry; 828 IAC 0.5-2-6; filed Oct 8, 2002, 12:43 p.m.: 26 IR 371)

SECTION 2. 828 IAC 1-5-1 IS AMENDED TO READ AS FOLLOWS:

828 IAC 1-5-1 Application for approval of study clubs
Authority: IC 25-13-2-10; IC 25-14-3-12
Affected: IC 25-13-2; IC 25-14-3

Sec. 1. (a) Study clubs must submit ~~a written request~~ **an application and a fee** for approval of the study club ~~at least thirty (30) days prior to the date of the study club's presentation of a program for~~ **as a sponsor of** continuing education credit **for dentists and/or dental hygienists.** Programs presented:

(1) prior to the receipt of approval; or

(2) after the withdrawal or termination of approval of the study club;

by the board shall not count toward continuing education requirements.

(b) The ~~written request~~ **application** for approval shall include the following:

(1) The name of the study club.

(2) The address of the study club.

(3) A statement that the study club is organized for the purpose of scientific study.

(4) A statement that the study club operates under the direction of elected officers.

(5) The names and addresses of each officer.

(6) A copy of the study club's bylaws.

(7) The names of at least five (5) members of the study club.

(8) A statement that the study club will conduct regular meetings.

(9) A statement that the study club will maintain written attendance records of all meetings**,** which shall be submitted to the board upon request.

(10) A description of the types of programs or activities the study club intends to present.

(c) The ~~written request~~ **application** for approval must be signed by an officer of the study club.

~~(d) Approval of a study club will be valid for a maximum period of two (2) years as long as the club remains in compliance with subsection (b). The study club is responsible for applying to the board for renewal of approval.~~ *(State Board of Dentistry; 828 IAC 1-5-1; filed Jan 28, 1992, 5:00 p.m.: 15 IR 1015; filed Mar 26, 1993, 5:00 p.m.: 16 IR 1952; filed Sep 1, 2000, 2:20 p.m.: 24 IR 22; readopted filed Apr 11, 2001, 3:21 p.m.: 24 IR 2896; filed Oct 8, 2002, 12:43 p.m.: 26 IR 371)*

SECTION 3. 828 IAC 1-5-1.5 IS ADDED TO READ AS FOLLOWS:

828 IAC 1-5-1.5 Study club sponsor approval; expiration
Authority: IC 25-13-2-10; IC 25-14-3-12
Affected: IC 25-13-2-2; IC 25-14-3-2

Sec. 1.5. (a) A study club continuing education sponsor approval issued by the board shall be valid for the remainder of the approval period in effect on the date the approval was issued.

(b) The approval issued by the board expires on March 2 of even-numbered years.

(c) The approval is not renewable. A new application and fee for study club continuing education sponsor approval must be filed for each license period.

(d) The approval of a study club sponsor issued by the board:

(1) prior to the effective date of this rule; and

(2) that is current and good standing;

shall remain valid until March 2, 2004. *(State Board of Dentistry; 828 IAC 1-5-1.5; filed Oct 8, 2002, 12:43 p.m.: 26 IR 371)*

SECTION 4. 828 IAC 1-5-2 IS AMENDED TO READ AS FOLLOWS:

828 IAC 1-5-2 Application for approval of organizations or individuals

Authority: IC 25-13-2-10; IC 25-14-3-12
Affected: IC 25-13-2-2; IC 25-14-3-2

Sec. 2. (a) This section applies to organizations or individuals referred to in IC 25-13-2-2(18) and IC 25-14-3-2(18).

(b) Individuals or organizations applying for approval must submit ~~a written request~~ **an application and a fee** for approval ~~at least thirty (30) days prior to the date of the individual's or organization's presentation of a program for~~ **as a sponsor of** continuing education credit for **dentists and/or dental hygienists.** Programs presented:

(1) prior to the receipt of approval; or

(2) after the withdrawal or termination of approval of the individual or organization;

by the board shall not count toward continuing education requirements.

(c) The ~~written request~~ **application** for approval shall include the following:

(1) The name of the sponsoring individual or organization.

(2) The address and telephone number of the individual or organization.

(3) The following for organizations:

(A) A copy of all documents relating to the formation and continued existence of the organization.

(B) A description of the specific purposes for which the organization was formed.

(C) For each individual in the organization with direct responsibility for teaching and conducting an educational program of the organization, a vita or resume listing all educational and relevant work experience.

(4) For individuals, a vita or resume listing all educational and relevant work experience.

(5) A list of each educational program presented or sponsored by the individual or organization for five (5) years prior to the date of the request for approval.

(6) The following for each program listed under subdivision (5) given in the prior two (2) years:

(A) The date and location of the program.

(B) A brief summary of the content of the program.

(C) The name and the academic and professional background of the lecturer.

(D) The number of clock hours of continuing education credit granted by a state licensing or similar regulatory authority for the program.

(7) A description of the course evaluation technique utilized for all educational programs.

(8) A sample of the certificate awarded for the completion of all educational programs, if available.

(9) A list of all anticipated programs to be presented or sponsored during the requested approval period, if available.

(10) A description of the types of programs or activities the individual or organization intends to present.

(11) A description of the method to be used for monitoring attendance.

(d) The individual or organization is responsible for monitoring attendance in such a way that verification of attendance throughout the program can be reliably assured.

~~(c) Approval of the individual or organization will be valid for a maximum period of two (2) years. The individual or organization is responsible for applying to the board for renewal of approval.~~ *(State Board of Dentistry; 828 IAC 1-5-2; filed Jan 28, 1992, 5:00 p.m.: 15 IR 1015; filed Mar 26, 1993, 5:00 p.m.: 16 IR 1953; filed Sep 1, 2000, 2:20 p.m.: 24 IR 22; readopted filed Apr 11, 2001, 3:21 p.m.: 24 IR 2896; filed Oct 8, 2002, 12:43 p.m.: 26 IR 372)*

SECTION 5. 828 IAC 1-5-2.5 IS ADDED TO READ AS FOLLOWS:

828 IAC 1-5-2.5 Individual or organization sponsor approval; expiration

Authority: IC 25-13-2-10; IC 25-14-3-12
Affected: IC 25-13-2-2; IC 25-14-3-2

Sec. 2.5. (a) Approval of an individual or organization as a sponsor of continuing education issued by the board shall be valid for the remainder of the approval period in effect on the date the approval was issued.

(b) The approval issued by the board expires on March 2 of even-numbered years.

(c) The approval is not renewable. A new application and

fee for an individual or organization continuing education sponsor approval must be filed for each license period.

(d) The approval of a sponsor issued by the board:
(1) prior to the effective date of this rule; and
(2) that is current and in good standing;
shall remain valid until March 2, 2004. *(State Board of Dentistry; 828 IAC 1-5-2.5; filed Oct 8, 2002, 12:43 p.m.: 26 IR 372)*

SECTION 6. 828 IAC 1-6-1 IS AMENDED TO READ AS FOLLOWS:

828 IAC 1-6-1 Renewal requirements; basic life support certification

Authority: IC 25-13-1-5; IC 25-13-1-8; IC 25-14-1-13
Affected: IC 25-13-2-6; IC 25-13-2-9

Sec. 1. (a) Applicants for dental hygiene license renewal must be certified in or successfully complete a course in basic life support. ~~A course in basic life support shall include lecture and hands-on use of the following:~~
~~(1) Adult one-rescuer cardiopulmonary resuscitation.~~
~~(2) Adult two-rescuer cardiopulmonary resuscitation.~~
~~(3) Child one-rescuer cardiopulmonary resuscitation.~~
~~(4) Airway obstruction and devices.~~

(b) Courses on health care provider cardiopulmonary resuscitation or cardiopulmonary resuscitation for the professional rescuer meet the requirements of this rule.

(c) At the time of renewal of the license, the applicant must submit, as a part of the renewal application, a sworn statement signed by the applicant attesting that the applicant has fulfilled the requirement to complete a course in basic life support.

(d) A waiver of the requirement to complete a course in basic life support will only be granted for medical conditions or disabilities that prevent the dental hygienist from complying with the basic life support requirement. All requests for waivers of the basic life support requirement must be submitted in writing with the renewal application. A physician's statement documenting the disability or medical condition must be submitted with the request.

(e) The board will conduct an audit for compliance in conjunction with the audit conducted under IC 25-13-2-9.

~~(d)~~ **(f)** In order to comply with IC 25-13-1-8(b)(3), a course in basic life support must be successfully completed during each two (2) year license period.

~~(e)~~ **(g)** If a dental hygienist is audited for compliance with the requirement for completion of a basic life support course, at the time of the audit the dental hygienist must submit ~~either:~~ **any of the following:**
(1) A copy of the cardiopulmonary resuscitation card showing the date of issuance and the date of expiration or date it is due for renewal. ~~or~~
(2) A copy of the attendance sheet for the course that has been signed by the instructor and includes the date the course was given and certifies that the applicant successfully completed the course.
(3) Proof of reasonable cause for noncompliance. A waiver will only be granted for medical conditions or disabilities that prevent the dental hygienist from complying with the basic life support requirement. All requests for waivers of the basic life support requirement must be submitted in writing. A physician's statement documenting the disability or medical condition must be submitted with the request.
(State Board of Dentistry; 828 IAC 1-6-1; filed Aug 29, 1997, 8:45 a.m.: 21 IR 107; readopted filed Apr 11, 2001, 3:21 p.m.: 24 IR 2896; filed Oct 8, 2002, 12:43 p.m.: 26 IR 373)

LSA Document #02-112(F)
Notice of Intent Published: 25 IR 2546
Proposed Rule Published: July 1, 2002; 25 IR 3447
Hearing Held: August 2, 2002
Approved by Attorney General: September 19, 2002
Approved by Governor: October 3, 2002
Filed with Secretary of State: October 8, 2002, 12:43 p.m.
Incorporated Documents Filed with Secretary of State: None

TITLE 828 STATE BOARD OF DENTISTRY

LSA Document #02-113(F)

DIGEST

Amends 828 IAC 1-3 concerning requirements for licensure by endorsement. Repeals 828 IAC 1-3-1. Effective 30 days after filing with the secretary of state.

828 IAC 1-3-1 **828 IAC 1-3-2**
828 IAC 1-3-1.1 **828 IAC 1-3-3**
828 IAC 1-3-1.5

SECTION 1. 828 IAC 1-3-1.1 IS ADDED TO READ AS FOLLOWS:

828 IAC 1-3-1.1 Dental licensure by endorsement; credentials

Authority: IC 25-14-1-13
Affected: IC 25-14-1-16

Sec. 1.1. (a) Persons seeking licensure to practice dentistry by endorsement shall file an application on a form supplied by the board and submit the fees required by 828 IAC 0.5-2-3.

(b) The applicant for a license shall provide the following:

(1) Where the name on any document differs from the applicant's name, a notarized or certified copy of a marriage certificate or legal proof of name change.
(2) Two (2) recent passport-type photographs of the applicant, taken within eight (8) weeks prior to filing of the application.
(3) An original transcript of the applicant's dental education, including the degree or degrees conferred and the date each degree was conferred.
(4) If the applicant has been convicted of a criminal offense, excluding minor traffic violations, the applicant shall submit a notarized statement detailing all criminal offenses, excluding minor traffic violations, for which the applicant has been convicted. This notarized statement must include the following:
(A) The offense of which the applicant was convicted.
(B) The court in which the applicant was convicted.
(C) The cause number under which the applicant was convicted.
(D) The penalty imposed by the court.
(5) An applicant who is now, or has been, licensed to practice any health profession in another state or Canadian province must submit verification of license status. This information must be sent by the state or province that issued the license directly to the Indiana board.
(6) The applicant shall submit a self-query form completed by the National Practitioner Data Bank (NPDB) and the Healthcare Integrity and Protection Data Bank (HIPDB) data bank.
(7) The applicant shall submit proof of completion of at least twenty (20) hours of continuing dental education taken in the previous two (2) years. No more than two (2) hours of training in basic life support shall count toward this requirement.
(8) The applicant shall submit proof that the applicant successfully completed the National Board Dental Examination provided by the Joint Commission on Dental Examinations or successfully completed the National Dental Examining Board of Canada Written Examination provided by the National Dental Examining Board of Canada.
(9) The applicant shall submit proof that the applicant satisfactorily completed a regional, state, or provincial clinical licensing examination in any other state or Canadian province having and maintaining a standard of examination for licensure and laws regulating the practice of dentistry within that state or province that are *[sic., is]* **substantially equivalent to the examination and licensing requirements of Indiana.**
(10) The applicant shall submit proof that the applicant has been engaged in the active practice of dentistry for not less than five (5) years out of the nine (9) years immediately preceding the submission of the application.
(11) The applicant shall submit written statements from at least three (3) practicing dentists verifying the applicant's active, moral, and ethical practice of dentistry. The statements must be originals and must have been written not more than eight (8) weeks prior to the submission of the application.
(12) The applicant shall submit proof that the applicant is currently certified in basic life support or advanced cardiac life support.
(13) All information on the application shall be submitted under oath or affirmation, subject to the penalties for perjury.

(c) An applicant who has previously failed an examination for licensure administered by the board is not eligible to apply for a license by endorsement, until such applicant has passed all portions of the examination in which he or she failed or provides the board with proof that additional training has been received in the subjects of the failure. *(State Board of Dentistry; 828 IAC 1-3-1.1; filed Sep 27, 2002, 2:38 p.m.: 26 IR 373; errata filed Sep 27, 2002, 2:59 p.m.: 26 IR 383)*

SECTION 2. 828 IAC 1-3-1.5 IS ADDED TO READ AS FOLLOWS:

828 IAC 1-3-1.5 Licensure to practice dental hygiene by endorsement; credentials
Authority: IC 25-13-1-5; IC 25-14-1-13
Affected: IC 25-13-1-7; IC 25-13-1-17

Sec. 1.5. (a) Persons seeking licensure to practice dental hygiene by endorsement shall file an application on a form supplied by the board and submit the fees required by 828 IAC 0.5-2-4.

(b) The applicant for a license shall provide the following:
(1) Where the name on any document differs from the applicant's name, a notarized or certified copy of a marriage certificate or legal proof of name change.
(2) Two (2) recent passport-type photographs of the applicant, taken within eight (8) weeks prior to filing of the application.
(3) An original transcript of the applicant's dental hygiene education, including the degree or degrees conferred and the date each degree was conferred.
(4) If the applicant has been convicted of a criminal offense, excluding minor traffic violations, the applicant shall submit a notarized statement detailing all criminal offenses, excluding minor traffic violations, for which the applicant has been convicted. This notarized statement must include the following:
(A) The offense of which the applicant was convicted.
(B) The court in which the applicant was convicted.
(C) The cause number under which the applicant was convicted.
(D) The penalty imposed by the court.

(5) An applicant who is now, or has been, licensed to practice any health profession in another state must submit verification of license status. This information must be sent by the state that issued the license directly to the Indiana board.
(6) The applicant shall submit a self-query form completed by the National Practitioner Data Bank (NPDB) and the Healthcare Integrity and Protection Data Bank (HIPDB) data bank.
(7) The applicant shall submit proof of completion of at least fourteen (14) hours of continuing dental hygiene education taken within the previous two (2) years. No more than two (2) hours of training in basic life support shall count toward this requirement.
(8) All information on the application shall be submitted under oath or affirmation, subject to the penalties for perjury.
(9) The applicant shall submit proof that the applicant satisfactorily completed the National Board Dental Hygiene Examination provided by the Joint Commission on Dental Examinations.
(10) The applicant shall submit proof that the applicant satisfactorily completed a regional or state clinical licensing examination in any other state having and maintaining a standard of examination for licensure and laws regulating the practice of dental hygiene within that state or province that are *[sic., is]* **substantially equivalent to the examination and licensing requirements of Indiana.**
(11) The applicant shall submit proof that the applicant has been engaged in the active practice of dental hygiene for not less than two (2) years out of the five (5) years immediately preceding the submission of the application.
(12) The applicant shall submit written statements from at least three (3) practicing dentists verifying the applicant's active, moral, and ethical practice of dental hygiene. The statements must be originals and must have been written not more than eight (8) weeks prior to the submission of the application.
(13) The applicant shall submit proof that the applicant is currently certified in basic life support.

(c) An applicant who has previously failed an examination for licensure administered by the board is not eligible to apply for a license by endorsement until such applicant has passed all portions of the examination in which he or she failed or provides the board with proof that additional training has been received in the subjects of the failure. *(State Board of Dentistry; 828 IAC 1-3-1.5; filed Sep 27, 2002, 2:38 p.m.: 26 IR 374)*

SECTION 3. 828 IAC 1-3-2 IS AMENDED TO READ AS FOLLOWS:

828 IAC 1-3-2 "Practice of dentistry" defined
Authority: IC 25-14-1-13
Affected: IC 25-14-1-16

Sec. 2. (a) Under IC 25-14-1-16(b)(2), an applicant for licensure by endorsement must have practiced dentistry for at least five (5) out of the nine (9) years preceding the date of application.

(b) "Practice of dentistry" means that the applicant has actively engaged in clinical patient contact for at least an average of twenty (20) hours per week for five (5) years. A maximum of two (2) years of the five (5) year requirement may have been in postdoctoral training **in a program approved by the board.** *(State Board of Dentistry; 828 IAC 1-3-2; filed Apr 19, 1991, 3:00 p.m.: 14 IR 1728; readopted filed Apr 11, 2001, 3:21 p.m.: 24 IR 2896; filed Sep 27, 2002, 2:38 p.m.: 26 IR 375)*

SECTION 4. 828 IAC 1-3-3 IS AMENDED TO READ AS FOLLOWS:

828 IAC 1-3-3 "Satisfactory practice of dental hygiene" defined
Authority: IC 25-13-1-5
Affected: IC 25-13-1-17

Sec. 3. (a) An applicant for a dental hygiene license under IC 25-13-1-17(a) must have engaged in the satisfactory practice of dental hygiene for at least ~~five (5)~~ **two (2) years** out of the preceding ~~seven (7)~~ **five (5)** years.

(b) As used in this section, "satisfactory practice of dental hygiene" means that the applicant has actively engaged in practicing dental hygiene for at least an average of twenty (20) hours per week for ~~five (5)~~ **two (2)** years. A maximum of ~~two (2) years~~ **one (1) year** of the ~~five (5)~~ **two (2)** year requirement may have been in post associate degree training in dental hygiene **in a program approved by the board.** *(State Board of Dentistry; 828 IAC 1-3-3; filed Apr 19, 1991, 3:00 p.m.: 14 IR 1728; filed Feb 4, 1994, 5:00 p.m.: 17 IR 1094; readopted filed Apr 11, 2001, 3:21 p.m.: 24 IR 2896; filed Sep 27, 2002, 2:38 p.m.: 26 IR 375)*

SECTION 5. 828 IAC 1-3-1 IS REPEALED.

LSA Document #02-113(F)
Notice of Intent Published: 25 IR 2546
Proposed Rule Published: July 1, 2002; 25 IR 3450
Hearing Held: August 2, 2002
Approved by Attorney General: September 11, 2002
Approved by Governor: September 26, 2002
Filed with Secretary of State: September 27, 2002, 2:38 p.m.
Incorporated Documents Filed with Secretary of State: None

TITLE 828 STATE BOARD OF DENTISTRY

LSA Document #02-114(F)

DIGEST

Amends 828 IAC 0.5-2-3 and 828 IAC 0.5-2-4 concerning fees related to licensure to practice dentistry or dental hygiene.

Amends 828 IAC 1-7-1 concerning inactive status for licenses to practice dentistry. Adds 828 IAC 1-7-2 concerning inactive status for licenses to practice dental hygiene. Effective 30 days after filing with the secretary of state.

828 IAC 0.5-2-3 **828 IAC 1-7-1**
828 IAC 0.5-2-4 **828 IAC 1-7-2**

SECTION 1. 828 IAC 0.5-2-3, AS ADDED AT 25 IR 1180, SECTION 1, IS AMENDED TO READ AS FOLLOWS:

828 IAC 0.5-2-3 Dental fees
Authority: IC 23-1.5-2-9; IC 23-1.5-2-10; IC 25-1-8-2; IC 25-13-1-5; IC 25-14-1-13
Affected: IC 25-13-1-8; IC 25-14-1-10

Sec. 3. The board shall charge and collect the following fees related to the practice of dentistry:

(1) Examination administration	$250 plus the cost of supplies, models, and the use of the examination facility
(2) Reexamination administration	$150 plus the cost of supplies, models, and the use of the examination facility
(3) Licensure by endorsement	$250
(4) License renewal	$100 biennially
(5) Dental intern permit application	$100
(6) Dental intern permit renewal	$ 50
(7) Verification of dental licensure to another state	$ 10
(8) Duplicate wall license	$ 10
(9) Professional corporation registration application	$ 25
(10) Professional corporation registration renewal	$ 20 biennially
(11) Application fees for the following permits:	$ 50
(A) General anesthesia-deep sedation	
(B) Light parenteral conscious sedation	
(12) Renewal fees for the following permits:	$ 50 biennially
(A) General anesthesia-deep sedation	
(B) Light parenteral conscious sedation	
(13) Registration of an additional office in which to administer general anesthesia, deep sedation, or light parenteral conscious sedation	$ 25
(14) Reinstatement of inactive license	**$250**

(State Board of Dentistry; 828 IAC 0.5-2-3; filed Dec 2, 2001, 12:35 p.m.: 25 IR 1180; filed Oct 8, 2002, 12:40 p.m.: 26 IR 376)

SECTION 2. 828 IAC 0.5-2-4, AS ADDED AT 25 IR 1181, SECTION 2, IS AMENDED TO READ AS FOLLOWS:

828 IAC 0.5-2-4 Dental hygiene fees
Authority: IC 23-1.5-2-9; IC 23-1.5-2-10; IC 25-1-8-2; IC 25-13-1-5; IC 25-14-1-13
Affected: IC 25-13-1-8; IC 25-14-1-10

Sec. 4. The board shall charge and collect the following fees related to the practice of dental hygiene:

(1) Examination and/or reexamination	$100 plus the cost of supplies and the use of the examination facility
(2) Law examination only	$ 25
(3) Licensure by endorsement	$100
(4) License renewal	$ 50 biennially
(5) Dental hygiene intern permit application	$ 50
(6) Dental hygiene intern permit renewal	$ 25
(7) Verification of dental hygiene licensure to another state	$ 10
(8) Duplicate wall license	$ 10
(9) Reinstatement of inactive license	**$100**

(State Board of Dentistry; 828 IAC 0.5-2-4; filed Dec 2, 2001, 12:35 p.m.: 25 IR 1181; filed Oct 8, 2002, 12:40 p.m.: 26 IR 376)

SECTION 3. 828 IAC 1-7-1 IS AMENDED TO READ AS FOLLOWS:

828 IAC 1-7-1 Inactive status for dentists
Authority: IC 25-14-1-10; IC 25-14-1-13
Affected: IC 25-14-1-27.1; IC 25-14-3-8

Sec. 1. (a) The board may issue a license to the holder of an inactive license under IC 25-14-1-27.1 if the applicant:

(1) applies in the form and manner required by the board;

~~(1)~~ **(2)** pays the renewal fee **and reinstatement fee** established in ~~828 IAC 0.5-2-1(3);~~ **828 IAC 0.5-2-3;** and

~~(2)~~ **(3)** meets the continuing education requirements established under this section.

(b) The applicant must complete fifty percent (50%) of the continuing education that would have been required for renewal under IC 25-14-3-8 during each license period or partial license period the license was inactive.

(c) Not more than twenty-five percent (25%) of the continuing education required under this section may be in the area of practice management.

(d) The continuing education submitted must include a

certification program in basic life support. Not more than two (2) credit hours for certification programs in basic life support may be applied toward the credit hour requirement. The board may waive the basic life support requirement for applicants who show reasonable cause.

(e) Documentation verifying the completion of the continuing education must be submitted to the board prior to the reactivation of the applicant's license.

(f) If the applicant's license has been inactive for five (5) or more years, the applicant shall make a personal appearance before the board. *(State Board of Dentistry; 828 IAC 1-7-1; filed Sep 11, 2000, 2:20 p.m.: 24 IR 376; readopted filed Apr 11, 2001, 3:21 p.m.: 24 IR 2896; filed Oct 8, 2002, 12:40 p.m.: 26 IR 376)*

SECTION 4. 828 IAC 1-7-2 IS ADDED TO READ AS FOLLOWS:

828 IAC 1-7-2 Inactive status for dental hygienists
Authority: IC 25-13-1-5; IC 25-14-1-13
Affected: IC 25-13-1-17.2; IC 25-13-2-6

Sec. 2. (a) The board may issue a license to the holder of an inactive license under IC 25-13-1-17.2 if the applicant:
(1) applies in the form and manner required by the board;
(2) pays the renewal fee and reinstatement fee established in 828 IAC 0.5-2-4; and
(3) meets the continuing education requirements established under this section.

(b) The applicant must complete fifty percent (50%) of the continuing education that would have been required for renewal under IC 25-13-2-6 during each license period or partial license period the license was inactive.

(c) Not more than twenty-five percent (25%) of the continuing education required under this section may be in the area of practice management.

(d) The continuing education submitted must include a certification program in basic life support. Not more than two (2) credit hours for certification programs in basic life support may be applied toward the credit hour requirement. The board may waive the basic life support requirement for applicants who show reasonable cause.

(e) Documentation verifying the completion of the continuing education must be submitted to the board prior to the reactivation of the applicant's license.

(f) If the applicant's license has been inactive for five (5) or more years, the applicant shall make a personal appearance before the board. *(State Board of Dentistry; 828 IAC 1-7-2; filed Oct 8, 2002, 12:40 p.m.: 26 IR 377)*

LSA Document #02-114(F)
Notice of Intent Published: 25 IR 2546
Proposed Rule Published: July 1, 2002; 25 IR 3452
Hearing Held: August 2, 2002
Approved by Attorney General: September 19, 2002
Approved by Governor: October 3, 2002
Filed with Secretary of State: October 8, 2002, 12:40 p.m.
Incorporated Documents Filed with Secretary of State: None

TITLE 844 MEDICAL LICENSING BOARD OF INDIANA

LSA Document #01-431(F)

DIGEST

Amends 844 IAC 6-1-4 concerning accreditation of educational programs. Effective 30 days after filing with the secretary of state.

844 IAC 6-1-4

SECTION 1. 844 IAC 6-1-4 IS AMENDED TO READ AS FOLLOWS:

844 IAC 6-1-4 Accreditation of educational programs
Authority: IC 25-27-1-5
Affected: IC 4-22-2-21; IC 25-27-1-1

Sec. 4. (a) The committee shall maintain a list of physical therapy and physical therapists' assistant educational programs which the committee has approved. This list shall be available in written form from the Health Professions Bureau, 402 West Washington Street, Room ~~041,~~ **W041,** Indianapolis, Indiana 46204.

(b) An approved program is one maintaining standards equivalent to those adopted by the ~~American Physical Therapy Association, Department of Education, Standards for Accreditation of Education Programs for Physical Therapists, 1978, as published.~~ **Commission on Accreditation in Physical Therapy Education (CAPTE), Accreditation Handbook, August 2000 edition.** These standards are hereby adopted as those of the committee and are hereby incorporated by reference under IC 4-22-2-21 and ~~does~~ **do** not include any amendments or subsequent editions. A copy of such standards shall be available for public inspection at the office of the Health Professions Bureau, 402 West Washington Street, Room ~~041,~~ **W041,** Indianapolis, Indiana 46204. Copies of such standards are available from the American Physical Therapy Association, 1111 North Fairfax Street, Alexandria, Virginia 22314 **or at http://www.apta.org/Education/accreditation.**

(c) An educational program, or a graduate or candidate for graduation from an educational program, which is not on the list of

approved programs maintained by the committee, may apply to the committee for approval by petition demonstrating that the educational program meets the committee's standards for approval.

(d) The committee may remove an educational program from its list of approved programs upon the grounds that the educational program no longer meets its standards for approval. *(Medical Licensing Board of Indiana; 844 IAC 6-1-4; filed Aug 6, 1987, 3:00 p.m.: 10 IR 2732; filed Sep 22, 1994, 4:30 p.m.: 18 IR 263; readopted filed Nov 9, 2001, 3:16 p.m.: 25 IR 1325; filed Oct 7, 2002, 11:51 a.m.: 26 IR 377)*

LSA Document #01-431(F)
Notice of Intent Published: 25 IR 1198
Proposed Rule Published: July 1, 2002; 25 IR 3454
Hearing Held: July 25, 2002
Approved by Attorney General: September 20, 2002
Approved by Governor: October 3, 2002
Filed with Secretary of State: October 7, 2002, 11:51 a.m.
Incorporated Documents Filed with Secretary of State: CAPTE Rules of Practice and Procedure–Revised April 2002 Accreditation Handbook

TITLE 844 MEDICAL LICENSING BOARD OF INDIANA

LSA Document #01-432(F)

DIGEST

Amends 844 IAC 6-3-5 concerning temporary permits. Effective 30 days after filing with the secretary of state.

844 IAC 6-3-5

SECTION 1. 844 IAC 6-3-5, AS READOPTED AT 25 IR 1325, SECTION 1, IS AMENDED TO READ AS FOLLOWS:

844 IAC 6-3-5 Temporary permits
Authority: IC 25-27-1-5
Affected: IC 25-27-1-6

Sec. 5. (a) For applicants for licensure by endorsement, the committee may issue a temporary, nonrenewable permit to an applicant for a license as a physical therapist or a certificate as a physical therapist's assistant where the applicant meets the requirements of section 1 of this rule, except where:

(1) the applicant has graduated from an educational program in another state, country, or territory, not accredited by the committee; or

(2) the applicant has not successfully completed the test required by section 2(a)(4) of this rule.

(b) For recent graduates, the committee may issue a temporary, nonrenewable permit to an applicant for a license as a physical therapist or a certificate as a physical therapist's assistant who is a graduate of ~~a~~ **an approved** physical therapy program or ~~a~~ **an approved** physical therapist's assistant program ~~which~~ **that** meets the standards set by the committee and who has applied for and been approved by the committee to take the examination for which the applicant has applied for licensure or certification.

(c) A candidate for a license as a physical therapist or for a certificate as a physical therapist's assistant holding a temporary permit hereunder shall only work under the direct supervision of a licensed physical therapist or physician, and shall report to the committee on a form provided by the committee, the name of the facility and supervising physical therapists or physicians.

(d) A temporary permit shall expire on the earliest date that any one (1) of the following events occurs:

(1) The applicant is licensed or certified.

(2) The application for licensure or certification is disapproved.

(3) Ninety (90) days has passed since the issuance of the temporary permit.

(Medical Licensing Board of Indiana; 844 IAC 6-3-5; filed Aug 6, 1987, 3:00 p.m.: 10 IR 2734; filed Sep 22, 1994, 4:30 p.m.: 18 IR 265; readopted filed Nov 9, 2001, 3:16 p.m.: 25 IR 1325; filed Oct 7, 2002, 12:02 p.m.: 26 IR 378)

LSA Document #01-432(F)
Notice of Intent Published: 25 IR 1198
Proposed Rule Published: July 1, 2002; 25 IR 3455
Hearing Held: July 25, 2002
Approved by Attorney General: September 20, 2002
Approved by Governor: October 3, 2002
Filed with Secretary of State: October 7, 2002, 12:02 p.m.
Incorporated Documents Filed with Secretary of State: None

TITLE 864 STATE BOARD OF REGISTRATION FOR PROFESSIONAL ENGINEERS

LSA Document #01-405(F)

DIGEST

Amends 864 IAC 1.1-2-2 to establish the types of topics that qualify as advanced calculus based mathematics. Amends 864 IAC 1.1-2-4 to change one of the minimum education requirements for engineering interns from a bachelor of science degree to a baccalaureate degree and to specify that a senior in an engineering curriculum in a college or university in Indiana may take the last EI examination prior to graduation. Amends 864 IAC 1.1-12-1 to revise the fee schedule charged by the board. Effective December 1, 2002.

864 IAC 1.1-2-2
864 IAC 1.1-2-4
864 IAC 1.1-12-1

SECTION 1. 864 IAC 1.1-2-2 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 ~~of~~ **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) 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) No experience obtained prior to a baccalaureate degree shall qualify.

(j) 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) 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 1.1-2-4 IS AMENDED TO READ AS FOLLOWS:

864 IAC 1.1-2-4 Engineering intern; education and work experience

Authority: IC 25-31-1-7; IC 25-31-1-8
Affected: IC 25-31-1-12

Sec. 4. (a) The education and experience requirements of section 2 of this rule for professional engineer applicants apply for engineering intern applicants except that:

(1) individuals with a ~~bachelor of science~~ **baccalaureate** degree meeting the course requirements of section 2(c) of this rule shall only be required to obtain two (2) years of work experience;

(2) individuals with a master of science degree in an engineering discipline following a baccalaureate which is not in an approved engineering curriculum shall only be required to obtain one (1) year of work experience; and

(3) individuals with the other degrees listed in section 2(b) of this rule shall not be required to obtain any work experience.

(b) An individual who is enrolled as a senior in an engineering curriculum in a college or university **in Indiana,** which has at least one (1) approved engineering curriculum may take the last EI examination offered on the individual's campus prior to the individual's scheduled graduation. This subsection does not apply to any individual enrolled in any other ~~bachelor of science~~ **baccalaureate** degree program. *(State Board of Registration for Professional Engineers; Rule 2, Sec 4; filed Feb 29, 1980, 3:40 p.m.: 3 IR 628; filed Oct 17, 1986, 2:20 p.m.: 10 IR 438; errata filed Mar 8, 1990, 5:00 p.m.: 13 IR 1189 voided by the attorney general filed Apr 18, 1990: 13 IR 1863; errata filed Dec 20, 1990, 5:00 p.m.: 14 IR 1071; 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 2105, eff Jul 4, 1995; readopted filed Jun 21, 2001, 9:01 a.m.: 24 IR 3824; filed Sep 23, 2002, 9:59 a.m.: 26 IR 380, eff Dec 1, 2002)*

SECTION 3. 864 IAC 1.1-12-1 IS AMENDED TO READ AS FOLLOWS:

864 IAC 1.1-12-1 Fees charged by board

Authority: IC 25-31-1-7; IC 25-31-1-8
Affected: IC 25-31-1

Sec. 1. The board shall charge and collect the following fees, which shall all be nonrefundable and nontransferable:

(1) For review of an application for examination for ~~registration~~ **certification** as ~~a professional engineer other than comity ten~~ **an engineering intern, one hundred** dollars ~~($10).~~ **($100).**

(2) For review of an application for examination for registration as a professional engineer, three hundred dollars ($300).

~~(2)~~ **(3)** For the examination or reexamination of any applicant under the Act: ~~fifty dollars ($50).~~

(A) fundamental of engineering examination, one hundred dollars ($100); and

(B) principles and practice of engineering examination, one hundred fifty dollars ($150).

~~(3)~~ **(4)** For the processing and review of qualifications for registration as a professional engineer by comity, ~~fifty~~ **five hundred** dollars ~~($50).~~ **($500).**

~~(4)~~ **(5)** For issuance of the original certificate to practice as a professional engineer following passage of the examination or approval for registration on the basis of comity:

(A) when the certificate is dated between August 1 of an odd-numbered year and July 31 of the following even-numbered year, inclusive, ~~ten~~ **fifty** dollars ~~($10);~~ **($50);** and

(B) when the certificate is dated between August 1 of an even-numbered year and July 31 of the following odd-numbered year, inclusive, ~~twenty~~ **one hundred** dollars ~~($20).~~ **($100).**

~~(5)~~ **(6)** For biennial renewal of the certificate to practice as a professional engineer, ~~twenty~~ **one hundred** dollars ~~($20)~~ **($100)** payable prior to July 31 of each even-numbered year.

~~(6)~~ **(7)** For renewal of an expired certificate to practice as a professional engineer, ~~ten~~ **fifty** dollars ~~($10),~~ **($50),** plus all unpaid renewal fees for the four (4) years of delinquency. A certificate may not be renewed after four (4) years of delinquency.

~~(7)~~ **(8)** For a duplicate or replacement certificate to practice as a professional engineer, ten dollars ($10).

~~(8)~~ **(9)** For **an applicant for engineering intern under 864 IAC 1.1-2-4(b) for review of the application,** examination, and enrollment as an ~~EI, twenty~~ **engineering intern, fifty** dollars ~~($20).~~ **($50).**

~~(9)~~ **(10)** The fee shall be ~~fifty~~ **one hundred** dollars ~~($50)~~ **($100)** for the proctoring of examinations taken in this state for purposes of registration in other states. This fee shall be in addition to the examination fee.

(State Board of Registration for Professional Engineers; Rule 12, Sec 1; filed Feb 29, 1980, 3:40 p.m.: 3 IR 637; filed Oct 14, 1981, 1:30 p.m.: 4 IR 2459; filed Oct 17, 1986, 2:20 p.m.: 10

IR 442; errata, 10 IR 445; filed Sep 24, 1992, 9:00 a.m.: 16 IR 735; filed Mar 28, 1995, 2:00 p.m.: 18 IR 2111; filed Jun 14, 1996, 3:00 p.m.: 19 IR 3109; readopted filed Jun 21, 2001, 9:01 a.m.: 24 IR 3824; filed Sep 23, 2002, 9:59 a.m.: 26 IR 380, eff Dec 1, 2002)

SECTION 4. **SECTIONS 1 through 3 of this document take effect December 1, 2002.**

LSA Document #01-405(F)
Notice of Intent Published: 25 IR 834
Proposed Rule Published: June 1, 2002; 25 IR 2848
Hearing Held: July 18, 2002
Approved by Attorney General: September 3, 2002
Approved by Governor: September 17, 2002
Filed with Secretary of State: September 23, 2002, 9:59 a.m.
Incorporated Documents Filed with Secretary of State: None

TITLE 50 DEPARTMENT OF LOCAL GOVERNMENT FINANCE

NOTE: Under IC 6-1.1-31-1, the name of the State Board of Tax Commissioners is changed to Department of Local Government Finance, effective January 1, 2002.

LSA Document #00-283(AC)

Under IC 4-22-2-38, corrects the following typographical, clerical, or spelling errors in LSA Document #00-283(F), printed at 25 IR 4048:

(1) In 50 IAC 14-4-1(b), on page 2 of the original document (25 IR 4048), delete "Rule 14-6" and insert "50 IAC 14-6".

(2) In 50 IAC 14-6-1(b), on page 4 of the original document (25 IR 4050), delete "the preceding subsection" and insert "subsection (a)".

(3) In 50 IAC 14-7-1(b), on page 4 of the original document (25 IR 4050), delete "the preceding subsection" and insert "subsection (a)".

Filed with Secretary of State: September 27, 2002, 10:25 a.m.

Under IC 4-22-2-38(g)(2), this correction takes effect 45 days from date and time filed with the Secretary of State.

TITLE 50 DEPARTMENT OF LOCAL GOVERNMENT FINANCE

NOTE: Under IC 6-1.1-31-1, the name of the State Board of Tax Commissioners is changed to Department of Local Government Finance, effective January 1, 2002.

LSA Document #01-367(AC)

Under IC 4-22-2-38, corrects the following typographical, clerical, or spelling errors in LSA Document #01-367(F), printed at 26 IR 326:

In 50 IAC 3.2-2-6, on page 2 of the original document (26 IR 326), delete "and dated January 1, 2002" and insert "50 IAC 2.3-1-1(c)".

Filed with Secretary of State: September 27, 2002, 10:23 a.m.

Under IC 4-22-2-38(g)(2), this correction takes effect 45 days from the date and time filed with the Secretary of State.

NOTE: This change was incorporated into the printed version of LSA Document #01-367(F) and may be found at 26 IR 326, as corrected.

TITLE 71 INDIANA HORSE RACING COMMISSION

LSA Document #02-251(PC)

Under IC 4-22-8-4(c), corrects the following clerical error in LSA Document #02-251(E), printed at 26 IR 58:

In 71 IAC 12-2-19, in the history line, at 26 IR 59, after "filed Aug 22, 2002, 12:41 p.m.: 26 IR 59", insert ", eff Jan 2, 2003".

Retroactively effective to the same date and time as LSA Document #02-251(E).

TITLE 170 INDIANA UTILITY REGULATORY COMMISSION

LSA Document #01-341(AC)

Under IC 4-22-2-38, corrects the following typographical, clerical, or spelling errors in LSA Document #01-341(F), printed at 25 IR 4052:

(1) In 170 IAC 7-1.2-9(d), on page 15 of the original document (25 IR 4060), after "subsections (b) and (c)", delete "of this section".

(2) In 170 IAC 7-1.2-11(2), on page 17 of the original document (25 IR 4062), after "may petition the commission for waiver of this", delete "subsection" and insert "subdivision".

(3) In 170 IAC 7-1.2-16(a)(5), on page 21 of the original document (25 IR 4064), after "encounter a busy", insert "signal".

Filed with Secretary of State: October 8, 2002, 12:36 p.m.

Under IC 4-22-2-38(g)(2), this correction takes effect 45 days from date and time filed with the Secretary of State.

TITLE 170 INDIANA UTILITY REGULATORY COMMISSION

LSA Document #01-342(AC)

Under IC 4-22-2-38, corrects the following typographical, clerical, or spelling errors in LSA Document #01-342(F), printed at 25 IR 4066:

(1) In 170 IAC 7-1.3-1(a), on page 1 of the original document (25 IR 4066), after "Sections 3 through 7 and", delete "sections".

(2) In 170 IAC 7-1.3-3(i)(6), on page 6 of the original document (25 IR 4069), delete "IC 32-9-1.5-20(c)(1)" and insert "IC 32-34-1-20(c)".

Filed with Secretary of State: October 8, 2002, 12:54 p.m.

Under IC 4-22-2-38(g)(2), this correction takes effect 45 days from date and time filed with the Secretary of State.

TITLE 312 NATURAL RESOURCES COMMISSION

LSA Document #01-361(AC)

Under IC 4-22-2-38, corrects the following typographical, clerical, or spelling errors in LSA Document #01-361(F), printed at 25 IR 4074:

(1) In 312 IAC 22.5-1-6(2), on page 2 of the original document (25 IR 4075), after "An agency,", insert "a".

(2) In 312 IAC 22.5-2-2(b)(1), on page 2 of the original document (25 IR 4075), delete "IC 8-1-2(a)" and insert "IC 8-1-2-1(a)".

(3) In 312 IAC 22.5-2-3(2), on page 3 of the original document (25 IR 4075), after "includes", insert "the following".

(4) In 312 IAC 22.5-2-3(3)(D), on page 3 of the original document (25 IR 4075), after "through", insert "the following".

Filed with Secretary of State: September 11, 2002, 2:00 p.m.

Under IC 4-22-2-38(g)(2), this correction takes effect 45 days from date and time filed with the Secretary of State.

TITLE 326 AIR POLLUTION CONTROL BOARD

LSA Document #00-267(AC)

Under IC 4-22-2-38, corrects the following typographical, clerical, or spelling errors in LSA Document #00-267(F), printed at 25 IR 1549:

(1) In 326 IAC 6-1-1(a)(2), on page 25 of the original document (25 IR 1598), after "one hundred (100) tons or more,", insert "or".

(2) In 326 IAC 6-1-1(a)(2), on page 25 of the original document (25 IR 1598), after "ten (10) tons or more,", delete ",".

Filed with Secretary of State: October 2, 2002, 9:11 a.m.

Under IC 4-22-2-38(g)(2), this correction takes effect 45 days from the date and time filed with the Secretary of State.

TITLE 405 OFFICE OF THE SECRETARY OF FAMILY AND SOCIAL SERVICES

Under IC 4-22-2-38, corrects the following typographical, clerical, and spelling errors in the Indiana Administrative Code, 2001 edition:

(1) In 405 IAC 4-1-1, in the Authority line, delete "IC 16-32-2-8" and insert "IC 5-22-13-1".

(2) In 405 IAC 4-1-1, in the Affected line, delete "IC 16-32-2-8" and insert "IC 5-22-13; IC 16-32-2".

(3) In 405 IAC 4-1-1, delete "IC 16-32-2-8" and insert "IC 5-22-13-1".

Filed with Secretary of State: October 1, 2002, 3:32 p.m.

Under IC 4-22-2-38(g)(2), this correction takes effect 45 days from the date and time filed with the Secretary of State.

TITLE 407 OFFICE OF THE CHILDREN'S HEALTH INSURANCE PROGRAM

LSA Document #02-85(AC)

Under IC 4-22-2-38, corrects the following clerical error in LSA Document #02-85(F), printed at 25 IR 4102:

In 407 IAC 2-3-1(a), on page 2 of the original document (25 IR 4103), after "described", delete "in".

Filed with Secretary of State: September 26, 2002, 11:42 a.m.

Under IC 4-22-2-38(g)(2), this correction takes effect 45 days from date and time filed with the Secretary of State.

TITLE 655 BOARD OF FIREFIGHTING PERSONNEL STANDARDS AND EDUCATION

LSA Document #00-302(PC)

Under IC 4-22-8-4(c), corrects the following clerical error in LSA Document #00-302(F), printed at 25 IR 203:

Delete references to "655 IAC 1, 655 IAC 3, 655 IAC 4", and insert "655 IAC 1-1, 655 IAC 1-3, and 655 IAC 1-4".

Retroactively effective to the same date and time as LSA Document #00-302(F).

TITLE 828 STATE BOARD OF DENTISTRY

LSA Document #02-113(AC)

Under IC 4-22-2-38, corrects the following clerical error in LSA Document #02-113(F), printed at 26 IR 373:

In 828 IAC 1-3-1.1(b)(3), on page 1 of the original document (26 IR 374), after "dental", delete "hygiene".

Filed with Secretary of State: September 27, 2002, 2:59 p.m.

Under IC 4-22-2-38(g)(2), this correction takes effect 45 days from the date and time filed with the Secretary of State.

NOTE: This change was incorporated into the printed version of LSA Document #02-113(F) and may be found at 26 IR 373, as corrected.

TITLE 405 OFFICE OF THE SECRETARY OF FAMILY AND SOCIAL SERVICES

LSA Document #02-50

Under IC 4-22-2-40, LSA Document #02-50, as adopted on August 13, 2002, reflecting a nine hundred fifty dollar ($950) copayment, is recalled. The proposed rule is printed at 25 IR 2556. Subsequently, the agency adopted LSA Document #02-50, as proposed on September 5, 2002, reflecting a six hundred dollar ($600) copayment. The subsequent rule adoption, reflecting a six hundred dollar ($600) copayment, is not being recalled.

TITLE 405 OFFICE OF THE SECRETARY OF FAMILY AND SOCIAL SERVICES

LSA Document #02-140

Under IC 4-22-2-40, LSA Document #02-140, printed at 25 IR 3822, is recalled.

TITLE 65 STATE LOTTERY COMMISSION

LSA Document #02-283(E)

DIGEST

Temporarily adds rules concerning pull-tab game number 046. Effective September 27, 2002.

SECTION 1. **The name of this pull-tab game is "Pull-Tab Game Number 046, Money Bags".**

SECTION 2. **Pull-tab tickets for pull-tab game number 046 shall sell for twenty-five cents ($0.25) per ticket.**

SECTION 3. **Pull-tab game number 046 is a match 3 game.**

SECTION 4. **A pull-tab ticket in pull-tab game number 046 shall contain nine (9) play symbols and play symbol captions arranged in a matrix of three (3) rows and three (3) columns. Each row shall be covered by a tab. The play symbols and play symbol captions in pull-tab game number 046 shall consist of the following possible play symbols:**

(1) A picture of a money bag
MONEY BAG
(2) A picture of a wallet
WALLET
(3) A picture of a money clip
MONEY CLIP
(4) A picture of cash
CASH
(5) A picture of a piggy bank
PIGGY BANK
(6) A picture of a stock certificate
STOCK
(7) A picture of a cash register
CASH REGISTER

SECTION 5. **A row on a pull-tab ticket in pull-tab game number 046 which contains three (3) identical play symbols is not a match 3 winning row unless all of the following are true:**

(1) The play symbols and play symbol captions in the row are consistent with those specified in SECTION 4 of this rule *[document]***.**
(2) The three (3) play symbols and play symbol captions in the row are bisected by a red arrow.
(3) The prize amount appears on the left side of the row in red ink on a yellow box.

SECTION 6. **Subject to SECTION 5 of this rule** *[document]***, the holder of a valid pull-tab ticket for pull-tab game number 046 containing a match 3 winning row is entitled to a prize the amount and the approximate number of which are as follows for each two million (2,000,000) pull-tab tickets in pull-tab game number 046:**

Matching Play Symbol in Match 3 Winning Row	Prize Amount	Approximate Number of Prizes
3 cash	$ 0.25	289,836
3 money clips	$ 1.00	71,712
3 wallets	$ 5.00	5,976
3 money bags	$50.00	4,465

SECTION 7. **A total of approximately two million (2,000,000) pull-tab tickets will be initially available for pull-tab game number 046. The odds of winning a prize in pull-tab game 046 are approximately 1 in 5.42. If additional pull-tab tickets are made available for this pull-tab game, the approximate number of each prize shall increase proportionally.**

SECTION 8. **The last day to claim prizes in pull-tab game number 046 shall be sixty (60) days after the end of the game. Game end dates are available on the commission's Web site at www.hoosierlottery.com or may be obtained through the commission's toll free customer service number or from any pull-tab retailer.**

LSA Document #02-283(E)
Filed with Secretary of State: September 27, 2002, 2:05 p.m.

TITLE 65 STATE LOTTERY COMMISSION

LSA Document #02-284(E)

DIGEST

Temporarily adds rules concerning pull-tab game number 047. Effective September 27, 2002.

SECTION 1. **The name of this pull-tab game is "Pull-Tab Game Number 047, Diamond 7's".**

SECTION 2. **Pull-tab tickets for pull-tab game number 047 shall sell for fifty cents ($0.50) per ticket.**

SECTION 3. **Pull-tab game number 047 is a criss-cross game.**

SECTION 4. **A pull-tab ticket in pull-tab game number 047 shall contain fifteen (15) play symbols and play symbol captions arranged in a matrix of five (5) rows and three (3) columns. Each row shall be covered by a tab. The play symbols and play symbol captions in pull-tab game number 047 shall consist of the following possible play symbols:**

(1) A picture of a seven with a diamond
SEVEN

(2) A picture of a bar
BAR
(3) A picture of a horseshoe
HORSESHOE
(4) A picture of a bell
BELL
(5) A picture of a diamond
DIAMOND
(6) A picture of an orange
ORANGE
(7) A picture of a plum
PLUM
(8) A picture of a lime
LIME

SECTION 5. **A row, column, or diagonal on a pull-tab ticket in pull-tab game number 047 which contains three (3) identical play symbols is not a criss-cross winning combination unless all of the following are true:**

(1) The play symbols and play symbol captions in the line are consistent with those specified in SECTION 4 of this rule *[document]***.**

(2) The three (3) play symbols and play symbol captions in the line are bisected by a red arrow.

(3) The prize amount appears on the left side of the line in red ink on a yellow box.

SECTION 6. **Subject to SECTION 5 of this rule** *[document]***, the holder of a valid pull-tab ticket for pull-tab game number 047 containing a criss-cross winning combination is entitled to a prize the amount and the approximate number of which are as follows for each one million five hundred thousand (1,500,000) pull-tab tickets in pull-tab game number 047:**

Matching Play Symbols in Criss-Cross Winning Combinations	Prize Amoun *[sic., Amount]*	Approximate Number of Prizes
3 diamonds	$0.50	188,244
3 bellls *[sic.]*	$1.00	17,928
3 horseshoes	$7.00	4,482
3 bars	$27.00	2,241
3 sevens	$127	2,241

SECTION 7. **A total of approximately one million five hundred thousand (1,500,000) pull-tab tickets will be initially available for pull-tab game number 047. The odds of winning a prize in pull-tab game 047 are approximately 1 in 7.00. If additional pull-tab tickets are made available for this pull-tab game, the approximate number of each prize shall increase proportionally.**

SECTION 8. **The last day to claim prizes in pull-tab game number 047 shall be sixty (60) days after the end of the game. End of game dates are available at any retailer location, on the commission's Web site at www.hoosierlottery.com, and via the commission's customer service center which can be contacted toll-free at 1-800-955-6886.**

LSA Document #02-284(E)
Filed with Secretary of State: September 27, 2002, 2:06 p.m.

TITLE 65 STATE LOTTERY COMMISSION

LSA Document #02-285(E)

DIGEST

Temporarily adds rules concerning pull-tab game number 048. Effective September 27, 2002.

SECTION 1. **The name of this pull-tab game is "Pull-Tab Game Number 048, AmeriCash".**

SECTION 2. **Pull-tab tickets for pull-tab game number 048 shall sell for fifty cents ($0.50) per ticket.**

SECTION 3. **Pull-tab game number 048 is a criss-cross game.**

SECTION 4. **A pull-tab ticket in pull-tab game number 048 shall contain fifteen (15) play symbols and play symbol captions arranged in a matrix of five (5) rows and three (3) columns. Each row shall be covered by a tab. The play symbols and play symbol captions in pull-tab game number 048 shall consist of the following possible play symbols:**

(1) A picture of a coin with an eagle
SILVER
(2) A picture of a dollar sign
DOLLAR
(3) A picture of a money bag
MONEY BAG
(4) A picture of a bar
BAR
(5) A picture of stacks of bills
MONEY
(6) A picture of credit cards
CREDIT
(7) A picture of a pyramid
PYRAMID
(8) A picture of an IRS letter
TAXES

SECTION 5. **A row, column, or diagonal on a pull-tab ticket in pull-tab game number 048 which contains three (3) play symbols in a combination set forth in SECTION 6 of this rule** *[document]* **is not a criss-cross winning combination unless all of the following are true:**

(1) The play symbols and play symbol captions in the line are consistent with those specified in SECTION 4 of this rule *[document]***.**
(2) The three (3) play symbols and play symbol captions in the line are bisected by a red arrow.
(3) The prize amount appears on the left side of the line in red ink on a yellow box.

SECTION 6. **Subject to SECTION 5 of this rule** *[document]***, the holder of a valid pull-tab ticket for pull-tab game number 048 containing a criss-cross winning combination is entitled to a prize the amount and the approximate number of which are as follows for each one million five hundred thousand (1,500,000) pull-tab tickets in pull-tab game number 048:**

Matching Play Symbols in Criss-Cross Winning Combinations	Prize Amoun *[sic., Amount]*	Approximate Number of Prizes
2 SILVERs + 1 MONEY	$0.50	188,244
2 SILVERs + 1 BAR	$1.00	38,097
2 SILVERs + 1 MONEY	$3.00	13,446
2 SILVERs + 1 DOLLAR	$20.00	4,482
3 SILVERs	$100	2,241

SECTION 7. **A total of approximately one million five hundred thousand (1,500,000) pull-tab tickets will be initially available for pull-tab game number 048. The odds of winning a prize in pull-tab game 048 are approximately 1 in 6.11. If additional pull-tab tickets are made available for this pull-tab game, the approximate number of each prize shall increase proportionally.**

SECTION 8. **The last day to claim prizes in pull-tab game number 048 shall be sixty (60) days after the end of the game. End of game dates are available at any retailer location, on the commission's Web site at www.hoosierlottery.com, and via the commission's customer service center which can be contacted toll-free at 1-800-955-6886.**

LSA Document #02-285(E)
Filed with Secretary of State: September 27, 2002, 2:07 p.m.

TITLE 65 STATE LOTTERY COMMISSION

LSA Document #02-286(E)

DIGEST

Temporarily adds rules concerning pull-tab game number 049. Effective September 27, 2002.

SECTION 1. **The name of this pull-tab game is "Pull-Tab Game Number 049, Roulette".**

SECTION 2. **Pull-tab tickets for pull-tab game number 049 shall sell for one dollar ($1.00) per ticket.**

SECTION 3. **Pull-tab game number 049 is a criss-cross game.**

SECTION 4. **A pull-tab ticket in pull-tab game number 049 shall contain fifteen (15) play symbols and play symbol captions arranged in a matrix of five (5) rows and three (3) columns. Each row shall be covered by a tab. The play symbols and play symbol captions in pull-tab game number 049 shall consist of the following possible play symbols:**
(1) A picture of a roulette wheel
WHEEL
(2) A picture of a "7" on a roulette wheel
SEVEN
(3) A picture of a fist full of cash
CASH
(4) A picture of an "11" on a roulette wheel
ELEVEN
(5) A picture of a stack of chips
CHIPS
(6) A picture of two (2) cards
CARDS
(7) A picture of a pair of dice
DICE
(8) A picture of a slot machine
SLOTS

SECTION 5. **A row, column, or diagonal on a pull-tab ticket in pull-tab game number 049 which contains three (3) play symbols in a combination set forth in SECTION 6 of this rule** *[document]* **is not a criss-cross winning combination unless all of the following are true:**
(1) The play symbols and play symbol captions in the line are consistent with those specified in SECTION 4 of this rule *[document]***.**
(2) The three (3) play symbols and play symbol captions in the line are bisected by a red arrow.
(3) The prize amount appears on the left side of the line in red ink on a yellow box.

SECTION 6. **Subject to SECTION 5 of this rule** *[document]***, the holder of a valid pull-tab ticket for pull-tab game number 049 containing a criss-cross winning combination is entitled to a prize the amount and the approximate number of which are as follows for each one million (1,000,000) pull-tab tickets in pull-tab game number 049:**

Matching Play Symbols in Criss-Cross Winning Combinations	Prize Amoun *[sic., Amount]*	Approximate Number of Prizes
2 WHEELs + 1 CHIPS	$1.00	165,834
2 WHEELs + 1 ELEVEN	$5.00	13,446

2 WHEELs + 1 CASH	**$10.00**	**4,482**
2 WHEELs + 1 SEVEN	**$25.00**	**2,988**
3 WHEELs	**$200**	**4,465**

SECTION 7. **A total of approximately one million (1,000,000) pull-tab tickets will be initially available for pull-tab game number 049. The odds of winning a prize in pull-tab game 049 are approximately 1 in 5.33. If additional pull-tab tickets are made available for this pull-tab game, the approximate number of each prize shall increase proportionally.**

SECTION 8. **The last day to claim prizes in pull-tab game number 049 shall be sixty (60) days after the end of the game. End of game dates are available at any retailer location, on the commission's Web site at www.hoosierlottery.com, and via the commission's customer service center which can be contacted toll-free at 1-800-955-6886.**

LSA Document #02-286(E)
Filed with Secretary of State: September 27, 2002, 2:08 p.m.

TITLE 65 STATE LOTTERY COMMISSION

LSA Document #02-288(E)

DIGEST

Temporarily adds rules concerning instant game number 610. Effective October 4, 2002.

SECTION 1. **The name of this instant game is "Instant Game Number 610, Winning Numbers".**

SECTION 2. **Instant tickets in instant game number 610 shall sell for one dollar ($1) per ticket.**

SECTION 3. **(a) Each instant ticket in instant game number 610 shall contain ten (10) play symbols and play symbol captions in the game play data area all concealed under a large spot of latex material. Ten (10) play symbols and play symbol captions shall appear in the "YOUR NUMBERS" area arranged in pairs representing numbers and prize amounts. One (1) play symbol and play symbol caption representing a number shall appear in the box labeled "WINNING NUMBER".**

(b) The play symbols and play symbol captions, other than those representing prize amounts, shall consist of the following possible play symbols and play symbol captions:

(1) 1
ONE
(2) 2
TWO
(3) 3
THR
(4) 4
FOR
(5) 5
FIV
(6) 6
SIX
(7) 7
SVN
(8) 8
EGT
(9) 9
NIN
(10) 10
TEN

(c) The play symbols representing prize amounts shall consist of the following possible play symbols:

(1) $1.00
ONE
(2) $2.00
TWO
(3) $5.00
FIVE
(4) $10.00
TEN
(5) $20.00
TWENTY
(6) $25.00
TWY FIVE
(7) $50.00
FIFTY
(8) $100
ONE HUN
(9) $1,000
ONE THOU

SECTION 4. **The holder of a ticket in instant game number 610 shall remove the latex material covering the eleven (11) play symbols and play symbol captions. If one (1) or more play symbols and play symbol captions in the "YOUR NUMBERS" area match the play symbol and play symbol caption in the "WINNING NUMBER" area, the holder is entitled to a prize of the paired prize amounts. A holder may win up to five (5) times on a ticket. The prize amounts and number of winners in instant game number 610 are as follows:**

Number of Matches and Matched Prize Amounts	Total Prize Amount	Approximate Number of Winners
1–$1.00	**$1**	**503,200**
2–$1.00	**$2**	**136,000**
1–$2.00	**$2**	**108,800**

3–$1.00	**$3**	**27,200**
1–$5.00	**$5**	**40,800**
5–$2.00	**$10**	**27,200**
2–$5.00	**$10**	**13,600**
1–$10.00	**$10**	**13,600**
2–$5.00 + 1–$10.00	**$20**	**6,800**
2–$10.00	**$20**	**6,800**
5–$5.00	**$25**	**1,275**
1–$25.00	**$25**	**1,275**
1–$10.00 + 2–$20.00	**$50**	**425**
2–$25.00	**$50**	**425**
1–$50.00	**$50**	**425**
1–$100	**$100**	**1,020**
1–$1,000	**$1,000**	**68**

SECTION 5. **(a) There shall be approximately four million (4,000,000) instant tickets initially available in instant game number 610.**

(b) The odds of winning a prize in instant game number 610 are approximately 1 in 4.59.

(c) All reorders of tickets for instant game number 610 shall have the same:
(1) prize structure;
(2) number of prizes per prize pool of two hundred forty thousand (240,000); and
(3) odds;
as contained in the initial order.

SECTION 6. **The last day to claim a prize in instant game number 610 is October 31, 2003.**

SECTION 7. **SECTIONS 1 through 6 of this document expire November 30, 2003.**

LSA Document #02-288(E)
Filed with Secretary of State: October 4, 2002, 10:55 a.m.

TITLE 65 STATE LOTTERY COMMISSION

LSA Document #02-289(E)

DIGEST

Temporarily adds rules concerning instant game number 611. Effective October 4, 2002.

SECTION 1. **The name of this instant game is "Instant Game Number 611, Deuces are Wild".**

SECTION 2. **Instant tickets in instant game number 611 shall sell for one dollar ($1) per ticket.**

SECTION 3. **(a) Each instant ticket in instant game number 611 shall contain twelve (12) play symbols and play symbol captions in the game play data area all concealed under a large spot of latex material. Two (2) play symbols and play symbol captions shall appear in the area labeled "DRAW CARDS". Ten (10) play symbols and play symbol captions shall be in the area labeled "YOUR CARDS" and shall be arranged in pairs representing playing cards and prize amounts.**

(b) The play symbols and play symbol captions appearing in the instant game number 611, other than those representing prize amounts, shall consist of the following possible play symbols and play symbol captions:
(1) A picture representing a playing card with the number 2
TWO WIN
(2) A picture representing a playing card with the number 3
THR
(3) A picture representing a playing card with the number 4
FOR
(4) A picture representing a playing card with the number 5
FIV
(5) A picture representing a playing card with the number 6
SIX
(6) A picture representing a playing card with the number 7
SVN
(7) A picture representing a playing card with the number 8
EGT
(8) A picture representing a playing card with the number 9
NIN
(9) A picture representing a playing card with the number 10
TEN
(10) A picture representing a playing card with the letter J
JCK
(11) A picture representing a playing card with the letter Q
QUN
(12) A picture representing a playing card with the letter K
KNG
(13) A picture representing a playing card with the letter A
ACE

(c) The play symbols and play symbol captions represent-

ing prize amounts in instant game number 611 shall consist of the following possible play symbols and play symbol captions:

(1) $1.00
ONE
(2) $2.00
TWO
(3) $4.00
FOUR
(4) $5.00
FIVE
(5) $10.00
TEN
(6) $20.00
TWENTY
(7) $25.00
TWY FIVE
(8) $50.00
FIFTY
(9) $500
FIVE HUN
(10) $2,000
TWO THOU

SECTION 4. **The holder of a ticket in instant game number 611 shall remove the latex material covering the twelve (12) play symbols and play symbol captions. If one (1) or more of "YOUR CARDS" match either of the "DRAW CARDS", the holder is entitled to the prize amount paired with the matched number. If a play symbol representing a playing card with the number two (2) is revealed the holder is automatically entitled to the paired prize. A player may win up to five (5) times on a ticket. The number of matched play symbols, associated prize play symbols, total prize amounts, and approximate number of winners are as follows:**

Number of Matched Play Symbols and Associated Prize Play Symbols	Total Prize Amount	Approximate Number of Winners
1–$1.00	$1	693,600
2–$1.00	$2	68,000
1–$2.00	$2	54,400
3–$1.00	$3	13,600
1–$5.00	$5	54,400
5–$2.00	$10	13,600
2–$5.00	$10	13,600
1–$10.00	$10	13,600
3–$5.00	$15	13,600
5–$4.00	$20	6,800
2–$5.00 + 1–$10.00	$20	3,400
1–$20.00	$20	3,400
5–$5.00	$25	1,275
1–$25.00	$25	1,275
5–$10.00	$50	1,275
2–$25.00	$50	340
1–$50.00	$50	340
1–$500	$500	119
1–$2,000	$2,000	17

SECTION 5. **(a) There shall be approximately four million (4,000,000) instant tickets initially available in instant game number 611.**

(b) The odds of winning a prize in instant game number 611 are approximately 1 in 4.26.

(c) All reorders of tickets for instant game number 611 shall have the same:
(1) prize structure;
(2) number of prizes per prize pool of two hundred forty thousand (240,000); and
(3) odds;
as contained in the initial order.

SECTION 6. **The last day to claim a prize in instant game number 611 is October 31, 2003.**

SECTION 7. **SECTIONS 1 through 6 of this document expire November 30, 2003.**

LSA Document #02-289(E)
Filed with Secretary of State: October 4, 2002, 10:56 a.m.

TITLE 65 STATE LOTTERY COMMISSION

LSA Document #02-290(E)

DIGEST

Temporarily adds rules concerning instant game number 612. Effective October 4, 2002.

SECTION 1. **The name of this instant game is "Instant Game Number 612, Ace in the Hole".**

SECTION 2. **Instant tickets in instant game number 612 shall sell for two dollars ($2) per ticket.**

SECTION 3. **(a) Each instant ticket in instant game number 612 shall contain thirty (30) play symbols and play symbol captions in the game play data area all concealed under a large spot of latex material. There shall be ten (10) separate and independent games labeled "GAME 1", "GAME 2", "GAME 3", "GAME 4", "GAME 5", "GAME 6", "GAME 7", "GAME 8", "GAME 9", and "GAME 10", respectively. Each game shall contain one (1) play symbol and play symbol caption representing a playing card in the**

area labeled YOURS and shall contain one (1) play symbol and play symbol caption representing a playing card in the area labeled DEALER'S. Each game shall contain a play symbol and play symbol caption representing a prize.

(b) The play symbols and play symbol captions, other that *[sic.]* those representing prize amounts, shall consist of the following possible play symbols and play symbol captions:

(1) 2 TWO

(2) 3 THR

(3) 4 FOR

(4) 5 FIV

(5) 6 SIX

(6) 7 SVN

(7) 8 EGT

(8) 9 NIN

(9) 10 TEN

(10) J JCK

(11) Q QUN

(12) K KNG

(13) A DBL

(c) The play symbols and play symbol captions of prize amounts shall consist of the following possible play symbols and play symbol captions:

(1) $2.00
TWO
(2) $3.00
THREE
(3) $4.00
FOUR
(4) $5.00
FIVE
(5) $10.00
TEN
(6) $15.00
FIFTEEN
(7) $20.00
TWENTY
(8) $25.00
TWY FIVE
(9) $50.00
FIFTY
(10) $100
ONE HUN
(11) $1,000
ONE THOU
(12) $15,000
FIN THOU

SECTION 4. **(a) The holder of an instant ticket in instant game number 612 shall remove the latex material covering the thirty (30) play symbols and play symbol captions. If the play symbol and play symbol caption exposed in the "YOURS" area has a higher value than the play symbol and play symbol caption exposed in the "DEALER'S" area, the holder is entitled to the corresponding prize amount for that game. If a play symbol representing a picture of an "ACE" is exposed in the "YOURS" area, the holder is entitled to double the corresponding prize amount. Play symbols and play symbol captions representing playing cards are valued in descending order with aces as the high cards and face cards valued at ten (10).**

(b) The number of winning plays and the associated prize amount play symbols, total prize amounts, and approximate number of winners in instant game number 612 are as follows:

Number of Winning Games and Play Symbols	Total Prize Amount	Approximate Number of Winners
1–$2.00	$2	180,000
1–$3.00	$3	144,000
1–$2.00 with Ace	$4	162,000
1–$4.00	$4	90,000
1–$2.00 + 1–$3.00	$5	54,000
1–$5.00	$5	54,000
5–$2.00	$10	36,000
2–$5.00	$10	9,000
1–$5.00 with Ace	$10	9,000
1–$10.00	$10	18,000

1–$5.00 + 1–$5.00 with Ace	**$15**	**18,000**
1–$15.00	**$15**	**18,000**
10–$2.00	**$20**	**9,000**
4–$5.00	**$20**	**9,000**
1–$20.00	**$20**	**9,000**
10–$5.00	**$50**	**2,250**
5–$10.00	**$50**	**2,250**
1–$50	**$50**	**2,250**
5–$10.00 + 1–$50.00	**$100**	**240**
10–$10.00	**$100**	**240**
1–$100	**$100**	**240**
2–$25.00 + 1–$50.00 + 4 – $100	**$500**	**12**
10–$100	**$1,000**	**8**
1–$1,000	**$1,000**	**8**
1–$15,000	**$15,000**	**7**

SECTION 5. **(a) There shall be approximately three million six hundred thousand (3,600,000) instant tickets initially available in instant game number 612.**

(b) The odds of winning a prize in instant game number 612 are approximately 1 in 4.36.

(c) All reorders of tickets for instant game number 612 shall have the same:
(1) prize structure;
(2) number of prizes per prize pool of one hundred twenty thousand (120,000); and
(3) odds
as contained in the initial order.

SECTION 6. **The last day to claim a prize in instant game number 612 is October 31, 2002.**

SECTION 7. **SECTIONS 1 through 6 of this document expire on November 30, 2002.**

LSA Document #02-290(E)
Filed with Secretary of State: October 4, 2002, 10:57 a.m.

TITLE 65 STATE LOTTERY COMMISSION

LSA Document #02-291(E)

DIGEST

Temporarily adds rules concerning instant game number 619. Effective October 4, 2002.

SECTION 1. **The name of this instant game is "Instant Game Number 619, Double Diamonds".**

SECTION 2. **Instant tickets in instant game number 619 shall sell for two dollars ($2) per ticket.**

SECTION 3. **(a) Each instant ticket in instant game number 619 shall contain twenty-two (22) play symbols and play symbol captions in the game play data area all concealed under a large spot of latex material. Two (2) play symbols and play symbol captions shall appear in the area labeled "WINNING NUMBERS". Twenty (20) play symbols and play symbol captions shall appear in the area labeled "YOUR NUMBERS" arranged in pairs representing numbers or pictures and prize amounts.**

(b) The play symbols and play symbol captions in instant game number 619, other than those representing prize amounts, shall consist of the following possible play symbols and play symbol captions:
(1) 1
ONE
(2) 2
TWO
(3) 3
THR
(4) 4
FOR
(5) 5
FIV
(6) 6
SIX
(7) 7
SVN
(8) 8
EGT
(9) 9
NIN
(10) 10
TEN
(11) 11
ELV
(12) 12
TLV
(13) 13
TRN
(14) 14
FRN
(15) 15
FTN
(16) 16
SXT
(17) 17
SVT
(18) 18
ETN
(19) 19
NTN

(20) 20
TWY
(21) A picture of two (2) diamonds
DBL

(c) The play symbols and play symbol captions representing prize amounts, in instant game number 619 shall consist of the following possible play symbols and play symbol captions:
(1) $2.00
TWO
(2) $3.00
THREE
(3) $4.00
FOUR
(4) $5.00
FIVE
(5) $10.00
TEN
(6) $15.00
FIFTEEN
(7) $20.00
TWENTY
(8) $25.00
TWY FIVE
(9) $50.00
FIFTY
(10) $100
ONE HUN
(11) $1,000
ONE THOU
(12) $5,000
FIVE THOU
(13) $10,000
TEN THOU

SECTION 4. **The holder of a ticket in instant game number 619 shall remove the latex material covering the twenty-two (22) play symbols and play symbol captions. If one (1) or more of "YOUR NUMBERS" match any of the "LUCKY NUMBERS", the holder is entitled to the prize amount paired with the matched number. If the play symbol of a picture of two (2) diamonds with the play symbol caption "DBL" is exposed in the "YOUR NUMBERS" area, the player is automatically entitled to a prize of two (2) times the paired prize amount. The number of matches, paired prize amount play symbols, total prize amounts, and number of winners in instant game number 619 are as follows:**

Number of Matches and Paired Prize Amount Play Symbols	Total Prize Amount	Approximate Number of Winners
1–$2.00	$2	126,000
1–$2.00 with diamonds	$4	180,000
1–$4.00	$4	162,000
1–$2.00 + 1–$3.00	$5	54,000
1–$5.00	$5	54,000
5–$2.00	$10	36,000
1–$5.00 with diamonds	$10	18,000
1–$10.00	$10	18,000
5–$3.00	$15	18,000
1–$15.00	$15	18,000
5–$5.00	$25	18,000
1–$5.00 + 1–$10.00 with diamonds	$25	9,000
1–$25.00	$25	9,000
10–$5.00	$50	450
1–$10.00 + 1–$20.00 with diamonds	$50	450
1–$50	$50	2,100
10–$10.00	$100	240
1–$100	$100	240
5–$100	$500	20
10–$100	$1,000	8
1–$1,000	$1,000	8
1–$5,000 with diamonds	$10,000	4
1–$10,000	$10,000	3

SECTION 5. **(a) There shall be approximately three million six hundred thousand (3,600,000) instant tickets initially available in instant game number 619.**

(b) The odds of winning a prize in instant game number 619 are approximately 1 in 4.98.

(c) All reorders of tickets for instant game number 619 shall have the same:
(1) prize structure;
(2) number of prizes per prize pool of one hundred twenty thousand (120,000); and
(3) odds;
as contained in the initial order.

SECTION 6. **The last day to claim a prize in instant game number 619 is November 30, 2003.**

SECTION 7. **SECTIONS 1 through 6 of this document expire December 31, 2003.**

LSA Document #02-291(E)
Filed with Secretary of State: October 4, 2002, 10:58 a.m.

TITLE 71 INDIANA HORSE RACING COMMISSION

LSA Document #02-282(E)

DIGEST

Adds 71 IAC 1-1-41.5 concerning adding the definition of an extended race meet. Adds 71 IAC 1-1.5-37.5 concerning adding

the definition of an extended race meet. Amends 71 IAC 12-2-15 concerning allocation of riverboat gambling admissions tax revenue. Amends 71 IAC 12-2-20 concerning allocation of simulcast revenue between associations. Effective September 27, 2002.

71 IAC 1-1-41.5 **71 IAC 12-2-15**
71 IAC 1-1.5-37.5 **71 IAC 12-2-20**

SECTION 1. 71 IAC 1-1-41.5 IS ADDED TO READ AS FOLLOWS:

71 IAC 1-1-41.5 "Extended race meet" defined
Authority: IC 4-31-3-9
Affected: IC 4-31; IC 4-33-12-6

Sec. 41.5. "Extended race meet" means the racing of a particular breed of horse, in a calendar year, of the following minimum number of race days:
(1) Forty (40) days on dirt only.
(2) Thirty (30) days on dirt and turf.
(3) Forty (40) days on turf only.
For the purpose of this rule, the combination of thoroughbreds and quarter horses constitute a particular breed of horse. *(Indiana Horse Racing Commission; 71 IAC 1-1-41.5; emergency rule filed Sep 27, 2002, 2:31 p.m.: 26 IR 394)*

SECTION 2. 71 IAC 1-1.5-37.5 IS ADDED TO READ AS FOLLOWS:

71 IAC 1-1.5-37.5 "Extended race meet" defined
Authority: IC 4-31-3-9
Affected: IC 4-31; IC 4-33-12-6

Sec. 37.5. "Extended race meet" means the racing of a particular breed of horse, in a calendar year, of the following minimum number of race days:
(1) Forty (40) days on dirt only.
(2) Thirty (30) days on dirt and turf.
(3) Forty (40) days on turf only.
For the purpose of this rule, the combination of thoroughbreds and quarter horses constitute a particular breed of horse. *(Indiana Horse Racing Commission; 71 IAC 1-1.5-37.5; emergency rule filed Sep 27, 2002, 2:31 p.m.: 26 IR 394)*

SECTION 3. 71 IAC 12-2-15, AS AMENDED AT 25 IR 1189, SECTION 1, IS AMENDED TO READ AS FOLLOWS:

71 IAC 12-2-15 Allocation of riverboat gambling admissions tax revenue
Authority: IC 4-31-3-9; IC 4-33-12-6
Affected: IC 4-31-11-10

Sec. 15. (a) An association must be racing live in order to be eligible to receive distributions of riverboat gambling admissions tax revenue pursuant to this section.

(b) The commission shall allocate the riverboat gambling admissions tax revenue distributed to the commission by the treasurer of state pursuant to IC 4-33-12-6 as follows:

(1) Twenty percent (20%) divided ~~equally~~ between the standardbred breed development fund**,** ~~and the~~ thoroughbred breed development fund, **and quarter horse breed development fund** as established by the commission under IC 4-31-11-10 ~~after the first one hundred thousand dollars ($100,000) is allocated to the quarter horse breed development fund.~~ **as follows:**

(A) Forty-eight (48%) to standardbred breed development.

(B) Forty-eight (48%) to thoroughbred breed development; and

(C) Four (4%) to quarter horse breed development.

(2) Forty percent (40%) to purses for the benefit of horsemen, which shall be divided equally between the standardbred purse account and the thoroughbred purse account after the first two hundred thousand dollars ($200,000) is allocated to purses for races for quarter horses. If more than one (1) track races a specific breed, purses for that breed shall be divided to the purse accounts of the tracks in question proportionally based upon the number of live race dates for that breed. To the extent practical, the revenue received under this subsection shall be distributed as purses for the benefit of horsemen in the year in which the revenue is received.

(3) In a year in which only one (1) association conducts live pari-mutuel racing, forty percent (40%) shall go to the association after the first five hundred thousand ($500,000) is distributed as follows:

(A) Two hundred thousand ($200,000) to the thoroughbred development fund.

(B) Two hundred thousand ($200,000) to the standardbred development fund.

(C) One hundred thousand ($100,000) to the quarter horse development fund.

Such revenue may be used by the association for purses, promotions, and routine operations of the race track. Provided, however, that such monies shall not be used for long term capital investment or construction.

(4) In a year in which more than one (1) association conducts live pari-mutuel racing, forty percent (40%) to the associations, which shall be divided proportionally based on the total purses, irrespective of any breed considerations, generated by each association's track and satellite facilities from the following sources:

(A) Live handle at track.

(B) Live handle at satellite facilities.

(C) Interstate simulcasting receiving handle.

(D) Interstate simulcasting sending handle.

Notwithstanding **the** above formula, in ~~a~~ **calendar** year ~~which two (2) associations conduct commission approved live racing of both thoroughbreds and standardbreds at each facility,~~ **2003,** the forty percent (40%) shall be divided equally between associations **if each association races a minimum of twenty (20) days each of both thoroughbred**

and standardbred. In calendar year 2004, one-half (½) of the forty percent (40%) shall be divided equally between associations if each association races an extended race meet of both thoroughbred and standardbred. The other half of the forty percent (40%) shall be divided proportionally based on total purses as described above.

(c) Subdivision *[Subsection]* **(b)(4) expires on December 31, 2004.** *(Indiana Horse Racing Commission; 71 IAC 12-2-15; emergency rule filed Mar 9, 1994, 2:50 p.m.: 17 IR 1629; emergency rule filed Mar 25, 1996, 10:15 a.m.: 19 IR 2090; emergency rule filed Feb 13, 1998, 10:00 a.m.: 21 IR 2423; emergency rule filed Dec 22, 1999, 4:13 p.m.: 23 IR 1113, eff Dec 15, 1999 [IC 4-22-2-37.1 establishes the effectiveness of an emergency rule upon filing with the secretary of state. LSA Document #99-269(E) was filed with the secretary of state on December 22, 1999]; readopted filed Oct 30, 2001, 11:50 a.m.: 25 IR 899; emergency rule filed Nov 29, 2001, 1:20 p.m.: 25 IR 1189; emergency rule filed Sep 27, 2002, 2:31 p.m.: 26 IR 394)*

SECTION 4. 71 IAC 12-2-20, AS ADDED AT 25 IR 1190, SECTION 4, IS AMENDED TO READ AS FOLLOWS:

71 IAC 12-2-20 Allocation of simulcast revenue between associations

Authority: IC 4-31-3-9; IC 4-31-9-10
Affected: IC 4-31-11-10; IC 4-31-11-11

Sec. 20. **(a)** In a year in which more than one (1) association conducts live pari-mutuel racing, an association that simulcasts into its track or satellite facilities a breed of horse which it does not race ~~live~~ **an extended race meet** shall share one-half (½) of its net retainage (after pari-mutuel taxes, host simulcast fees, and purses) on such wagering with any association that conducts live racing on said breed. Provided, however, that such sharing shall be limited to the track and/or any satellite facilities that are within twenty-five (25) miles of the other permit holder's track and/or satellite facilities.

(b) For the purpose of this rule, an association may race fewer than the number of days required of an extended race meet. However, such association shall share the net retainage pursuant to 71 IAC 12-2-20 *[this section]* **on simulcast revenue on the breed of horse in which it does not conduct an extended race meet. The association shall retain that portion of the one-half (½) of its net retainage in** *[subsection]* **(a) above based on the percentage of the minimum number of days constituting an extended race meet actually raced. The balance shall be shared as described in** *[subsection]* **(a) above. (Example: If twenty (20) days are raced and the minimum number to qualify as an extended race meet is thirty (30) days, then sixty-six and sixty-seven hundredths percent (66.67%) shall be retained and thirty-three and thirty-three hundredths percent (33.33%) shall be shared.)**

(c) Notwithstanding the minimum number of race days of an extended race meet, an association racing thoroughbreds and quarter horses for the first time in 2003, shall retain all simulcast revenue pursuant to this rule in 2003 by racing a minimum of twenty (20) days of thoroughbreds and quarter horses.

(d) A "race day", for purposes of this rule, shall be a minimum of eight (8) races per day for a particular breed of horse. For the purpose of this rule, the combination of thoroughbreds and quarter horses constitute a particular breed of horse. *(Indiana Horse Racing Commission; 71 IAC 12-2-20; emergency rule filed Nov 29, 2001, 1:20 p.m.: 25 IR 1190; emergency rule filed Sep 27, 2002, 2:31 p.m.: 26 IR 395)*

LSA Document #02-282(E)
Filed with Secretary of State: September 27, 2002, 2:31 p.m.

TITLE 71 INDIANA HORSE RACING COMMISSION

LSA Document #02-296(E)

DIGEST

Repeals SECTION 1 of LSA Document #02-251(E), which amended 71 IAC 12-2-15. See LSA Document #02-282(E), printed in the Indiana Register at 26 IR 394, with current amendments to 71 IAC 12-2-15. Authority: IC 4-31-3-9; IC 4-33-12-6. Effective October 10, 2002.

SECTION 1. **SECTION 1 of LSA Document #02-251(E) is repealed effective October 10, 2002.**

LSA Document #02-296(E)
Filed with Secretary of State: October 10, 2002, 10:46 a.m.

TITLE 312 NATURAL RESOURCES COMMISSION

LSA Document #02-293(E)

DIGEST

Temporarily amends 312 IAC 9-4-5 that governs annual seasons, bag limits, hunting restrictions, and shooting hours for taking geese. Establishes provisions in late winter and early spring 2002 for taking lesser snow geese and Ross's geese in support of a federal effort to control the numbers of these midcontinent light geese (MCLGs). Effective February 1, 2003.

SECTION 1. **In addition to licensing requirements under IC 14-22-7, IC 14-22-11-1, 50 CFR 20, and 50 CFR 21, a person must obtain a department permit to take a lesser**

snow goose (Anser caerulescens caerulescens) or a Ross's goose (Anser rossii) from February 1, 2003, through March 31, 2003. A person taking a goose under this SECTION is exempted from the requirements under 312 IAC 9-4-2 to register for and possess an identification number through the Harvest Information Program.

SECTION 2. **SECTION 1 of this document expires April 1, 2003.**

LSA Document #02-293(E)
Filed with Secretary of State: October 8, 2002, 12:38 p.m.

TITLE 405 OFFICE OF THE SECRETARY OF FAMILY AND SOCIAL SERVICES

LSA Document #02-278(E)

DIGEST

Temporarily amends 405 IAC 1-18-2 to specify Medicaid reimbursement methodology for Medicare cross-over claims. Temporarily repeals 405 IAC 1-18-3. Authority: IC 4-22-2-37.1; IC 12-8-1-12; Public Law 291-2001, SECTION 48. Effective September 26, 2002.

SECTION 1. 405 IAC 1-18-2, AS ADDED AT 25 IR 2476, SECTION 1, IS TEMPORARILY AMENDED TO READ AS FOLLOWS: (a) Cross-over claims filed by ~~nursing facilities~~ **Medicaid providers** are reimbursed as set out in this section.

(b) If the Medicare payment amount for a claim exceeds or equals the Medicaid allowable amount for that claim, Medicaid reimbursement will be zero (0).

(c) If the Medicaid allowable amount for a claim exceeds the Medicare payment amount for that claim, Medicaid reimbursement is the lesser of:

(1) the difference between the Medicaid allowable amount minus the Medicare payment amount; or

(2) the Medicare coinsurance and deductible, if any, for the claim.

~~(d) Cross-over claims filed by providers other than nursing facilities are reimbursed as described in section 3 of this rule.~~

SECTION 2. 405 IAC 1-18-3, AS ADDED AT 25 IR 2476, SECTION 1, IS TEMPORARILY REPEALED.

SECTION 3. **SECTIONS 1 through 2 of this document expire December 25, 2002.**

LSA Document #02-278(E)
Filed with Secretary of State: September 26, 2002, 11:43 a.m.

TITLE 405 OFFICE OF THE SECRETARY OF FAMILY AND SOCIAL SERVICES

LSA Document #02-279(E)

DIGEST

Temporarily amends 405 IAC 1-14.6-2, 405 IAC 1-14.6-4, 405 IAC 1-14.6-6, 405 IAC 1-14.6-7, 405 IAC 1-14.6-9, 405 IAC 1-14.6-12, 405 IAC 1-14.6-16, and 405 IAC 1-14.6-22 to revise the case mix reimbursement methodology that the Medicaid program utilizes to reimburse nursing facilities as follows: removes from consideration as allowable cost indirect costs associated with ancillary services provided to non-Medicaid residents; establishes a children's nursing facility designation for Medicaid reimbursement purposes and removes the profit add-on portion of the direct care component for nursing facilities not designated as children's nursing facilities; establishes a minimum occupancy parameter for the direct care, indirect care and administrative rate components; provides for rebasing of Medicaid payment rates every other year, rather than annually; and updates mortgage interest rate parameter used to establish Medicaid reimbursement for capital costs of nursing facilities. Authority: IC 4-22-2-37.1; IC 12-8-1-12; Public Law 291-2001, SECTION 48. Effective September 26, 2002.

SECTION 1. **(a) As used in this document and 405 IAC 1-14.6, "administrative component" means the portion of the Medicaid rate that shall reimburse providers for allowable administrative services and supplies, including prorated employee benefits based on salaries and wages. Administrative services and supplies include the following:**

(1) Administrator and co-administrators, owners' compensation (including directors fees) for patient-related services.

(2) Services and supplies of a home office that are allowable and patient related and are appropriately allocated to the nursing facility.

(3) Office and clerical staff.

(4) Legal and accounting fees.

(5) Advertising.

(6) Travel.

(7) Telephone.

(8) License dues and subscriptions.

(9) Office supplies.

(10) Working capital interest.

(11) State gross receipts taxes.

(12) Utilization review costs.

(13) Liability insurance.

(14) Management and other consultant fees.

(15) Qualified mental retardation professional (QMRP).

(b) As used in this document and 405 IAC 1-14.6, "allowable per patient day cost" means a ratio between allowable cost and patient days.

(c) As used in this document and 405 IAC 1-14.6, "annual financial report" refers to a presentation of financial data, including appropriate supplemental data, and accompanying notes, derived from accounting records and intended to communicate the provider's economic resources or obligations at a point in time, or changes therein for a period of time in compliance with the reporting requirements of this document and 405 IAC 1-14.6.

(d) As used in this document and 405 IAC 1-14.6, "allowable cost determination" means a computation performed by the office or its contractor to determine a nursing facility's per patient day cost based on a review of an annual financial report and supporting information by applying this document and 405 IAC 1-14.6.

(e) As used in this document and 405 IAC 1-14.6, "average allowable cost of the median patient day applicable to providers with an actual occupancy rate of at least sixty-five percent (65%)" means the allowable per patient day cost (including any applicable inflation adjustment) of the median patient day from all providers when ranked in numerical order based on average allowable cost. The average allowable cost (including any applicable inflation adjustment) shall be computed on a statewide basis using each provider's actual occupancy from the most recently completed annual financial report, and shall be maintained by the office with revisions made four (4) times per year effective January 1, April 1, July 1, and October 1.

(f) As used in this document and 405 IAC 1-14.6, "average allowable cost of the median patient day applicable to providers with an actual occupancy rate of less than sixty-five percent (65%)" means the allowable per patient day cost (including any applicable inflation adjustment) of the median patient day from all providers when ranked in numerical order based on average allowable cost. The average allowable cost (including any applicable inflation adjustment) shall be computed on a statewide basis using an occupancy rate equal to the greater of sixty-five percent (65%), or each provider's actual occupancy rate from the most recently completed annual financial report, and shall be maintained by the office with revisions made four (4) times per year effective January 1, April 1, July 1, and October 1.

(g) As used in this document and 405 IAC 1-14.6, "average historical cost of property of the median bed" means the allowable patient-related property per bed for facilities that are not acquired through an operating lease arrangement, when ranked in numerical order based on the allowable patient-related historical property cost per bed that shall be updated each calendar quarter. Property shall be considered allowable if it satisfies the conditions of 405 IAC 1-14.6-14(a).

(h) As used in this document and 405 IAC 1-14.6, "calendar quarter" means a three (3) month period beginning January 1, April 1, July 1, or October 1.

(i) As used in this document and 405 IAC 1-14.6, "capital component" means the portion of the Medicaid rate that shall reimburse providers for the use of allowable capital-related items. Such capital-related items include the following:

(1) The fair rental value allowance.

(2) Property taxes.

(3) Property insurance.

(j) As used in this document and 405 IAC 1-14.6, "case mix index" (CMI) means a numerical value score that describes the relative resource use for each resident within the groups under the Resource Utilization Group (RUG-III) classification system prescribed by the office based on an assessment of each resident. The facility CMI shall be based on the resident CMI, calculated on a facility-average, time-weighted basis for the following:

(1) Medicaid residents.

(2) All residents.

(k) As used in this document and 405 IAC 1-14.6, "cost center" means a cost category delineated by cost reporting forms prescribed by the office.

(l) As used in this document and 405 IAC 1-14.6, "children's nursing facility" means a nursing facility that has twenty-five percent (25%) or more of its residents who are under the chronological age of twenty-one (21) years, and has received written approval from the office to be designated as a children's nursing facility.

(m) As used in this document and 405 IAC 1-14.6, "delinquent MDS resident assessment" means an assessment that is greater than one hundred thirteen (113) days old, as measured by the R2b date field on the MDS. This determination is made on the fifteenth day of the second month following the end of a calendar quarter.

(n) As used in this document and 405 IAC 1-14.6, "desk review" means a review and application of these regulations to a provider submitted annual financial report including accompanying notes and supplemental information.

(o) As used in this document and 405 IAC 1-14.6, "direct care component" means the portion of the Medicaid rate that shall reimburse providers for allowable direct patient care services and supplies, including prorated employee benefits based on salaries and wages. Direct care services and supplies include all:

(1) nursing and nursing aide services;

(2) nurse consulting services;

(3) pharmacy consultants;

(4) medical director services;
(5) nurse aide training;
(6) medical supplies;
(7) oxygen; and
(8) medical records costs.

(p) As used in this document and 405 IAC 1-14.6, "fair rental value allowance" means a methodology for reimbursing nursing facilities for the use of allowable facilities and equipment, based on establishing a rental valuation on a per bed basis of such facilities and equipment, and a rental rate.

(q) As used in this document and 405 IAC 1-14.6, "field audit" means a formal official verification and methodical examination and review, including the final written report of the examination of original books of accounts and resident assessment data and its supporting documentation by auditors.

(r) As used in this document and 405 IAC 1-14.6, "forms prescribed by the office" means cost-reporting forms provided by the office or substitute forms that have received prior written approval by the office.

(s) As used in this document and 405 IAC 1-14.6, "general line personnel" means management personnel above the department head level who perform a policymaking or supervisory function impacting directly on the operation of the facility.

(t) As used in this document and 405 IAC 1-14.6, "generally accepted accounting principles" or "GAAP" means those accounting principles as established by the American Institute of Certified Public Accountants.

(u) As used in this document and 405 IAC 1-14.6, "incomplete MDS resident assessment" means an assessment that is not printed by the nursing facility provider upon request by the office or its contractor.

(v) As used in this document and 405 IAC 1-14.6, "indirect care component" means the portion of the Medicaid rate that shall reimburse providers for allowable indirect patient care services and supplies, including prorated employee benefits based on salaries and wages. Indirect care services and supplies include the following:
(1) Allowable dietary services and supplies.
(2) Raw food.
(3) Patient laundry services and supplies.
(4) Patient housekeeping services and supplies.
(5) Plant operations services and supplies.
(6) Utilities.
(7) Social services.
(8) Activities supplies and services.
(9) Recreational supplies and services.
(10) Repairs and maintenance.

(w) As used in this document and 405 IAC 1-14.6, "minimum data set (MDS)" means a core set of screening and assessment elements, including common definitions and coding categories, that form the foundation of the comprehensive assessment for all residents of long term care facilities certified to participate in the Medicaid program. The items in the MDS standardize communication about resident problems, strengths, and conditions within facilities, between facilities, and between facilities and outside agencies. Version 2.0 (1/30/98) is the most current form to the minimum data set (MDS 2.0). The Indiana system will employ the MDS 2.0 or subsequent revisions as approved by the Centers for Medicare & Medicaid Services (CMS), formerly the Health Care Financing Administration.

(x) As used in this document and 405 IAC 1-14.6, "medical and nonmedical supplies and equipment" include those items generally required to assure adequate medical care and personal hygiene of patients.

(y) As used in this document and 405 IAC 1-14.6, "nonrebasing year" means the year during which a nursing facility's annual Medicaid rate is not established based on a review of its annual financial report covering its most recently completed historical period. The annual Medicaid rate effective during a nonrebasing year shall be determined by adjusting the Medicaid rate components from the previous year by an inflation adjustment. The following year shall be a nonrebasing year July 1, 2003, through June 30, 2004.

(z) As used in this document and 405 IAC 1-14.6, "normalized allowable cost" means total allowable direct patient care costs for each facility divided by that facility's average case mix index (CMI) for all residents.

(aa) As used in this document and 405 IAC 1-14.6, "office" means the office of Medicaid policy and planning.

(bb) As used in this document and 405 IAC 1-14.6, "ordinary patient-related costs" means costs of allowable services and supplies that are necessary in delivery of patient care by similar providers within the state.

(cc) As used in this document and 405 IAC 1-14.6, "patient/recipient care" means those Medicaid program services delivered to a Medicaid enrolled recipient by a certified Medicaid provider.

(dd) As used in this document and 405 IAC 1-14.6, "reasonable allowable costs" means the price a prudent, cost conscious buyer would pay a willing seller for goods or

services in an arm's-length transaction, not to exceed the limitations set out in this document and 405 IAC 1-14.6.

(ee) As used in this document and 405 IAC 1-14.6, "rebasing year" means the year during which a nursing facility's Medicaid rate is based on a review of its annual financial report covering its most recently completed historical period. The following years shall be rebasing years:

(1) July 1, 2002, through June 30, 2003.

(2) July 1, 2004, through June 30, 2005.

(3) And every year thereafter.

(ff) As used in this document and 405 IAC 1-14.6, "related party/organization" means that the provider is associated or affiliated with, or has the ability to control, or be controlled by, the organization furnishing the service, facilities, or supplies, whether or not such control is actually exercised.

(gg) As used in this document and 405 IAC 1-14.6, "RUG-III resident classification system" means the resource utilization group used to classify residents. When a resident classifies into more than one (1) RUG III group, the RUG III group with the greatest CMI will be utilized to calculate the facility-average CMI and facility-average CMI for Medicaid residents.

(hh) As used in this document and 405 IAC 1-14.6, "therapy component" means the portion of each facility's direct costs for therapy services, including any employee benefits prorated based on total salaries and wages, rendered to Medicaid residents that are not reimbursed by other payors, as determined by this document and 405 IAC 1-14.6.

(ii) As used in this document and 405 IAC 1-14.6, "unit of service" means all patient care included in the established per diem rate required for the care of an inpatient for one (1) day (twenty-four (24) hours).

(jj) As used in this document and 405 IAC 1-14.6, "unsupported MDS resident assessment" means an assessment where one (1) or more data items that are required to classify a resident pursuant to the RUG-III resident classification system are not supported according to the MDS supporting documentation guidelines as set forth in 405 IAC 1-15, and such data items result in the assessment being classified into a different RUG-III category.

(kk) As used in this document and 405 IAC 1-14.6, "untimely MDS resident assessment" means a significant change MDS assessment, as defined by CMS' Resident Assessment Instrument (RAI) Manual, that is not completed within fourteen (14) days of determining that a nursing facility resident's condition has changed significantly; or a full or quarterly MDS assessment that is not completed as required by 405 IAC 1-15-6(a) following the conclusion of all physical therapy, speech therapy, and occupational therapy.

SECTION 2. **(a) Each provider shall submit an annual financial report to the office not later than the last day of the fifth calendar month after the close of the provider's reporting year. The annual financial report shall coincide with the fiscal year used by the provider to report federal income taxes for the operation unless the provider requests in writing that a different reporting period be used. Such a request shall be submitted within sixty (60) days after the initial certification of a provider. This option may be exercised only one (1) time by a provider, and must coincide with the fiscal year end for Medicare cost reporting purposes. If a reporting period other than the tax year is established, audit trails between the periods are required, including reconciliation statements between the provider's records and the annual financial report. Nursing facilities that are certified to provide Medicare-covered skilled nursing facility services are required to submit a written and electronic cost report (ECR) file copy of their Medicare cost report that covers their most recently completed historical reporting period. Nursing facilities that have been granted an exemption to the Medicare filing requirement to submit the ECR file by the Medicare fiscal intermediary shall not be required to submit the ECR file to the office.**

(b) The first annual Financial Report for Nursing Facilities for a provider that has undergone a change of provider ownership or control through an arm's-length transaction between unrelated parties shall coincide with that provider's first fiscal year end in which the provider has a minimum of six (6) full calendar months of actual historical financial data. The provider shall submit their first annual financial report to the office not later than the last day of the fifth calendar month after the close of the provider's reporting year or thirty (30) days following notification that the change of provider ownership has been reviewed by the office or its contractor. Nursing facilities that are certified to provide Medicare-covered skilled nursing facility services are required to submit a written and electronic ECR file copy of their Medicare cost report that covers their most recently completed historical reporting period.

(c) The provider's annual financial report shall be submitted using forms prescribed by the office. All data elements and required attachments shall be completed so as to provide full financial disclosure and shall include the following as a minimum:

(1) Patient census data.

(2) Statistical data.

(3) Ownership and related party information.

(4) Statement of all expenses and all income, excluding non-Medicaid routine income.

(5) Detail of fixed assets and patient-related interest bearing debt.
(6) Complete balance sheet data.
(7) Schedule of Medicaid and private pay charges in effect on the last day of the reporting period. Private pay charges shall be the lowest usual and ordinary charge.
(8) Certification by the provider that:
(A) the data are true, accurate, and related to patient care; and
(B) expenses not related to patient care have been clearly identified.
(9) Certification by the preparer, if different from the provider, that the data were compiled from all information provided to the preparer by the provider, and as such are true and accurate to the best of the preparer's knowledge.
(10) Copy of the working trial balance that was used in the preparation of their submitted Medicare cost report.

(d) Extension of the five (5) month filing period shall not be granted.

(e) Failure to submit an annual financial report, or Medicare cost report by nursing facilities that are certified to provide Medicare-covered skilled nursing facility services within the time limit required shall result in the following actions:
(1) No rate review shall be accepted or acted upon by the office until the delinquent reports are received.
(2) When an annual financial report, or Medicare cost report by nursing facilities that are certified to provide Medicare-covered skilled nursing facility services is more than one (1) calendar month past due, the rate then currently being paid to the provider shall be reduced by ten percent (10%), effective on the first day of the seventh month following the provider's fiscal year end, and shall so remain until the first day of the month after the delinquent annual financial report or Medicare cost report (if required) is received by the office. No rate adjustments will be allowed until the first day of the calendar quarter following receipt of the delinquent annual financial report. Reimbursement lost because of the penalty cannot be recovered by the provider. If the Medicare filing deadline for submitting the Medicare cost report is delayed by the Medicare fiscal intermediary, and the provider fails to submit their Medicare cost report to the office on or before the due date as extended by the Medicare fiscal intermediary, then the ten percent (10%) rate reduction for untimely filing to the office as referenced herein shall become effective on the first day of the month following the due date as extended by the Medicare fiscal intermediary.

(f) Nursing facilities are required to electronically transmit MDS resident assessment information in a complete, accurate, and timely manner. MDS resident assessment information for a calendar quarter must be transmitted by the fifteenth day of the second month following the end of that calendar quarter. Extension of the electronic MDS assessment transmission due date may be granted by the office to a new operation attempting to submit MDS assessments for the first time if the new operation is not currently enrolled or submitting MDS assessments under the Medicare program and the provider can substantiate to the office circumstances that preclude timely electronic transmission.

(g) Residents discharged prior to completing an initial assessment that is not preceded by a Medicare assessment, or a regularly scheduled assessment will be classified in one (1) of the following RUG-III classifications:
(1) SSB classification for residents discharged before completing an initial assessment where the reason for discharge was death or transfer to hospital.
(2) CC1 classification for residents discharged before completing an initial assessment where the reason for discharge was other than death or transfer to hospital.
(3) The classification from their immediately preceding assessment for residents discharged before completing a regularly scheduled assessment.

(h) If the office or its contractor determines that a nursing facility has incomplete MDS resident assessments, then, for purposes of determining the facility's CMI, such assessment(s) shall be assigned the case mix index associated with the RUG-III group "BC1–Unclassifiable".

(i) If the office or its contractor determines that a nursing facility has delinquent MDS resident assessments, then, for purposes of determining the facility's CMI, such assessment(s) shall be assigned the case mix index associated with the RUG-III group "BC2–Delinquent".

(j) If the office or its contractor determines due to an MDS field audit that a nursing facility has untimely MDS resident assessments, then such assessment(s) shall be counted as an unsupported assessment for purposes of determining whether a corrective remedy shall be applied under subsection (k).

(k) If the office or its contractor determines due to an MDS field audit that a nursing facility has unsupported MDS resident assessments, then the following procedures shall be followed in applying any corrective remedy:
(1) The office or its contractor shall audit a sample of MDS resident assessments and will determine the percent of assessments in the sample that are unsupported.
(2) If the percent of assessments in the sample that are unsupported is greater than the threshold percent as shown in column (B) of the table below *[in subdivision 6]***,**

the office or its contractor shall expand the scope of the MDS audit to all residents. If the percent of assessments in the sample that are unsupported is equal to or less than the threshold percent as shown in column (B) of the table below *[in subdivision 6]*, the office or its contractor shall conclude the field portion of the MDS audit and no corrective remedy shall be applied.

(3) For nursing facilities with MDS audits performed on all residents, the office or its contractor will determine the percent of assessments audited that are unsupported.

(4) If the percent of assessments of all residents that are unsupported is greater than the threshold percent as shown in column (B) of the table below *[in subdivision 6]*, a corrective remedy shall apply, which shall be calculated as follows. The administrative component portion of the Medicaid rate in effect for the calendar quarter following completion of the MDS audit shall be reduced by the percentage as shown in column (C) of the table below *[in subdivision 6]*. In the event a corrective remedy is imposed, for purposes of determining the average allowable cost of the median patient day for the administrative component, there shall be no adjustment made by the office or its contractor to the provider's allowable administrative costs. Reimbursement lost as a result of any corrective remedies shall not be recoverable by the provider.

(5) If the percent of assessments of all residents that are unsupported is equal to or less than the threshold percent as shown in column (B) of the table below *[in subdivision 6]*, the office or its contractor shall conclude the MDS audit and no corrective remedy shall apply.

(6) The threshold percent and the administrative component corrective remedy percent in columns (B) and (C) of the table in this subdivision, respectively, shall be applied to audits begun by the office or its contractor on or after the effective date as stated in column (A) as follows:

Effective Date (A)	Threshold Percent (B)	Administrative Component Corrective Remedy Percent (C)
October 1, 2002	40%	5%
January 1, 2004	30%	10%
April 1, 2005	20%	15%

(l) Based on findings from the MDS audit, beginning on the effective date of this document, the office or its contractor shall make adjustments or revisions to all MDS data items that are required to classify a resident pursuant to the RUG-III resident classification system that are not supported according to the MDS supporting documentation guidelines as set forth in 405 IAC 1-15. Such adjustments or revisions to MDS data transmitted by the nursing facility will be made in order to reflect the resident's highest functioning level that is supported according to the MDS supporting documentation guidelines as set forth in 405 IAC 1-15. The resident assessment will then be used to reclassify the resident pursuant to the RUG-III resident classification system by incorporating any adjustments or revisions made by the office or its contractor.

(m) Beginning on the effective date of this document, upon conclusion of an MDS audit, the office or its contractor shall recalculate the facility's CMI. If the recalculated CMI results in a change to the established Medicaid rate, the rate shall be recalculated and any payment adjustment shall be made.

SECTION 3. **(a) The normalized average allowable cost of the median patient day for the direct care component, and the average allowable cost of the median patient day for the indirect, administrative, and capital components, which are applicable to the facility based on their actual occupancy rate from the most recently completed historical period, shall only be determined during a rebasing year for each provider for the purpose of performing the provider's annual rate review.**

(b) The annual rate review that shall become effective during a rebasing year shall be established by determining the normalized allowable per patient day cost for the direct care component, and the allowable per patient day costs for the therapy, indirect care, administrative, and capital components for each provider based on the annual financial report.

(c) The annual rate review that shall become effective during a nonrebasing year shall be established by applying an inflation adjustment to the previous year's indirect care, administrative, capital and therapy Medicaid rate components. The direct care component of the annual rate review during a nonrebasing year shall be established by applying an inflation adjustment to the previous year's normalized allowable cost, and applying the Medicaid case mix adjustment as prescribed by this document and 405 IAC 1-14.6. The inflation adjustment prescribed by this subsection shall be applied by using the CMS Nursing Home without Capital Market Basket index as published by DRI/WEFA. The inflation adjustment shall apply from the midpoint of the previous year's annual Medicaid rate period to the midpoint of the current year annual Medicaid rate period prescribed as follows:

Rate Effective Date	Midpoint Quarter
January 1, Year 1	July 1, Year 1
April 1, Year 1	October 1, Year 1
July 1, Year 1	January 1, Year 2
October 1, Year 1	April 1, Year 2

(d) The rate effective date of the annual rate review during rebasing years and nonrebasing years shall be the

first day of the second calendar quarter following the provider's reporting year end.

(e) Subsequent to the annual rate review established during rebasing years and nonrebasing years, the direct care component of the Medicaid rate will be adjusted quarterly to reflect changes in the provider's case mix index for Medicaid residents. If the facility has no Medicaid residents during a quarter, the facility's average case mix index for all residents will be used in lieu of the case mix index for Medicaid residents. This adjustment will be effective on the first day of each of the following three (3) calendar quarters beginning after the effective date of the annual rate review.

(f) The case mix index for Medicaid residents in each facility shall be updated each calendar quarter and shall be used to adjust the direct care component that becomes effective on the second calendar quarter following the updated case mix index for Medicaid residents.

(g) All rate-setting parameters and components used to calculate the annual rate review, except for the case mix index for Medicaid residents in that facility, shall apply to the calculation of any change in Medicaid rate that is authorized under subsection (d).

SECTION 4. **(a) For purposes of determining the average allowable cost of the median patient day and a provider's annual rate review during a rebasing year, each provider's cost from the most recent completed year will be adjusted for inflation by the office using the methodology in this subsection. All allowable costs of the provider, except for mortgage interest on facilities and equipment, depreciation on facilities and equipment, rent or lease costs for facilities and equipment, and working capital interest shall be adjusted for inflation using the CMS Nursing Home without Capital Market Basket index as published by DRI/WEFA. The inflation adjustment shall apply from the midpoint of the annual financial report period to the midpoint prescribed as follows:**

Effective Date	Midpoint Quarter
January 1, Year 1	July 1, Year 1
April 1, Year 1	October 1, Year 1
July 1, Year 1	January 1, Year 2
October 1, Year 1	April 1, Year 2

(b) Notwithstanding subsection (a), beginning on the effective date of this document through September 30, 2003, the inflation adjustment determined as prescribed in subsection (a) shall be reduced by an inflation reduction factor equal to three and three-tenths percent (3.3%). The resulting inflation adjustment shall not be less than zero (0). Prior to September 30, 2003, the office may reduce or eliminate the inflation reduction factor to increase aggregate expenditures up to levels appropriated by the Indiana general assembly. Any reduction or elimination of the inflation reduction factor shall be made effective no earlier than permitted under IC 12-15-13-6(a).

(c) In determining prospective allowable costs for a new provider that has undergone a change of provider ownership or control through an arm's-length transaction between unrelated parties, when the first fiscal year end following the change of provider ownership or control is less than six (6) full calendar months for use in establishing the annual rebasing year rate review, the previous provider's most recently completed annual financial report shall be utilized to calculate the new provider's first annual rebasing year rate review. The inflation adjustment for the new provider's first annual rebasing year rate review shall be applied from the midpoint of the previous provider's most recently completed annual financial report period to the midpoint prescribed under subsection (a).

(d) Allowable costs per patient day for direct care, indirect care, and administrative costs shall be computed based on an occupancy rate equal to the greater of sixty-five percent (65%), or the provider's actual occupancy rate from the most recently completed historical period.

(e) Notwithstanding subsection (d), the office or its contractor shall reestablish a provider's Medicaid rate effective on the first day of the month following the date that the conditions specified in this subsection are met, by applying all provisions of this document and 405 IAC 1-14.6, except for the sixty-five percent (65%) minimum occupancy requirement, if the following conditions can be established to the satisfaction of the office:

(1) The provider demonstrates that its current resident census has increased to sixty-five percent (65%) or greater since the facility's fiscal year end of the cost report used to establish its Medicaid rate during the most recent rebasing year, and has remained at such level for no less than ninety (90) days.

(2) The provider demonstrates that its resident census has increased by a minimum of fifteen percent (15%) since the facility's fiscal year end of the cost report used to establish its Medicaid rate during the most recent rebasing year.

(f) Allowable costs per patient day for capital-related costs shall be computed based on an occupancy rate equal to the greater of ninety-five percent (95%), or the provider's actual occupancy rate from the most recently completed historical period.

(g) The case mix indices (CMIs) contained in this subsection shall be used for purposes of determining each resident's CMI used to calculate the facility-average CMI for

all residents, and the facility-average CMI for Medicaid residents.

RUG-III Group	RUG-III Code	CMI Table
Rehabilitation	RAD	2.02
Rehabilitation	RAC	1.69
Rehabilitation	RAB	1.50
Rehabilitation	RAA	1.24
Extensive Services	SE3	2.69
Extensive Services	SE2	2.23
Extensive Services	SE1	1.85
Special Care	SSC	1.75
Special Care	SSB	1.60
Special Care	SSA	1.51
Clinically Complex	CC2	1.33
Clinically Complex	CC1	1.27
Clinically Complex	CB2	1.14
Clinically Complex	CB1	1.07
Clinically Complex	CA2	0.95
Clinically Complex	CA1	0.87
Impaired Cognition	IB2	0.93
Impaired Cognition	IB1	0.82
Impaired Cognition	IA2	0.68
Impaired Cognition	IA1	0.62
Behavior Problems	BB2	0.89
Behavior Problems	BB1	0.77
Behavior Problems	BA2	0.67
Behavior Problems	BA1	0.54
Reduced Physical Functions	PE2	1.06
Reduced Physical Functions	PE1	0.96
Reduced Physical Functions	PD2	0.97
Reduced Physical Functions	PD1	0.87
Reduced Physical Functions	PC2	0.83
Reduced Physical Functions	PC1	0.76
Reduced Physical Functions	PB2	0.73
Reduced Physical Functions	PB1	0.66
Reduced Physical Functions	PA2	0.56
Reduced Physical Functions	PA1	0.50
Unclassifiable	BC1	0.48
Delinquent	BC2	0.48

(h) The office or its contractor shall provide each nursing facility with the following:

(1) Two (2) preliminary CMI reports. These preliminary CMI reports serve as confirmation of the MDS assessments transmitted by the nursing facility, and provide an opportunity for the nursing facility to correct and transmit any missing or incorrect MDS assessments. The first preliminary report will be provided by the seventh day of the first month following the end of a calendar quarter. The second preliminary report will be provided by the seventh day of the second month following the end of a calendar quarter.

(2) Final CMI reports utilizing MDS assessments received by the fifteenth day of the second month following the end of a calendar quarter. These assessments received by the fifteenth day of the second month following the end of a calendar quarter will be utilized to establish the facility-average CMI and facility-average CMI for Medicaid residents utilized in establishing the nursing facility's Medicaid rate.

(i) The office may increase Medicaid reimbursement to nursing facilities that provide inpatient services to more than eight (8) ventilator-dependent residents. Additional reimbursement shall be made to such facilities at a rate of eight dollars and seventy-nine cents ($8.79) per Medicaid resident day. Such additional reimbursement shall be effective on the day the nursing facility provides inpatient services to more than eight (8) ventilator-dependent residents, and shall remain in effect until the first day of the calendar quarter following the date the nursing facility provides inpatient services to eight (8) or fewer ventilator-dependent residents.

SECTION 5. **(a) The Medicaid reimbursement system is based on recognition of the provider's allowable costs for the direct care, therapy, indirect care, administrative and capital components, plus a potential profit add-on payment. The direct care, therapy, indirect care, administrative, and capital rate components are calculated as follows:**

(1) The indirect care, administrative, and capital components, are equal to the provider's allowable per patient day costs for each component, plus the allowed profit add-on payment as determined by the methodology in subsection (b).

(2) The therapy component is equal to the provider's allowable per patient day direct therapy costs.

(3) The direct care component is equal to the provider's normalized allowable per patient day direct care costs times the facility-average case mix index for Medicaid residents, plus the allowed profit add-on payment as determined by the methodology in subsection (b).

(b) The profit add-on payment will be calculated as follows:

(1) For nursing facilities designated by the office as children's nursing facilities, the direct care component profit add-on is equal to fifty-two percent (52%) of the difference (if greater than zero (0)) of:

(A) the normalized average allowable cost of the median patient day for direct care costs applicable to the facility based on its actual occupancy rate from the most recently completed historical period, times the facility average case mix index for Medicaid residents

times one hundred five percent (105%); minus

(B) the provider's normalized allowable per patient day costs times the facility average case mix index for Medicaid residents.

(2) Beginning on the effective date of this document, and continuing for eight (8) full calendar quarters thereafter, for nursing facilities that are not designated by the office as children's nursing facilities, the direct care component profit add-on is equal to zero (0). Beginning on the first day of the ninth full calendar quarter after the effective date of this document, the direct care component profit add-on is equal to fifty-two percent (52%) of the difference (if greater than zero (0)) of:

(A) the normalized average allowable cost of the median patient day for direct care costs applicable to the facility based on its actual occupancy rate from the most recently completed historical period, times the facility average case mix index for Medicaid residents times one hundred five percent (105%); minus

(B) the provider's normalized allowable per patient day costs times the facility average case mix index for Medicaid residents.

(3) The indirect care component profit add-on is equal to fifty-two percent (52%) of the difference (if greater than zero (0)) of:

(A) the average allowable cost of the median patient day applicable to the facility based on its actual occupancy rate from the most recently completed historical period, times one hundred percent (100%); minus

(B) a provider's allowable per patient day cost.

(4) The administrative component profit add-on is equal to sixty percent (60%) of the difference (if greater than zero (0)) of:

(A) the average allowable cost of the median patient day applicable to the facility based on its actual occupancy rate from the most recently completed historical period, times one hundred percent (100%); minus

(B) a provider's allowable per patient day cost.

(5) The capital component profit add-on is equal to sixty percent (60%) of the difference (if greater than zero (0)) of:

(A) the average allowable cost of the median patient day times eighty percent (80%); minus

(B) a provider's allowable per patient day cost.

(6) The therapy component profit add-on is equal to zero (0).

(c) Notwithstanding subsections (a) and (b), in no instance shall a rate component exceed the overall rate component limit defined as follows:

(1) The normalized average allowable cost of the median patient day for direct care costs applicable to the facility based on its actual occupancy rate from the most recently completed historical period, times the facility-average case mix index for Medicaid residents times one hundred ten percent (110%).

(2) The average allowable cost of the median patient day for indirect care costs applicable to the facility based on its actual occupancy rate from the most recently completed historical period, times one hundred percent (100%).

(3) The average allowable cost of the median patient day for administrative costs applicable to the facility based on its actual occupancy rate from the most recently completed historical period, times one hundred percent (100%).

(4) The average allowable cost of the median patient day for capital-related costs times eighty percent (80%).

(5) For the therapy component, no overall rate component limit shall apply.

(d) In order to determine the normalized allowable direct care costs from each facility's Financial Report for Nursing Facilities the office or its contractor shall determine each facility's CMI for all residents on a time-weighted basis.

(e) The office shall publish guidelines for use in determining the time-weighted CMI. These guidelines shall be published as a provider bulletin and may be updated by the office as needed. Any such updates shall be made effective no earlier than permitted under IC 12-15-13-6(a).

SECTION 6. **Providers shall be reimbursed for the use of allowable patient-related facilities and equipment, regardless of whether they are owned or leased, by means of a fair rental value allowance. The fair rental value allowance shall be in lieu of the costs of all depreciation, interest, lease, rent, or other consideration paid for the use of property. This includes all central office facilities and equipment whose patient care-related depreciation, interest, or lease expense is appropriately allocated to the facility.**

(1) The fair rental value allowance is calculated by determining, on a per bed basis, the historical cost of allowable patient-related property for facilities that are not acquired through an operating lease arrangement, including:

(A) land, building, improvements, vehicles, and equipment; and

(B) costs;

required to be capitalized in accordance with generally accepted accounting principles. Land, buildings, and improvements shall be adjusted for changes in valuation by inflating the reported allowable patient-related historical cost of property from the later of July 1, 1976, or the date of facility acquisition to the present based on the change in the R. S. Means Construction Index.

(2) The inflation-adjusted historical cost of property per bed as determined above is arrayed to arrive at the average historical cost of property of the median bed.

(3) The average historical cost of property of the median bed as determined above is extended times the number of beds for each facility that are used to provide nursing

facility services, to arrive at the fair rental value amount. (4) The fair rental value amount is extended by a rental rate to arrive at the fair rental allowance. The rental rate shall be a simple average of the United States Treasury bond, ten (10) year amortization, constant maturity rate plus three percent (3%), in effect on the first day of the month that the index is published for each of the twelve (12) months immediately preceding the rate effective date as determined in section 6(a) of this document. The rental rate shall be updated quarterly on January 1, April 1, July 1, and October 1.

SECTION 7. **(a) Charity, courtesy allowances, discounts, refunds, rebates, and other similar items granted by a provider shall not be included in allowable costs. Bad debts incurred by a provider shall not be an allowable cost.**

(b) Payments that must be reported on the annual financial report form that are received by a provider, an owner, or other official of a provider in any form from a vendor shall be considered a reduction of the provider's costs for the goods or services from that vendor.

(c) The cost of goods or services sold to nonpatients shall be offset against the total cost of such service to determine the allowable patient-related expenses. If the provider has not determined the cost of such items, the revenue generated from such sales shall be used to offset the total cost of such services.

(d) For nursing facilities that are certified to provide Medicare-covered skilled nursing facility services and are required by the Medicare fiscal intermediary to submit a full Medicare cost report, the office or its contractor shall remove from allowable indirect care and administrative costs the portion of those costs that are allocable to therapy services reimbursed by other payers and nonallowable ancillary services. In determining the amount of indirect care costs and administrative costs that shall be removed from allowable costs, the office or its contractor shall apply cost allocation principles established by the federal Medicare cost report methodology based on each facility's Medicare cost report.

(e) For nursing facilities that are certified to provide Medicare-covered skilled nursing facility services that are not required by the Medicare fiscal intermediary to submit a full Medicare cost report, the office or its contractor shall remove from allowable indirect care and administrative costs the portion of those costs that are allocable to therapy services reimbursed by other payers and nonallowable ancillary services. In determining the amount of indirect care costs and administrative costs that shall be removed from allowable costs, the office or its contractor shall apply cost allocation principles established by the federal Medicare cost report methodology based on a statewide average ratio of indirect costs to direct costs for such therapy and ancillary services, as determined from full Medicare cost reports.

SECTION 8. **(a) The Medicaid rate-setting contractor shall notify each provider of the provider's rate and allowable cost determinations after they have been computed. If the provider disagrees with the rate or allowable cost determinations, the provider must request an administrative reconsideration by the Medicaid rate-setting contractor. Such reconsideration request shall be in writing and shall contain specific issues to be reconsidered and the rationale for the provider's position. The request shall be signed by the provider or the authorized representative of the provider and must be received by the contractor within forty-five (45) days after release of the rate or allowable cost determinations as computed by the Medicaid rate-setting contractor. Upon receipt of the request for reconsideration, the Medicaid rate-setting contractor shall evaluate the data. After review, the Medicaid rate-setting contractor may amend the rate, amend the challenged procedure or allowable cost determination, or affirm the original decision. The Medicaid rate-setting contractor shall thereafter notify the provider of its final decision in writing, within forty-five (45) days of the Medicaid rate-setting contractor's receipt of the request for reconsideration. In the event that a timely response is not made by the rate-setting contractor to the provider's reconsideration request, the request shall be deemed denied and the provider may pursue its administrative remedies as set out in subsection (d).**

(b) If the provider disagrees with a rate or allowable cost redetermination resulting from a financial audit adjustment or reportable condition affecting a rate or allowable cost redetermination, the provider must request an administrative reconsideration from the Medicaid financial audit contractor. Such reconsideration request shall be in writing and shall contain specific issues to be considered and the rationale for the provider's position. The request shall be signed by the provider or authorized representative of the provider and must be received by the Medicaid audit contractor within forty-five (45) days after release of the rate or allowable cost redeterminations computed by the Medicaid rate-setting contractor. Upon receipt of the request for reconsideration, the Medicaid audit contractor shall evaluate the data. After review, the Medicaid audit contractor may amend the audit adjustment or reportable condition or affirm the original adjustment. The Medicaid audit contractor shall thereafter notify the provider of its final decision in writing within forty-five (45) days of the Medicaid audit contractor's receipt of the request for reconsideration. In the event that a timely response is not made by the audit contractor to the provider's reconsidera-

tion request, the request shall be deemed denied and the provider may pursue its administrative remedies under subsection (d).

(c) If the provider disagrees with a rate redetermination resulting from a recalculation of its CMI due to an MDS audit affecting the established Medicaid rate, the provider must request an administrative reconsideration from the MDS audit contractor. Such reconsideration request shall be in writing and shall contain specific issues to be considered and the rationale for the provider's position. The request shall be signed by the provider or authorized representative of the provider and must be received by the MDS audit contractor within forty-five (45) days after release of the rate computed by the Medicaid rate-setting contractor. Upon receipt of the request for reconsideration, the MDS audit contractor shall evaluate the data. After review, the MDS audit contractor may amend the audit adjustment or affirm the original adjustment. The MDS audit contractor shall thereafter notify the provider of its final decision in writing within forty-five (45) days of the MDS audit contractor's receipt of the request for reconsideration. In the event that a timely response is not made by the audit contractor to the provider's reconsideration request, the request shall be deemed denied and the provider may pursue its administrative remedies under subsection (d).

(d) After completion of the reconsideration procedure under subsection (a), (b), or (c), the provider may initiate an appeal under IC 4-21.5-3.

SECTION 9. **If the provisions of this document are not already in effect under a previous emergency rulemaking action, then the following subdivisions shall apply. If the provisions of this document are already in effect under a previous emergency rulemaking action, then the following shall be null and void:**

(1) Reimbursement rates for all Medicaid certified nursing facilities shall be calculated effective on the first day of the calendar quarter following the effective date of this document. The office or its designee shall calculate a new rate for each nursing facility under this document based on the most recent submitted and completed cost report filed under 405 IAC 1-14.6. Subsequent quarterly changes to a nursing facility's rate will be made as prescribed by this document and 405 IAC 1-14.6.

(2) The average inflated allowable cost of the median patient day and the historical cost of property of the median bed used to calculate reimbursement rates shall be established on the first day of the calendar quarter following the effective date of this document using the most recent cost report data for which a Medicaid rate is established as of the effective date of this document. Subsequent revisions to these parameters shall be made as prescribed by this document.

(3) The case mix indices (CMIs) shall be recalculated using the 5.12, 34-grouper version of the Resource Utilization Group, version III (RUG-III) based on the same MDS data that was previously used to establish the CMIs using the 5.01, 44-grouper version of the RUG-III.

(4) For purposes of implementing SECTION 7 of this document, the office or its contractor shall use the most recent Medicare cost report that has been submitted to the Medicare fiscal intermediary. For nursing facilities that are certified to provide Medicare-covered skilled nursing facility services that fail to timely submit their Medicare cost report upon request, the office or its contractor shall determine the portion of such facility's costs that are allocable to therapy services reimbursed by other payers and nonallowable ancillary services based on a statewide average ratio of indirect costs to direct costs for such therapy and ancillary services, as determined from Medicare cost reports of nursing facilities that timely submit their Medicare cost report.

SECTION 10. **SECTIONS 1 through 9 of this document expire December 25, 2002.**

LSA Document #02-279(E)
Filed with Secretary of State: September 26, 2002, 11:44 a.m.

TITLE 405 OFFICE OF THE SECRETARY OF FAMILY AND SOCIAL SERVICES

LSA Document #02-280(E)

DIGEST

Temporarily amends 405 IAC 5-24-7 to revise copayment structure for drugs reimbursed by Medicaid. Brand name legend drugs will be subject to a $3 copayment. Generic legend drugs, all nonlegend drugs, and compounded prescriptions will be subject to a $.50 copayment. Authority: IC 4-22-2-37.1; IC 12-8-1-12; Public Law 291-2001, SECTION 48. The original emergency document, LSA Document #02-199(E), as printed at 25 IR 3803, effective July 1, 2002, expires September 26, 2002. Effective September 26, 2002.

SECTION 1. **(a) Under IC 12-15-6, a copayment is required for legend and nonlegend drugs and insulin in accordance with the following:**

(1) The copayment shall be paid by the recipient and collected by the provider at the time the service is rendered. Medicaid reimbursement to the provider shall be adjusted to reflect the copayment amount for which the recipient is liable.

(2) In accordance with 42 CFR 447.15, the provider may not deny services to any eligible individual on account of the individual's inability to pay the copayment amount. Under 42 CFR 447.15, this service guarantee does not apply to an individual who is able to pay, nor does an individual's inability to pay eliminate his or her liability for the copayment.

(3) The amount of the copayment will be as follows:

(A) Fifty cents ($0.50) for each generic legend drug dispensed.

(B) Fifty cents ($0.50) for each nonlegend drug dispensed, whether brand name or generic.

(C) Three dollars ($3) for each brand name legend drug dispensed.

(D) Fifty cents ($0.50) for each compounded prescription, whether legend or nonlegend.

The pharmacy provider shall collect a copayment for each drug dispensed by the provider and covered by Medicaid.

(b) The following pharmacy services are exempt from the copayment requirement:

(1) Emergency services provided in a hospital, clinic, office, or other facility equipped to furnish emergency care.

(2) Services furnished to individuals less than eighteen (18) years of age.

(3) Services furnished to pregnant women if such services are related to the pregnancy or any other medical condition that may complicate the pregnancy.

(4) Services furnished to individuals who are inpatients in hospitals, nursing facilities, intermediate care facilities for the mentally retarded, or other medical institutions.

(5) Family planning services and supplies furnished to individuals of child bearing age.

(6) Health maintenance organization (HMO) pharmacy services.

SECTION 2. **SECTION 1 of this document expires December 25, 2002.**

LSA Document #02-280(E)
Filed with Secretary of State: September 26, 2002, 11:45 a.m.

TITLE 405 OFFICE OF THE SECRETARY OF FAMILY AND SOCIAL SERVICES

LSA Document #02-281(E)

DIGEST

Temporarily amends 405 IAC 6-2-3, 405 IAC 6-2-5, 405 IAC 6-2-9, 405 IAC 6-2-12, 405 IAC 6-2-14, 405 IAC 6-2-18, 405 IAC 6-2-20, 405 IAC 6-2-21, 405 IAC 6-3-2, 405 IAC 6-3-3, 405 IAC 6-4-2, 405 IAC 6-5-1, 405 IAC 6-5-2, 405 IAC 6-5-3, 405 IAC 6-5-4, 405 IAC 6-5-5, 405 IAC 6-5-6, 405 IAC 6-6-2, 405 IAC 6-6-4, provisions affecting applicants, enrollees, eligibility and enrollment requirements, benefits, and policy for the Indiana prescription drug program. Temporarily adds provisions that will set forth procedures for point of service processing and provider claims, payments, overpayments and appeals for the Indiana prescription drug program. Authority: IC 4-22-2-37.1; IC 12-10-16-5. The original emergency document, LSA Document #02-195(E), as printed at 25 IR 3780, effective July 1, 2002, expires September 26, 2002. Effective September 26, 2002.

SECTION 1. **"Benefit period" means a specified time frame during which an enrollee accrues or expends the cost of prescription drugs. The benefit periods are specified in 405 IAC 6-5-3.**

SECTION 2. **"Complete application" means an application which includes the following information about the applicant and applicant's spouse, if applicable:**

(1) Name.
(2) Address of domicile.
(3) Date of birth.
(4) Social Security number.
(5) Marital status.
(6) Whether the applicant had health insurance with a prescription drug benefit in the past year.
(7) Whether the applicant currently has insurance that includes a prescription drug benefit.
(8) Whether the applicant is on Medicaid, including Medicaid with a spend-down.
(9) Whether the applicant has resided in Indiana for at least ninety (90) days in the past twelve (12) months.
(10) Proof of income.
(11) Signature.

SECTION 3. **"Complete claim" means a claim submitted by a provider for processing that contains the enrollee's name and for each drug listed all of the following information:**

(1) The day the drug was dispensed.
(2) Corresponding National Drug Code (NDC) number.
(3) Identification of prescribing physician.
(4) Name and dosage of drug.
(5) Provider's retail price.
(6) Actual price enrollee paid for the drug.

SECTION 4. **"Domicile" means the applicant's true, fixed, principal, and permanent home.**

SECTION 5. **"Family" means the applicant, spouse, and any child who reside in the same residence.**

SECTION 6. **"Health insurance with a prescription drug benefit" means any contract with an insurance company or**

organization approved or recognized by the Indiana department of insurance, under which an individual receives health benefits, including a prescription drug benefit. This term includes Medicaid and veteran's benefits. A prescription discount offered by an insurance company, department, manufacturer, provider, or organization is not considered to be a prescription drug insurance benefit as long as the discount is deducted prior to the calculation of any enrollee benefit.

SECTION 7. **"Income" means the amount of money or its equivalent received in exchange for or as a result of labor or services, from the sale of goods or property or as profit from financial investments.**

SECTION 8. **"Net income" means the earned income minus tax deductions, tax exemptions and other tax reductions, and unearned income minus Medicare premiums that an applicant and an applicant's family receives, calculated on a monthly basis.**

SECTION 9. **"Point of service" means receiving the program benefit at the time of purchase of the prescription drugs.**

SECTION 10. **"Prescription printout" means an itemized report prepared by a provider for an enrollee showing prescription data for the enrollee for a stated benefit period. Such prescription data must include, but is not limited to:**

(1) enrollee name and address;
(2) prescription number;
(3) NDC Code;
(4) drug name;
(5) drug strength;
(6) dosage form;
(7) quantity dispensed;
(8) date of dispense;
(9) the amount of any discount provided; and
(10) the amount paid by the enrollee, or any insurance plan.

SECTION 11. **"Proof of income" means documentation of the income of an applicant and an applicant's family.**

SECTION 12. **(a) "Provider" means:**

(1) an entity who participates in the program;
(2) is licensed under IC 25-26-13;
(3) holds a proper permit under IC 25-26-13-17; and
(4) who complies with the same state enrollment requirements established for the Medicaid program at 405 IAC 5-4.

(b) Nothing in this rule *[document]* **prevents an enrolled provider from dispensing a prescription from an out-of-state branch location as long as:**

(1) the provider has an Indiana presence and is enrolled under the provisions of this article *[document]***; and**
(2) The branch location where the prescription is dispensed is located within the United States of America.

SECTION 13. **"Refund certificate" means the claim document issued to an enrollee by the office which authorizes the enrollee, who has not received a benefit at point of service, to request a refund for prescription drugs purchased during a benefit period.**

SECTION 14. **"Reside" means the place where an applicant actually lives as distinguished from a domicile.**

SECTION 15. **For purposes of determining the effective date of availability of the program to an applicant, the date of application is the date the complete application is received by the office.**

SECTION 16. **(a) The program is available to an enrollee beginning with the benefit period prior to the one in which the enrollee applied for enrollment in the program.**

(b) After July 1, 2002, program availability will be no sooner than the date complete application is received and approved.

(c) Those enrollees applying on or before the tenth of a month will have point of service benefits available on the first day of the following month. Those enrollee's applying after the tenth of a month will have point of service benefits available no later than the first day of the second following month.

(d) The program is not available for prescription drugs purchased prior to the month in which the enrollee turned sixty-five (65) years of age.

SECTION 17. **(a) To be eligible for the program, an applicant's monthly family net income must not exceed the income limit listed below for the applicant's family size:**

Family Size	Net Monthly Income Limit
1	$997
2	$1,344
3	$1,690

(b) For each additional family member over three (3), the family member standard shall be added to the net monthly income limit for a family of three (3) in order to calculate the net monthly income limit. A child who earns more than the family member standard per month is not included in the calculation of monthly net income or in family size.

(c) The monthly net income limits are determined by multiplying the annual federal poverty guideline amounts for each family size by one hundred thirty-five percent

(135%), dividing by twelve (12), and then rounding up to the next whole dollar.

(d) The income standards in subsection (a) shall increase annually in the same percentage amount that is applied to the federal poverty guideline. The increase shall be effective on the first day of the second month following the month of publication of the federal poverty guideline in the Federal Register.

SECTION 18. **(a) The program shall issue a partial refund to an enrollee for the purchase of prescription drugs, as defined under this article, based upon the limitations set forth in this rule if an enrollee submits a refund certificate.**

(b) Rather than submit a refund certificate, an eligible enrollee may go to any participating provider to purchase prescription drugs and present his or her prescription and program identification card at the point of service to receive immediate program benefits. At the point of service, the provider shall determine the following:

(1) Whether the enrollee is eligible.

(2) Whether the individual whose name appears on the identification card is the same as the individual for whom the prescription is written.

(3) Whether the enrollee has benefits available.

(4) That all prescription discounts are deducted from provider's retail price prior to calculating program benefits.

(5) The amount of the enrollee's copayment.

SECTION 19. **(a) The refund or benefit at the time of purchase, which is issued to an enrollee per benefit period is limited by family monthly net income as follows:**

Income Guideline	Individual's Monthly Net Income	Couple's Monthly Net Income	Annual Benefit
Up to 135% of federal poverty guideline	Up to $997 per month	Up to $1,344 per month	50% benefit, up to $500 benefit/year
Up to 120% of federal poverty guideline	Up to $886 per month	Up to $1,194 per month	50% benefit, up to $750 benefit/year
Under 100% of federal poverty guideline	Up to $739 per month	Up to $995 per month	50% benefit, up to $1,000 benefit/year

(b) An enrollee and spouse who are enrolled in the program will each receive the maximum refund, or benefit at the time of purchase, for prescription drug expenses up to the annual benefit in subsection (a) for which they qualify by family income level.

(c) Upon such time as the enrollee exceeds the annual benefit, the enrollee may use the prescription identification card to access program benefit prescription drug rates as defined by SECTIONS 28 and 29 of this document until the enrollee benefit period expires.

SECTION 20. **(a) The refund certificate program shall consist of four (4) benefit periods per year, defined as follows:**

(1) Benefit period one: October 1 through December 31.

(2) Benefit period two: January 1 through March 31.

(3) Benefit period three: April 1 through June 30.

(4) Benefit period four: July 1 through September 30.

(b) The point of service benefit shall be one (1) year of continuous eligibility up to that which is proscribed in SECTION 19 of this document.

SECTION 21. **(a) The refund certificate program is available to an enrollee for a maximum of four (4) consecutive benefit periods.**

(b) The point of service benefit is available to an enrollee for one (1) year.

(c) If an enrollee is utilizing both the refund certificate program and the point of service program, the maximum benefit duration to an enrollee is one (1) year of continuous benefits.

(d) To reenroll in the refund certificate program, or for point of service benefits, a new application must be submitted to the office in accordance with this article *[document]***.**

SECTION 22. **An enrollee is ineligible for a program benefit for prescription drugs purchased during any benefit period in which the enrollee has health insurance or Medicaid with a prescription drug benefit.**

SECTION 23. **(a) Upon submission of a completed refund certificate, or at the point of service, benefits are available under this program on a first come, first served basis.**

(b) Benefits will exist under this program to the extent that appropriations are available for the program.

(c) The state budget director shall determine if appropriations are available to continue offering and paying benefits to enrollees.

SECTION 24. **Once the office has determined eligibility, the applicant will receive a letter of eligibility notifying the applicant of his or her status in the program. An applicant will either be eligible and enrolled in the program, or ineligible and not enrolled in the program. New applicants determined to be eligible after July 1, 2002, will receive an approved letter of eligibility and a program benefit card.**

SECTION 25. **(a) If the enrollee is using refund certificates, during each refund period, the enrollee must submit the applicable refund certificate with the prescription**

printout for the corresponding benefit period to the office in the manner prescribed by the office.

(b) The refund period deadline is the date which corresponds to the later of thirty-five (35) days from the date on the letter of eligibility or the last day of the applicable refund period.

(c) An enrollee will be notified by mail if the enrollee submits an incomplete request for refund. An incomplete request for refund includes:

(1) an unsigned refund certificate;

(2) a refund certificate with no insurance verification;

(3) a prescription printout which fails to state all information in SECTION 10 of this document;

(4) the absence of a refund certificate for the applicable benefit period;

(5) the absence of a prescription printout for the applicable benefit period; or

(6) the absence of any other information that is necessary under this article *[document]* **to process a refund request. The enrollee must submit the information requested in the letter of notification by the deadline in the letter of notification.**

(d) Refund certificates received by the office after the refund deadline date will not be processed and no refund will be issued. Any refund certificate or prescription printout requested in subsection (c) that is received by the office after the stated deadline date will not be processed and no refund will be issued.

SECTION 26. **All provider appeals from office action taken under this 405 IAC 6 and this document shall be governed by the procedures and time limits for Medicaid providers set out in 405 IAC 1-1.5.**

SECTION 27. **The provisions of 405 IAC 1-5 concerning contents, retention, and disclosure of records of Medicaid providers shall apply to providers of covered drugs under this title.**

SECTION 28. **The rates of reimbursement for the covered prescription drugs provided under this title shall be the same as those calculated for Medicaid prescription drugs under rules adopted by the secretary at 405 IAC 5-24.**

SECTION 29. **The Indiana prescription drug dispensing fee maximum under this title shall be the same as that which is allowable under rules adopted by the secretary at 405 IAC 5-24-6.**

SECTION 30. **(a) All provider claims for payment for point of service benefits rendered to enrollees must be originally filed with the office's contractor within twelve (12) months of the date of the provision of the service. A provider who is dissatisfied with the amount of his reimbursement may appeal under the provisions of SECTION 26 of this document. However, prior to filing such an appeal, the provider must either:**

(1) resubmit the claim if the reason for denial of payment was due to incorrect or inaccurate billing by the provider;

(2) submit, if appropriate, an adjustment request to the office contractor's adjustment and resolution unit; or

(3) submit a written request to the office's contractor, stating why the provider disagrees with the denial or amount of reimbursement.

(b) All requests for payment adjustments and/or reconsideration of a claim that has been denied must be submitted to the office contractor within sixty (60) days of the date of notification that the claim was paid or denied. In order to be considered for payment, each subsequent claim resubmission or adjustment request must be submitted within sixty (60) days of the most recent notification that the claim was paid or denied. The date of notification shall be considered to be three (3) days following the date of mailing from the office's contractor. All claims filed after twelve (12) months of the date of the provision of the service, as well as claims filed after sixty (60) days of the date of notification that the claim was paid or denied shall be rejected for payment unless a waiver has been granted. In extenuating circumstances, a waiver of the filing limit may be authorized by the contractor or the office when justification is provided to substantiate why the claim could not be filed or refiled within the filing limit. Some examples of situations considered to be extenuating circumstances are:

(1) contractor, or state error or action that has delayed payment;

(2) reasonable and continuous attempts on the part of the provider to resolve a claim problem.

(c) All claims filed for reimbursement shall be reviewed prior to payment by the office or its contractor, for completeness, including required documentation, appropriateness of services and charges, application of discounts, and other areas of accuracy and appropriateness as indicated.

(d) The office is only liable for the payment of claims filed by providers who were certified providers at the time the service was rendered and for services provided to persons who were enrolled in the Indiana prescription drug program as eligible enrollees at the time service was provided. The claim will not be paid if the services provided are outside the service parameters as established by the office.

(e) A provider shall collect from an enrollee or from the authorized representative of the enrollee that portion of his charge for a benefit as defined by SECTION 19 of this document which is not reimbursed by the Indiana prescrip-

tion drug program and after all prescription discounts have been calculated as proscribed by this article *[document]*.

SECTION 31. **(a) The office may deny payment, or instruct the contractor to deny payment, to any provider if, after investigation by the office, the office's designee, or other governmental authority, the office finds any of the following:**

(1) The services claimed cannot be documented by the provider in accordance with SECTION 27 of this document.

(2) The services claimed were provided to a person other than a person in whose name the claim is made.

(3) The services claimed were provided to a person who was not eligible for benefits at the time of the provision of the service.

(4) The claim arises out of any of the following acts or practices:

(A) Presenting, or causing to be presented, for payment any false or fraudulent claim.

(B) Submitting, or causing to be submitted, information for the purpose of obtaining greater compensation than that to which the provider is legally entitled.

(C) Submitting, or causing to be submitted, any false information.

(D) Failure to disclose, or make available to the office, or its authorized agent, records of services provided to enrollees and records of payments made therefor.

(E) Engaging in a course of conduct or performing an act deemed by the office to be improper or abusive of the program or continuing such conduct following notification that the conduct should cease.

(F) Breach of the terms of the Indiana prescription drug provider certification agreement or failure to comply with the terms of the provider certification on the claim form.

(G) Violating any provision of state law or any rule or regulation promulgated pursuant to 405 IAC 6, this document, or any provider bulletin published thereto.

(H) Submission of a false or fraudulent application for provider status.

(I) Failure to meet standards required by the state of Indiana for participating in the program.

(J) Refusal to execute a new provider certification agreement when requested by the office or its contractor to do so.

(K) Failure to correct deficiencies to provider operations after receiving written notice of these deficiencies from the office.

(L) Failure to repay within sixty (60) days or make acceptable arrangements for the repayment of identified overpayments or otherwise erroneous payments, except as provided in this rule.

(M) Presenting claims for which benefits are not available.

(5) The claim arises out of any act or practice prohibited by rules and regulations of the office.

(b) The decision as to denial of payment for a particular claim or claims is at the discretion of the office. This decision shall be final and:

(1) will be mailed to the provider by United States mail at the address contained in the office records and on the claims or transmitted electronically if the provider has elected to receive electronic remittance advices;

(2) will be effective upon receipt; and

(3) may be administratively appealed under SECTION 30 of this document.

(c) The decision as to claim payment suspension is at the discretion of the office, and may include any of the following:

(1) The denial of payment for all claims that have been submitted by the provider pending further investigation by the office, the office's designee, or other governmental authority.

(2) The suspension or withholding of payment on any or all claims of the provider pending an audit or further investigation by the office, the office's designee, or other governmental authority.

(d) The decision of the office under subsection (c) shall:

(1) be served upon the provider by certified mail, return receipt requested;

(2) contain a brief description of the decision;

(3) become final fifteen (15) days after its receipt; and

(4) contain a statement that any appeal from the decision shall be taken in accordance with IC 4-21.5-3-7 and SECTION 26 of this document.

(e) If an emergency exists, as determined by the office, the office may issue an emergency directive suspending or withholding payment on any or all claims of the provider pending further investigation by the office, the office's designee, or other governmental authority under IC 4-21.5-4. Any order issued under this subsection shall:

(1) be served upon the provider by certified mail, return receipt requested;

(2) become effective upon receipt;

(3) include a brief statement of the facts and law that justifies the office's decision to issue an emergency directive; and

(4) contain a statement that any appeal from the decision of the assistant secretary made under this subsection shall be taken in accordance with IC 4-21.5-3-7 and SECTION 26 of this document.

SECTION 32. **(a) The office may recover payment, or instruct its contractor to recover payment, from any provider for services rendered to an individual, or claimed**

to be rendered to an individual, if the office, after investigation or audit, finds that:

(1) the services paid for cannot be documented by the provider as required by SECTION 27 of this document;

(2) the services were provided to a person other than the person in whose name the claim was made and paid;

(3) the service reimbursed was provided to a person who was not eligible for benefits at the time of the provision of the service;

(4) the paid claim arises out of any act or practice prohibited by law or by rules of the office;

(5) overpayment resulted from an inaccurate description of prescription data;

(6) overpayment resulted from duplicate billing;

(7) overpayment to the provider resulted from any other reason not specified in this subsection.

(b) The office may determine the amount of overpayments made to a provider by means of a random sample audit. The random sample audit shall be conducted in accordance with generally accepted statistical methods, and the selection criteria shall be based on a table of random numbers derived from any book of random sampling generally accepted by the statistical profession.

(c) The office or its designee may conduct random sample audits for the purpose of determining overcharges to the Indiana prescription drug program. The following criteria apply to random sample audits:

(1) In the event that the provider wishes to appeal the accuracy of the random sample methodology under IC 4-21.5-3, the provider may present evidence to show that the sample used by the office was invalid and therefore cannot be used to project the overpayments identified in the sample to total billings for the audit period.

(2) The provider may also conduct an audit, at the provider's expense, of either a valid random sample audit, using the same random sampling methodology as used by the office, or an audit of one hundred percent (100%) of medical records of payments received during the audit period. Any such audit must be completed within one hundred eighty (180) days of the date of appeal and must demonstrate that the provider's records for the unaudited services provided during the audit period were in compliance with state and federal law. The provider must submit supporting documentation to demonstrate this compliance.

(d) If the office determines that an overcharge has occurred, the office shall notify the provider by certified mail. The notice shall include a demand that the provider reimburse the office, within sixty (60) days of the provider's receipt of the notification, for any overcharges determined by the office. Except as provided in subsection (f), a provider who receives a notice and request for repayment may elect to do one (1) of the following:

(1) Repay the amount of the overpayment not later than sixty (60) days after receiving notice from the office, including interest from the date of overpayment.

(2) Request a hearing and repay the amount of the alleged overpayment not later than sixty (60) days after receiving notice from the office.

(3) Request a hearing not later than sixty (60) days after receiving notice from the office and not repay the alleged overpayment, except as provided in subsection (e).

(e) If:

(1) a provider elects to proceed under subsection (d)(3); and

(2) the office of the secretary determines after the hearing and any subsequent appeal that the provider owes the money;

the provider shall pay the amount of the overpayment, including interest from the date of the overpayment.

(f) The office may enter into an agreement with the provider regarding the repayment of any overpayment made to the provider. Such agreement shall state that the amount of overpayment shall be deducted from subsequent payments to the provider. Such subsequent payment deduction shall not exceed a period of six (6) months from the date of the agreement. The repayment agreement shall include provisions for the collection of interest on the amount of the overpayment. Such interest shall not exceed the percentage rate that is determined by the commissioner of the department of state revenue under IC 6-8.1-10-1(c).

(g) Whenever the office determines, after an investigation or audit, that an overpayment to a provider should be recovered, the office shall assess an interest charge in addition to the amount of overpayment demanded. Such interest charge shall not exceed the rate that is determined by the commissioner of the department of state revenue under IC 6-8.1-10-1(c). Such interest charge shall be applied to the total amount of the overpayment, less any subsequent repayments. The interest shall accrue from the date of the overpayment to the provider and shall apply to the net outstanding overpayment during the periods in which such overpayment exists. When an overpayment is determined pursuant to the results of a random sample audit, the date the overpayment occurred shall be considered to be the last day of the audit period, and interest will be calculated from the last day of the audit period. Recovering interest:

(1) at a rate that is the percentage rounded to the nearest whole number that equals the average investment yield on state money for the state'' *[sic., state's]* previous fiscal year, excluding pension fund investments, as published in the auditor of state' *[sic., state's]* comprehensive annual financial report; and

(2) accruing from the date of overpayment on amounts paid to a provider that are in excess of the amount subsequently determined to be due the provider as a result of an audit, a reimbursement cost settlement or a judicial or an administrative proceeding.

(h) If the office recovers an overpayment to a provider that is subsequently found not to have been owing to the office, either in whole or in part, then the office will pay to the provider interest on the amount erroneously recovered from the provider. Such interest will accrue from the date that the overpayment was recovered by the office until the date the overpayment is restored to the provider. Such interest will accrue at the rate of interest set by the commissioner for interest payments from the department of state revenue to a taxpayer. The office will not pay interest to a provider under any other circumstances.

(i) If, after receiving a notice and request for repayment, the provider fails to elect one (1) of the options listed in subsection (d) within sixty (60) days and the administrator determines that reasonable grounds exist to suspect that the provider has acted in a fraudulent manner, then the office shall immediately certify the facts of the case to the appropriate county prosecutor.

SECTION 33. **(a) The office may require the repayment of any amount determined by the office to have been paid to the provider in error, prior to an evidentiary hearing or summary review, unless an appeal is pending and the provider has elected not to repay an alleged overpayment pursuant to SECTION 32 of this document. The office may, in its discretion, recoup any overpayment to the provider by the following means:**

(1) Offset the amount of the overpayment against current payments to a provider.

(2) Require that the provider satisfy the overpayment by refunding the entire amount of the overpayment to the office directly.

(3) Enter into an agreement with the provider in accordance with SECTION 32 of this document.

(b) Interest from the date of the overpayment will be assessed even if the provider repays the overpayment to the office within thirty (30) days after receipt of the notice of the overpayment. This subsection applies to any of the methods of recoupment set out in this SECTION.

SECTION 34. **(a) If, after investigation by the office, the office's designee, or other governmental authority, the office determines that a provider has violated any provision of IC 12-10-16, or has violated any rule established under one (1) of those sections, the office may impose one (1) or more of the following sanctions:**

(1) Deny payment to the provider for services rendered during a specified period of time.

(2) Reject a prospective provider's application for participation in the program.

(3) Remove a provider's certification for participation in the program (decertify the provider).

(4) Assess a fine against the provider in an amount not to exceed three (3) times the amounts paid to the provider in excess of the amounts that were legally due.

(5) Assess an interest charge, at a rate not to exceed the rate established within this article *[document]* **on the amounts paid to the provider in excess of the amounts that were legally due. The interest charge shall accrue from the date of the overpayment to the provider.**

(b) Specifically, the office may impose the sanctions in subsection (a) if, after investigation by the office, the office's designee, or other governmental authority, the office determines that the provider:

(1) submitted, or caused to be submitted, claims for services which cannot be documented by the provider;

(2) submitted, or caused to be submitted, claims for services provided to a person other than a person in whose name the claim is made;

(3) submitted, or caused to be submitted, any false or fraudulent claims for services;

(4) submitted, or caused to be submitted, information with the intent of obtaining greater compensation than that which the provider is legally entitled;

(5) engaged in a course of conduct or performed an act deemed by the office to be abusive of the program or continuing such conduct following notification that the conduct should cease;

(6) breached, or caused to be breached, the terms of the provider certification agreement;

(7) failed to comply with the terms of the provider certification on the claim form;

(8) overutilized, or caused to be overutilized, the program;

(9) submitted, or caused to be submitted, a false or fraudulent provider certification agreement;

(10) submitted, or caused to be submitted, any claims for services arising out of any act or practice prohibited by the criminal provisions of the Indiana Code or by the rules of the office;

(11) failed to disclose or make available to the office, the office's designee, or other governmental authority, after reasonable request and notice to do so, documentation of services provided to enrollees and office records of payments made therefor;

(12) failed to meet standards required by the state of Indiana law for participation;

(13) charged an enrollee copayment for covered services over and above that allowable under this article *[document]***;**

(14) refused to execute a new provider certification agreement when requested to do so;

(15) failed to correct deficiencies to provider operations after receiving written notice of these deficiencies from the office;

(16) failed to repay or make arrangements for the repayment of identified overpayments or otherwise erroneous payments, unless an appeal is pending and the provider has elected not to repay an alleged overpayment.

(c) The office may enter a directive imposing a sanction under IC 4-21.5-3-6. Any directive issued under this subsection shall:

(1) be served upon the provider by certified mail, return receipt requested;

(2) contain a brief description of the order;

(3) become final fifteen (15) days after its receipt; and

(4) contain a statement that any appeal from the decision of the office made under this section shall be taken in accordance with IC 4-21.5-3-7 and SECTION 26 of this document.

(d) If an emergency exists, as determined by the office, the office may issue an emergency directive imposing a sanction under IC 4-21.5-4. Any order issued under this subsection shall:

(1) be served upon the provider by certified mail, return receipt requested;

(2) become effective upon receipt;

(3) include a brief statement of the facts and law that justifies the office's decision to issue an emergency directive; and

(4) contain a statement that any appeal from the decision made under this section shall be taken in accordance with IC 4-21.5-3-7 and SECTION 26 of this document.

(e) The decision to impose a sanction shall be made at the discretion of the office.

SECTION 35. **SECTIONS 1 through 34 of this document expire December 25, 2002.**

LSA Document #02-281(E)
Filed with Secretary of State: September 26, 2002, 11:46 a.m.

TITLE 405 OFFICE OF THE SECRETARY OF FAMILY AND SOCIAL SERVICES

LSA Document #02-50

Under IC 12-8-3-4.4, LSA Document #02-50, printed at 25 IR 2556, which amends 405 IAC 5-14-1 to limit annual expenditures for Medicaid covered dental services to $950 per year for recipients 21 years of age and over, was adopted by the Office of the Secretary of Family and Social Services on August 13, 2002. The rule that was adopted is a different version than the proposed rule that was published in the Indiana Register on May 1, 2002.

TITLE 405 OFFICE OF THE SECRETARY OF FAMILY AND SOCIAL SERVICES

LSA Document #02-144

Under IC 12-8-3-4.4, LSA Document #02-144, printed at 25 IR 3825, which amends 405 IAC 1-14.5-13, 405 IAC 1-14.5-14, and 405 IAC 1-14.5-15 to change the index used in the calculation of the fair rental allowance from the United States Treasury 30 year bond to the United States Treasury 10 year bond. The rule that was adopted is the same version as the proposed rule that was published in the Indiana Register on August 1, 2002.

TITLE 405 OFFICE OF THE SECRETARY OF FAMILY AND SOCIAL SERVICES

LSA Document #02-145

Under IC 12-8-3-4.4, LSA Document #02-145, printed at 25 IR 3829, which adds 405 IAC 2-10 to provide for the placement of liens on the real property of certain Medicaid recipients. This rule implements IC 12-15-8.5 as added by P.L.178-2002 (HEA 1196). The rule that was adopted is a different version than the proposed rule that was published in the Indiana Register on August 1, 2002.

Change in Notice of Public Hearing

TITLE 327 WATER POLLUTION CONTROL BOARD

#01-95(WPCB)

The Water Pollution Control Board gives notice that the date and location of the public hearing for consideration of preliminary adoption of #01-95(WPCB) printed at 24 IR 4242, has been changed. The changed Notice of Public Hearing appears below:

Notice of Public Hearing

Under IC 4-22-2-24, IC 13-14-8-1, IC 13-14-8-2, and IC 13-14-9, notice is hereby given that the Water Pollution Control Board will hold a public hearing on ***November 13, 2002*** *at 1:30 p.m. at the Indiana Government Center-South, 402 West Washington Street, Conference Center Room C, Indianapolis, Indiana. This hearing is on proposed amendments to 327 IAC 15, NPDES General Permit Program related to storm water. Procedures to be followed in this hearing may be found in the April 1, 1996, Indiana Register, page 1710 (19 IR 1710).*

The purpose of this hearing is to receive comments from the public prior to preliminary adoption of these rules by the board. All interested persons are invited and will be given reasonable opportunity to express their view concerning the proposed amendments. Oral statements will be heard, but for the accuracy of the record, all comments should be submitted in writing.

Technical information regarding this action may be obtained from Lori Gates, Office of Water Quality, Wet Weather Section, (317) 233-6725 or (800) 451-6027 (in Indiana). Additional information regarding this action may be obtained from Kiran Verma, Office of Water Quality, Rules Section, (317) 234-0986 or (800) 451-6027 (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:

ADA Coordinator
Indiana Department of Environmental Management
100 North Senate Avenue
P.O. Box 6015
Indianapolis, Indiana 46206-6015

or call (317) 234-1208 (V) or (317) 232-6565 (TTD). Speech and hearing impaired callers may 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 Water Management, Indiana Government Center-North, 100 North Senate Avenue, Twelfth Floor West, Indianapolis, Indiana.

Mary Ellen Gray
Deputy Assistant Commissioner
Office of Water Quality

TITLE 655 BOARD OF FIREFIGHTING PERSONNEL STANDARDS AND EDUCATION

LSA Document #02-128

The Board of Firefighting Personnel Standards and Education gives notice that the date of the public hearing for LSA Document #02-128, printed at 25 IR 3883, has been changed. The changed Notice of Public Hearing appears below:

Notice of Public Hearing

Under IC 4-22-2-24 and IC 4-22-2.5-2, notice is hereby given that on ***December 2, 2002*** *at 10:00 a.m., at the Wayne Township Fire Department, 700 North High School Road, Room E, Indianapolis, Indiana the Board of Firefighting Personnel Standards and Education will hold a public hearing concerning the proposed readoption of board 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:

Mara Snyder, Counsel
Office of the State Fire Marshal
402 West Washington Street, Room E241
Indianapolis, Indiana 46224

Copies of these rules to be readopted are now on file at the Office of the State Fire Marshal, 402 West Washington Street, Room E241 and Legislative Services Agency, One North Capitol, Suite 325, Indianapolis, Indiana and are open for public inspection.

M. Tracy Boatwright
State Fire Marshal
Board of Firefighting Personnel Standards and Education

TITLE 45 DEPARTMENT OF STATE REVENUE

LSA Document #02-305

Under IC 4-22-2-23, the Department of State Revenue intends to adopt a rule concerning the following:

OVERVIEW: Adds 45 IAC 3.1-1-99.1 concerning advance earned income credit payments by employers to employees. Provide employers with withholding instructions and guidelines for employees that request advance earned income credit payments during the year. Public comments are invited. Statutory authority: IC 6-3-4-8.

TITLE 50 DEPARTMENT OF LOCAL GOVERNMENT FINANCE

NOTE: Under IC 6-1.1-31-1, the name of the State Board of Tax Commissioners is changed to Department of Local Government Finance, effective January 1, 2002.

LSA Document #02-297

Under IC 4-22-2-23, the Department of Local Government Finance intends to adopt a rule concerning the following:

OVERVIEW: Under the authority of IC 6-1.1-4-4.5, as enacted by P.L.198-2001, the Department of Local Government Finance intends to adopt rules to provide for a uniform and equal assessment by annually adjusting the assessed value of real property during nongeneral assessment years. This rule will also establish the uniform procedures necessary to review and assess the real property value as defined by the chapter. The Department of Local Government Finance invites written submissions expressing your views on these matters. Questions or comments may be directed to Beth Henkel, General Counsel, Department of Local Government Finance, at 100 North Senate Avenue, Room 1058, Indianapolis, Indiana 46204 or bhenkel@tcb.state.in.us. Telephone number: 317-233-4361. Statutory authority: IC 6-1.1-8.7-9; IC 6-1.1-31-1.

TITLE 105 INDIANA DEPARTMENT OF TRANSPORTATION

LSA Document #02-304

Under IC 4-22-2-23, the Indiana Department of Transportation intends to adopt a rule concerning the following:

OVERVIEW: Repeals 105 IAC 9-21-2 concerning modifications to the 1988 Edition of the Manual on Uniform Traffic Control Devices. Questions or comments pertaining to the proposed rule to be repealed may be directed to: Indiana Department of Transportation, ATTENTION: William P. Huff, 100 North Senate Avenue, Room 730, Indianapolis, Indiana 46204. Statutory authority: IC 8-23-2-6(9).

TITLE 312 NATURAL RESOURCES COMMISSION

LSA Document #02-294

Under IC 4-22-2-23, the Natural Resources Commission intends to adopt a rule concerning the following:

OVERVIEW: Amends 312 IAC 3-1-12 that governs oral arguments following "objections" to authorize the chair of the natural resources commission to form a committee to provide final agency relief for matters subject to IC 4-21.5-3-28 through IC 4-21.5-3-31. Effective 30 days after filing with the secretary of state. Questions concerning the proposed rule amendments may be directed to the following telephone number: (317) 233-3322 or e-mail: slucas@dnr.state.in.us/. Statutory authority: IC 14-10-2-4; IC 4-21.5-3-28.

TITLE 357 INDIANA PESTICIDE REVIEW BOARD

LSA Document #02-292

Under IC 4-22-2-23, the Indiana Pesticide Review Board intends to adopt a rule concerning the following:

OVERVIEW: The rule will establish pesticide use, application, storage, and disposal requirements near community public water systems wells in addition to any requirements that may already be established on the pesticide product labels. Effective 30 days after filing with the secretary of state. Questions concerning the proposed rule may be directed to David E. Scott at (765) 494-1587, or scottde@purdue.edu, or Office of the Indiana State Chemist, Purdue University, 1154 Biochemistry, West Lafayette, Indiana 47907-1154. Statutory authority: IC 15-3-3.6-4; IC 15-3-3.6-24.

TITLE 410 INDIANA STATE DEPARTMENT OF HEALTH

LSA Document #02-295

Under IC 4-22-2-23, the Indiana State Department of Health intends to adopt a rule concerning the following:

OVERVIEW: Amends the rules on youth camps to address

certain issues, including maintenance of a medical log, use of tobacco or alcohol, first aid kits, and use of buildings and sleeping shelters, bed spacing, and spine boards at bathing beaches. Written comments may be submitted to the Indiana State Department of Health, ATTENTION: Office of Legal Affairs, 2 North Meridian Street, Indianapolis, Indiana 46204. Statutory authority: IC 16-19-3-4.

TITLE 470 DIVISION OF FAMILY AND CHILDREN

LSA Document #02-298

Under IC 4-22-2-23, the Division of Family and Children intends to adopt a rule concerning the following:

OVERVIEW: Adds new rules in 470 IAC 3-4.7 concerning the licensure of child care centers. These new rules provide for the minimum standards necessary to obtain and retain a license for child care centers. Repeals 470 IAC 3-4.1 and 470 IAC 3-4.2 that currently govern this subject. Statutory authority: IC 12-13-5-3.

TITLE 540 INDIANA EDUCATION SAVINGS AUTHORITY

LSA Document #02-287

Under IC 4-22-2-23, the Indiana Education Savings Authority intends to adopt a rule concerning the following:

OVERVIEW: Amends 540 IAC 1-7-2, 540 IAC 1-8-2, and 540 IAC 1-10-1 to clarify how the fee paid to the administrator of the Indiana CollegeChoice 529 Program is calculated to clarify the initial and subsequent minimum contribution requirements of the Indiana CollegeChoice 529 Program, and to eliminate limitations on the frequency of distributions from an account. Repeals 540 IAC 1-9-2.6. Statutory authority: IC 21-9-4-7.

TITLE 760 DEPARTMENT OF INSURANCE

LSA Document #02-299

Under IC 4-22-2-23, the Department of Insurance intends to adopt a rule concerning the following:

OVERVIEW: The department intends to amend 760 IAC 1-21 regarding the manner of determination and the calculation of the surcharge for health care providers other than hospitals and physicians and the manner of determination and the calculation of surcharge for all health providers that establish financial responsibility in a way other than by a policy of malpractice liability insurance. Written comments may be submitted to the Indiana Department of Insurance, ATTENTION: Amy Strati, 311 West Washington Street, Suite 300, Indianapolis, Indiana 46204 or email to astrati@doi.state.in.us. Statutory authority: IC 34-18-5-2; IC 34-18-5-4.

TITLE 862 PRIVATE DETECTIVES LICENSING BOARD

LSA Document #02-302

Under IC 4-22-2-23, the Private Detectives Licensing Board intends to adopt a rule concerning the following:

OVERVIEW: To modify the advertisement requirements for licensees or any employee, member, officer, director, or manager of a licensee. Questions or comments concerning the proposed rules may be directed to: Indiana Professional Licensing Agency, ATTENTION: Staff Counsel, 302 West Washington Street, Room E034, Indianapolis, Indiana 46204-2700. Statutory authority: IC 25-30-1-5.5.

TITLE 872 INDIANA BOARD OF ACCOUNTANCY

LSA Document #02-301

Under IC 4-22-2-23, the Indiana Board of Accountancy intends to adopt a rule concerning the following:

OVERVIEW: The Indiana Board of Accountancy intends to establish requirements for nonlicensee owners of a firm under IC 25-2.1-5-4 and to revise the fee schedule. Questions or comments concerning the proposed rules may be directed to: Indiana Professional Licensing Agency, ATTENTION: Staff Counsel, 302 West Washington Street, Room E034, Indianapolis, Indiana 46204-2700. Statutory authority: IC 25-1-8-2; IC 25-2.1-2-15; IC 25-2.1-4-6.

TITLE 876 INDIANA REAL ESTATE COMMISSION

LSA Document #02-300

Under IC 4-22-2-23, the Indiana Real Estate Commission intends to adopt a rule concerning the following:

OVERVIEW: Establish an outline for the mandatory continuing education courses under IC 25-34.1-9-11(a)(1).

Questions or comments concerning the proposed rules may be directed to: Indiana Professional Licensing Agency, ATTENTION: Staff Counsel, 302 West Washington Street, Room E034, Indianapolis, Indiana 46204-2700. Statutory authority: IC 25-34.1-2-5; IC 25-34.1-9-21.

TITLE 876 INDIANA REAL ESTATE COMMISSION

LSA Document #02-303

Under IC 4-22-2-23, the Indiana Real Estate Commission intends to adopt a rule concerning the following:

OVERVIEW: Establish distance learning continuing education requirements and procedures for real estate salespersons and brokers. Establish the requirements and procedures for distance learning continuing education course sponsors. Allow an approved distance learning education course to be conducted in a facility, which is also used as a broker or salesperson office. Allow instruction for an approved distance learning education course to be more than eight hours of instruction in one day. Questions or comments concerning the proposed rules may be directed to: Indiana Professional Licensing Agency, ATTENTION: Staff Counsel, 302 West Washington Street, Room E034, Indianapolis, Indiana 46204-2700. Statutory authority: IC 25-34.1-2-5; IC 25-34.1-9-21.

TITLE 11 CONSUMER PROTECTION DIVISION OF THE OFFICE OF THE ATTORNEY GENERAL

Proposed Rule
LSA Document #02-238

DIGEST

Adds 11 IAC 1-1-3.5 to define existing debt or contract in IC 24-4.7-1-1. Effective 30 days after filing with the secretary of state.

11 IAC 1-1-3.5

SECTION 1. 11 IAC 1-1, AS ADDED AT 25 IR 1854, SECTION 1, IS AMENDED BY ADDING A NEW SECTION TO READ AS FOLLOWS:

11 IAC 1-1-3.5 "Existing debt or contract" defined
Authority: IC 4-6-9-8; IC 24-4.7-3-7
Affected: IC 24-4.7-1-1

Sec. 3.5. (a) For the purposes of IC 24-4.7-1-1, "existing debt or contract" means:

(1) a sum of money owed by the consumer who receives the telephone call to telephone solicitor making the call; or

(2) a legally binding agreement between the telephone solicitor making the call and the consumer who receives the call from the telephone solicitor.

(b) For the purposes of this title,"existing debt or contract" does not include:

(1) an existing debt that the consumer has with an entity other than the telephone solicitor; or

(2) an existing contract that the consumer has with an entity other than the telephone solicitor.

(Consumer Protection Division of the Office of the Attorney General; 11 IAC 1-1-3.5)

Notice of Public Hearing

Under IC 4-22-2-24, notice is hereby given that on November 22, 2002 at 1:15 p.m., at the Indiana Government Center-South, Office of the Attorney General's Conference Room, 302 West Washington Street, Fifth Floor, Indianapolis, Indiana the Consumer Protection Division of the Office of the Attorney General will hold a public hearing on proposed new rules to define existing debt or contract as used in IC 24-4.7-1-1. Copies of these rules are now on file at the Indiana Government Center-South, Office of the Attorney General, 302 West Washington Street, Fifth Floor and Legislative Services Agency, One North Capitol, Suite 325, Indianapolis, Indiana and are open for public inspection.

Marguerite M. Sweeney
Chief Counsel, Telephone Privacy
Office of the Attorney General
Consumer Protection Division of the Office of the Attorney General

TITLE 80 STATE FAIR COMMISSION

Proposed Rule
LSA Document #02-200

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, AS READOPTED AT 25 IR 528, SECTION 1, 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 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) 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)*

SECTION 2. 80 IAC 4-3-5, AS READOPTED AT 25 IR 528, SECTION 1, 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)*

Notice of Public Hearing

Under IC 4-22-2-24, notice is hereby given that on December 19, 2002 at 9:30 a.m., at the Indiana State Fair Administration Building Conference Room, 1202 East 38th Street, Indianapolis,, Indiana the State Fair Commission will hold a public hearing on proposed amendments to rules relating to the use and operation of electric personal assistive mobility devices. Copies of these rules are now on file at the State Fair Commission, 1202 East 38th Street and Legislative Services Agency, One North Capitol, Suite 325, Indianapolis, Indiana and are open for public inspection.

William Stinson
Executive Director
State Fair Commission

TITLE 105 INDIANA DEPARTMENT OF TRANSPORTATION

Proposed Rule
LSA Document #02-231

DIGEST

Amends 105 IAC 9-2-1 to adopt the Millennium Edition of the Manual on Uniform Traffic Control Devices and the Indiana Supplement to the Millennium Edition on Uniform Traffic Control Devices. The language concerning the adoption of the previous 1988 Edition of the Indiana Manual on Uniform Traffic Control Devices will be deleted. Effective 30 days after filing with the secretary of state.

105 IAC 9-2-1

SECTION 1. 105 IAC 9-2-1, AS READOPTED AT 25 IR 899, SECTION 1, IS AMENDED TO READ AS FOLLOWS:

105 IAC 9-2-1 Manual on uniform traffic control devices adopted

Authority: IC 9-21-4-1
Affected: IC 4-22-2

Sec. 1. ~~Subsequent to publication of notice and public hearing having been held on January 27, 1987,~~ As required by ~~the provisions of~~ IC 4-22-2, ~~et. seq.,~~ the Indiana department of ~~Highways~~ **transportation** hereby adopts the ~~1988~~ **Millennium** Edition of the ~~Indiana~~ Manual on Uniform Traffic Control Devices ~~for Streets and Highways.~~ **and the Indiana Supplement to the Millennium Edition on Uniform Traffic Control Devices.** *(Indiana Department of Transportation; 105 IAC 9-2-1; filed Sep 28, 1981, 2:30 p.m.: 4 IR 2216, eff Jul 1, 1982; errata, 4 IR 2984; filed Apr 23, 1987, 2:15 p.m.: 10 IR 1850, eff Jan 1, 1988; readopted filed Nov 7, 2001, 3:20 p.m.: 25 IR 899) NOTE: Transferred from Department of Highways (120 IAC 4-*

3-1) to Indiana Department of Transportation (105 IAC 9-2-1) by P.L.112-1989, SECTION 5, effective July 1, 1989.

Notice of Public Hearing

Under IC 4-22-2-24, notice is hereby given that on November 22, 2002 at 10:00 a.m., at the Indiana Government Center-North, 100 North Senate Avenue, Room 730, Indianapolis, Indiana the Indiana Department of Transportation will hold a public hearing on proposed amendments to the Indiana department of transportation's promulgated rules regarding uniform traffic control devices. Copies of these rules are now on file at the Indiana Government Center-North, 100 North Senate Avenue, Room 730 and Legislative Services Agency, One North Capitol, Suite 325, Indianapolis, Indiana and are open for public inspection.

J. Bryan Nicol
Commissioner
Indiana Department of Transportation

TITLE 327 WATER POLLUTION CONTROL BOARD

Proposed Rule
LSA Document #00-136

DIGEST

Adds a new rule concerning public notification by National Pollutant Discharge Elimination System (NPDES) permit holders of the potential health impact of combined sewer overflows (CSOs) and amends 327 IAC 5-2-9. Effective 30 days after filing with the secretary of state.

HISTORY

First Notice of Comment Period: #00-136(WPCB) July 1, 2000, Indiana Register (23 IR 2613).

Second Notice of Comment Period and Notice of First Hearing: February 1, 2002, Indiana Register (25 IR 1736).

Date of First Hearing: April 10, 2002.

PUBLIC COMMENTS UNDER IC 13-14-9-4.5

IC 13-14-9-4.5 states that a board may not adopt a rule under IC 13-14-9 that is substantively different from the draft rule published under IC 13-14-9-4, until the board has conducted a third comment period that is at least twenty-one (21) days long.

REQUEST FOR PUBLIC COMMENTS

This proposed (preliminarily adopted) rule is substantively different from the draft rule published on February 1, 2002, at 25 IR 1736. The Indiana Department of Environmental Management (IDEM) is requesting comment on the entire proposed (preliminarily adopted) rule.

The proposed rule contains numerous changes from the draft rule 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 suggestions 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.

Additionally, the public is advised that the proposed rule continues to be discussed by IDEM and interested persons at the direction of the Water Pollution Control Board (board) to address issues raised by the public during the first public hearing. This notice requests comments specifically on the version of the rule preliminarily adopted by the board on April 10, 2002. IDEM will also review any comment related to suggestions for inclusion in a version to be presented for final adoption. Individuals wanting information on current discussions related to this rule may contact Ms. Stevens at (317) 232-8635 or mstevens@dem.state.in.

Mailed comments should be addressed to:
LSA Document #00-136 [CSO Public Notification]
MaryAnn Stevens
Rules Section
Office of Water 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 twelfth floor reception desk, Office of Water Quality, Indiana Government Center-North, Room 1255, 100 North Senate Avenue, Indianapolis, Indiana. Comments may be delivered by facsimile to (317) 232-8406. Please confirm the timely receipt of faxed comments by calling the Office of Water Quality Rules Section at (317) 233-8903. Please note it is not necessary to follow a faxed comment letter with another sent through the postal system.

COMMENT PERIOD DEADLINE

Comments must be postmarked, hand delivered, or faxed by November 25, 2002.

SUMMARY/RESPONSE TO COMMENTS FROM THE SECOND COMMENT PERIOD

The Indiana Department of Environmental Management (IDEM) requested public comment from February 1, 2002, through March 2, 2002, on IDEM's draft rule language. IDEM received comments from the following parties:

Brownsburg Waste Water Treatment Plant (BWWTP)
Gary Sanitary District (GSD)
Improving Kids' Environment, represented by Tom Neltner (IKE)
Indiana Association of Cities and Towns (IACT)
Kendallville Utilities (KU)
Mishawaka Utilities (MU)

Following is a summary of the comments received and IDEM's responses thereto:

Comment: It appears that IDEM is once again redefining what water pollution control facilities do by determining with this draft rule that these facilities are water polluting facilities. (KU)

Response: Senate Enrolled Act (SEA) 431, now known as Public Law 140-2000, was passed by the 2000 General Assembly and contains SECTION 23 which specifically requires the Water Pollution Control Board to adopt a rule requiring National Pollutant Discharge Elimination System (NPDES) permit holders to give notification whenever information from any reliable source indicates that a CSO is discharging or may discharge within the next twenty-four (24) hours.

Comment: The CSO Public Notification rule will put an additional burden on CSO communities that are already having to comply with federal regulations requiring development of a public education program regarding the potential for combined sewer overflows (CSO).

Treatment plant operators have been putting a tremendous amount of time and effort toward maximizing flows through their treatment facilities, but, under this draft rule, that effort toward maximizing flow to the treatment plant could be diminished so that notification phone calls can be made. (BWWTP)

Response: The draft rule at 327 IAC 5-2.1-4(b)(5) requires a CSO community's CSO notification procedure to assign responsibility within the community for implementing the CSO notification procedure but does not require the assignment to be made to treatment plant personnel.

Comment: People need to use common sense. Sewers have been discharging to our receiving streams for over eighty (80) years, and, by this time, people should be knowledgeable about this problem. The requirement of a twenty-four (24) hour notice every time there is a chance for rain will be a tremendous economic burden to communities. It would make more sense to educate everyone with a single public announcement once each year that provides the information that a combined sewer overflow could occur with any chance of rain at any time during the year. (BWWTP)

Response: The conditions in the draft rule concerning when and under what circumstances notification must be made were taken directly from Public Law 140-2000, SECTION 23, as written by the Indiana General Assembly in the 2000 legislative session.

Comment: "Community notification", the term used in Senate Enrolled Act 431 (now known as Public Law 140-2000), is distinct from the individual notification that is emphasized in the draft rule. Impacts to water quality from combined sewer overflows are triggered by the obvious occurrence of rainfall, and the most effective way to protect the community is to educate it. Basic public education regarding bacteria counts in certain streams after rain should be the goal. Other typical safety and health hazards in municipalities do not require individual notification. Trying to make notifications based on prediction or at the actual time of occurrence will be wasteful of resources and will not serve the community good. (IACT, MU)

Response: Public Law 140-2000, SECTION 23 does not deal with other typical safety and health hazards but with the requirement that the Water Pollution Control Board must adopt a rule to require NPDES permit holders to give notification whenever information from any reliable source indicates that a CSO is discharging or may discharge within the next twenty-four (24) hours.

Comment: If the goal of the draft rule is to protect the public, the message quite simply is, "When it rains, bacteria go up. When it might rain, bacteria might go up.". This simple message could be ingrained in the community consciousness through public service announcements, billboards, bill enclosures, warning signs, public meetings, and the like. The draft rule's extensive notification burden is not sufficiently supported by comparative health risk data and will place undue burden and liability on communities. (IACT)

Response: The Indiana General Assembly in the 2000 legislative session directed the Water Pollution Control Board to adopt a rule providing for community notification under specified conditions. IDEM's understanding of community notification does not include a prohibition on notification being made to individuals. However, the individuals required to be notified by the draft rule should not be extensive or burdensome. An early version of the draft rule presented to the workgroup did focus on a generalized, community-wide, education program with the use of public service announcements, billboards, bill enclosures, warning signs, and the like. That rule version met with great opposition from community representatives on the workgroup. The draft rule produced through the workgroup process includes an approach that adheres to Public Law 140-2000, SECTION 23 and is complementary to federal provisions that require CSO communities to give the public adequate notification of CSO occurrences and CSO impacts.

Comment: Mishawaka has submitted a version of the draft rule with changes that in general achieve the following: (1) Substitute community education for individual notification made to affected persons; (2) Rename the "CSO notification procedure" in section 4 as a "CSO notification program"; (3) Limit notification to the recreation season and to be given to private property owners adjacent to the receiving water and within one thousand (1,000) feet of a combined sewer overflow outfall only if the private property owner requests notification; (4) Eliminate the CSO community's requirement to document a private property owner's refusal to accept the community's offer to post a warning sign; and (5) Eliminate the rule language taken from Public Law 140-2000, SECTION 23 concerning when and under what conditions notification must be made. (MU)

Response: Mishawaka is thanked for its submission of rule modifications; however, the draft rule has been through a several months workgroup review process prior to being published for a second public comment period. It is not possible to eliminate any requirements the General Assembly placed on the Water Pollution Control Board for adopting a rule concerning CSO notification. IDEM does not believe that individual notifications, where they are required in the draft rule, are outside the meaning of the community notification term used in SEA 431. The legislative mandate for this rulemaking does not state that the requirement to provide notification applies only during the recreational season.

Comment: Do rules exist for providing community notification or notifying persons who would most likely be affected by non-point source pollution? (KU)

Response: No.

Comment: The draft rule only addresses risks from water borne pathogens associated with actual combined sewer overflows rather than also considering the contamination from any significant precipitation resulting in storm water run-off which can also cause or contribute to a violation of Indiana's recreational water quality standard of two hundred thirty-five (235) colonies per liter. It can be assumed that the pathogens in storm water run-off are not of human origin, but health and environmental professionals have all concluded that nonanthropogenic water borne pathogens pose a similar health risk as those of human origin. Despite this knowledge that waterbodies receiving substantial amounts of storm water run-off pose the same health risk as those that receive CSO discharge, IDEM is not making any effort to require anyone to be notified of the health risks from recreating in or on waterbodies recently contacted by storm water discharges. Likewise, the draft rule also ignores sanitary sewer overflows (SSO) which indisputably have the potential to contain an even greater concentration of anthropogenic pathogens than combined sewer overflows. As a result, the notification required by the draft rule would, by implication, falsely assure that there is no risk in coming into contact with rain affected waters that have received discharges from storm water run-off or sanitary sewer overflows. The draft rule should be modified to provide a much more protective message that there are potential health risks from coming into contact with any waterbody that has recently been affected by a substantial wet weather event. For example, the message could state the following: "If it rains more than a half inch, stay out of the water for forty-eight (48) hours.". In addition, any CSO, sanitary sewer overflow, and storm water outfall should have a sign posted with the appropriate warning about staying away from them when they are flowing, and a community should be required to provide appropriate, separate public notice each time there is a dry weather CSO or sanitary sewer overflow. (GSD)

Response: Dry weather discharging from a CSO or a SSO is a

violation of NPDES permit conditions. Rule 13 addresses storm water run-off. As required by Public Law 140-2000, SECTION 23, the draft rule requires CSO communities to educate the public, by way of providing notification, about the risk of coming into contact with waters impacted by CSO discharges. However, CSO communities are free to be more comprehensive and educate the public about risks associated with other sources of pollutants.

Comment: Applying the requirements of the rule to every CSO discharge in every community is excessive, can mislead the public, and can create unnecessary expenses for the community. Instead of such universal application of the rule, there should be an established threshold based on the contamination content of the CSO discharge that must be exceeded before the requirements of the rule are triggered. A CSO containing a very diluted sewage component due to an extremely high rainwater volume or a high volume stream may have negligible health risk. One of Mr. Neltner's first notice comments printed in the Indiana Register with the draft rule at second notice of comment period states that, "People need to be notified about the magnitude of the CSO problem because the higher the level of contamination the more severe is the hazard.". Conversely, the lower the level of contamination the less severe is the hazard. Therefore, this rule should simply not apply to all CSOs. (IACT)

Response: IDEM believes that including such a threshold would not comply with the provisions of Public Law 140-2000, SECTION 23 which requires notification "whenever information from any reliable source indicates that: (1) a discharge or discharges from one or more combined sewer overflow points is occurring; or (2) there is a reasonable likelihood that a discharge or discharges from one or more combined sewer overflow points will occur within the next twenty-four (24) hours.".

Comment: The draft rule actually increases the odds that someone will get sick from coming into contact with contaminated water because the required notification does not focus on storm water run-off or sanitary sewer overflow in addition to combined sewer overflow. A community may not be held liable for illness or injuries for not providing any notice of the hazards of coming into contact with rain contaminated water but will be held liable for harms resulting from unreasonably deficient notices. If this rule is adopted with its requirement for insufficiently protective notification, then it also needs to contain language stating that IDEM and the state will defend and indemnify any community that uses the language required by the rule. (GSD)

Response: As required by Public Law 140-2000, SECTION 23, the draft rule requires CSO communities to educate the public, by way of providing notification, about the risk of coming into contact with waters impacted by CSO discharges. However, CSO communities are free to be more comprehensive and educate the public about risks associated with other sources of pollutants.

Comment: The draft rule needs to include an exemption for CSO communities to protect them from any liability associated with individuals who choose to enter CSO receiving streams but claim they were not notified. Any reports provided to IDEM by a CSO community regarding notification should serve as proof that a good faith effort was made on behalf of the CSO community to notify citizens of health issues related to CSO. (IACT)

Response: The Water Pollution Control Board does not have the authority to provide any such protection from liability to CSO communities.

Comment: The City of Kendallville has been aggressively separating sewer systems over the past forty (40) years, has submitted its CSO Operation Plan with long term strategy, and has reached the level that Indiana's CSO Strategy has defined as attainable. For these reasons, Kendallville is opposed to the CSO Public Notification rule. However, one revision to the draft rule could be an expansion on the requirement for posting warning signs. Signs should be posted every one-eighth (⅛) mile downstream to the community's corporate limit rather than just one (1) sign posted at the combined sewer overflow outfall. (KU)

Response: Public Law 140-200, SECTION 23, passed by the Indiana General Assembly, requires every CSO community to provide public notification as specified by the draft rule. If a community ceases to have combined sewer overflows then it would not be affected by this rule. The CSO Public Notification rule states minimum requirements that CSO communities must meet. The rule does not prohibit a community from providing additional notification with warning signs posted at regularly spaced intervals.

Comment: The definitions of "combined sewage", "combined sewer system" and "wet weather event" should be removed from the rule because the terms are not used any where in the rule other than in the definitions. As well, the definition of "combined sewage" differs from the statutory definition. (IKE)

Response: While it is most normal to include definitions only for terms used in a rule, the meanings of combined sewage and a combined sewer system are essential to understanding the meaning of a combined sewer overflow community and combined sewer overflow outfall and do serve a purpose in this rule. The definition of "combined sewage" is taken directly from the statutory definition and has the same meaning; the only difference is that the references made in the statutory definition to other statutory definitions have been omitted causing no difference in the meaning of "combined sewage". The definition of "wet weather event" will be eliminated from the rule.

Comment: Several references to "CSO points" should be changed to "CSO outfalls" for sake of consistency, and the term should be defined. (IKE)

Response: "CSO outfall" is defined at 327 IAC 5-2.1-3(5) and will be used consistently throughout the rule in replacement of "CSO point".

Comment: An undefined term, "CSO impacted waterbody", is used at 327 IAC 5-2.1-4(b)(4). This term should be defined as follows: "Combined sewer overflow impacted waterbody" or "CSO impacted waterbody" means waters of the state that exceed the water quality standards due to a combined sewer overflow without regard to other sources of pollution. (IKE)

Response: A definition of "affected water" has been added to the draft rule at 327 IAC 5-2.1-3(2), and revisions to section 4 and other sections of the draft rule have been made in response to this comment.

Comment: A length of time longer than the four (4) months allowed by 327 IAC 5-2.1-4(c)(2) would be appreciated for submission and implementation of the CSO community's CSO notification procedure. (BWWTP)

Response: A rule normally takes a minimum of four (4) months to become effective after it is final adopted by the board. Four (4) months beyond the effective date of the rule would provide the CSO communities eight (8) months from the time of the rule's final adoption to complete and submit their CSO notification procedures.

Comment: Section 4 or an additional section needs to include a requirement that the CSO notification procedure be included in the CSO communities' CSO operational plans and in the Long Term Control Plans. (IKE)

Response: A new subdivision has been added to the draft rule at 327 IAC 5-2.1-4(c) to require the CSO notification procedure to be included in a community's CSO operational plan.

Comment: The "affected persons" listed at 327 IAC 5-2.1-5(a)(1), who are to be among the intended recipients of notification, need to be limited to those who live within a five (5) mile radius of the CSO outfall. If there is no reasonable limit placed on who must be notified,

then prisoners, people living in foreign countries, all members of a national environmental group, etc., may request and be required to receive notification. This would present a CSO community with a crippling administrative burden. (IACT)

Response: A definition of "affected persons" has been added to the draft rule in section 3. Each CSO community will determine the extent of the affected persons requiring notification. This will be accomplished, in part, through use of the data the CSO community has collected to determine the extent of in-stream impacts caused by its CSO discharges. The collection of this information is a requirement of all CSO permittees; therefore, IDEM does not believe using this information to determine the extent of affected persons will present CSO communities with a crippling administrative burden.

Comment: "Drinking water supply companies" used in 327 IAC 5-2.1-5(a)(3) is not defined and implies that notice is only needed to be given to private businesses. The term should be replaced with "public water suppliers". (IKE)

Response: The intent of section 5 is to require CSO communities to provide notice to any supplier of drinking water, public and private, located within the specified range. The questioned term will be modified to "drinking water suppliers".

Comment: An introductory phrase stating "Unless specifically required in this rule," should be added at 327 IAC 5-2.1-5(c). Without such an addition to subsection (c), its current language contradicts 327 IAC 5-2.1-6(a)(1)(A)(ii)(BB) which requires documentation of refusal by a property owner or operator. As well, there could be other situations where a CSO community and the recipient of notification mutually could agree to confirmation of receipt of the notification, and the rule should not prevent that possibility. (IKE)

Response: The suggested introductory phrase has been added at 327 IAC 5-2.1-5(c).

Comment: In 327 IAC 5-2.1-6(a)(1), the terms "recreation" and "downstream" should be much more clearly defined or replaced with more appropriate language that relates to a realistic public health threat from contact with combined sewer discharge waters. The area determined in section 6(a)(1) needs further clarification such as the following: "In areas where there is a reasonable likelihood that full body contact will occur at this location during or after a wet weather event and such likelihood is based upon sworn testimony that voluntary, full body contact with the water has been observed on at least two (2) occasions during any given recreational season.". While requiring testimony may seem excessive, it is not prudent to utilize tax payer and ratepayer dollars to fund any activity based only upon assumption such as the draft rule does concerning areas having recreation. Additionally, the notification requirements of section 6 should be limited to the recreational season because disinfection is not a requirement of publicly owned treatment works outside of the recreational season based, in part, upon the reasonable conclusion that recreation is not occurring. (IACT)

Response: A recreation season limitation was considered during the workgroup process and rejected because nothing in Public Law 140-2000, SECTION 23 limits the notification requirement to a portion of the year. It is certainly an observable and frequent occurrence to find boating, swimming, and fishing activities ongoing in times of the year outside the recreational season so to limit the rule's applicability to the recreational season would be to limit its effectiveness in achieving its intent as established by the legislature. As well, recreational activities in the water may occur that do not involve full body contact; therefore, IDEM does not believe the language suggested by the comment would be appropriate. Section 6 of the draft rule has been revised to improve its clarity. The revision does not use the terms "recreation" and "downstream".

Comment: The language "sewage pollution" and "sewage may be in this water" used in the required warning sign to be posted according to 327 IAC 5-2.1-6(a)(1)(A)(i)(BB) is objectionable because, though it is arguably accurate language, it closely resembles and, therefore, subtly supports and helps perpetuate the misrepresentation of other, inaccurate terminology consistently used by some groups. Specifically, the term "raw sewage overflow" rather than the appropriate term "combined sewer overflow" is consistently used by some with the intent to rally public outrage. In order to accurately notify the public and to function within the proper public educational component of the CSO Long Term Control Plan, it is recommended that each place where the term "sewage" occurs on signage it should be replaced with the following: "rainwater combined with sewage". Furthermore, it would be sufficient that warning signs simply state that the public not swim, wade, or ingest the water in an appropriate effort to prohibit full body contact. (IACT)

Response: It was felt by IDEM and the workgroup that the language "sewage pollution" and "sewage may be in this water" used in the required warning sign is accurate and more understandable to the general public.

Comment: The language of 327 IAC 5-2.1-6(a)(1)(A)(ii) is awkward and needs to make clear that a CSO community is responsible for asking to post a sign each year and document refusals. (IKE)

Response: Section 6 of the draft rule has been revised to improve its clarity.

Comment: In 327 IAC 5-2.1-6(a)(2)(A), the language "within one (1) mile" should be replace with "within ten (10) miles". The Indiana spill reporting rule acknowledges that ten (10) miles is a reasonable distance for determining the potential impact of spills to a flowing stream. The CSO Public Notification rule should also use the ten (10) mile distance because CSO contamination is often equally or more hazardous than spills. A less acceptable alternative to extending the distance to ten (10) miles would be to modify 327 IAC 5-2.1-6(a)(2)(B) to allow all affected persons to be on the registry–notification list even if such persons do not receive an invitation. (IKE)

Response: The idea of unlimited requests to receive notification through the invitation and registry option was discussed during the workgroup meetings held on the draft rule, and it was decided that a distance limitation was needed in order to prevent the rule requirements from becoming ever increasingly costly to the CSO communities that have to provide the notifications. The legislative goal in directing the Water Pollution Control Board to adopt this rule was to protect human health, and the workgroup reasoned that residents in close proximity of a CSO outfall most need notification as opposed to persons who may be interested in CSO occurrences but normally do not live within the affected area. However, IDEM recognizes that any distance limitation may be arbitrary due to the variation of impacts in the different CSO waters. Therefore, the draft rule has been revised to require notice to the media, providers of public access or recreational opportunities, and those who are most likely to come into contact with the contaminated water. This will include residents adjacent to CSO outfalls and those who live downstream of the outfall to such distance that the water is still potentially affected by the CSO discharge.

SUMMARY/RESPONSE TO COMMENTS RECEIVED AT THE FIRST PUBLIC HEARING

On April 10, 2002, the water pollution control board (board) conducted the first public hearing/board meeting concerning the development of new rule 327 IAC 5-2.1 concerning combined sewer overflow public notification by National Pollutant Discharge Elimination System (NPDES) permit holders of the potential health impact of

combined sewer overflows (CSOs) and amendment of 327 IAC 5-2-9. Comments were made by the following parties:

Hoosier Environmental Council, represented by Rae Schnapp, PhD. (HEC)

Improving Kids' Environment, represented by Tom Neltner (IKE)

Indiana Association of Cities and Towns, represented by Tonya Galbraith (IACT)

Following is a summary of the comments received and IDEM's responses thereto:

Comment: The draft rule goes way beyond the requirements of the legislative mandate in Senate Enrolled Act 431. The legislative directive found in SECTION 23 of SEA 431 does not require communities to make individual notices and to do so as required by the draft rule would place a great burden on the communities affected by this rule. (IACT)

Response: Revisions will be proposed to the preliminarily adopted rule to require the identification of affected waters and affected public. The approach of the revised proposed rule should more closely comport with the requirements of SEA 431. Revisions also will be recommended that more accurately reflect the National CSO Policy requirements. The focus will be on notification of affected public that will likely come into contact with affected waters.

Comment: The notification requirements of the draft rule are greater than those required of public water suppliers when giving a warning to boil drinking water before consumption. (IACT)

Response: In addition to the requirements of SEA 431, the original requirement for public notification comes from the 1994 National CSO Policy. EPA guidance on CSO Policy implementation states: "The intent of the eighth minimum control, public notification, is to inform the public of the location of CSO outfalls, the actual occurrences of CSOs, the possible health and environmental effects of CSOs, and the recreational or commercial activities (e.g., swimming and shellfish harvesting) curtailed as a result of CSOs. Public notification is of particular concern at beach and recreational areas directly or indirectly affected by CSOs. The guidance recommends the following potential notification measures: (1) Posting signs at affected use areas; (2) Posting signs at selected public places; (3) Posting signs at CSO outfalls; (4) Notices in newspapers or on radio and TV news programs; (5) Letter notification to affected residents; and (6) Telephone Hot Line for interested citizen calls." The rule is being revised since the board's preliminary adoption to reflect the intent and requirements of the CSO Policy and SEA 431.

Comment: Section 5(b) of the draft rule is in conflict with section 6(b)(3). The former section only requires the notification to be appropriately worded to explain the nature of the potential health effects and steps a person can take to avoid exposure, but the latter section requires specific language to be used. (IACT)

Response: The requirement of section 5(b) is intended to apply to notification mailed or telephoned to the affected public while the language specified in section 6(b) is to be used on signs posted within a community at locations where the public may come into contact with water affected by a combined sewer overflow.

Comment: The Water Pollution Control Board did not adopt this rule before September 1, 2001, as required by SEA 431; therefore, it would not be a problem to take more time to correct the deficiencies in the draft rule before it is preliminarily adopted by the water board. (IACT)

Response: IDEM will act according to the water board's directive to work further on the rule in coordination with interested parties before bringing the rule before the water board for final adoption.

Comment: The Hoosier Environmental Council supports the draft rule for preliminary adoption and believes it is very important to provide notification to individuals who use waterbodies that may be affected by combined sewer overflows. It is further suggested that the rule should require that notification be made when new connections that could cause more combined sewer overflows are made to a wastewater treatment plant. (HEC)

Response: The General Assembly did not include any provision to address new connections to a wastewater treatment plant in SEA 431. However, IDEM is currently working with stakeholders on a nonrule policy concerning wastewater treatment plants and the requirements for construction permits when sewer collection systems have capacity problems due to additional connections.

Comment: The Improving Kids' Environment organization supports the draft rule for preliminary adoption because it is going to take a long time to fix the combined sewer overflow problems in the various Indiana communities, and, until the overflows cease, notification is needed to alert and warn the public that is at risk of coming into contact with affected waterbodies. (IKE)

Response: IDEM believes the revised proposed rule that is being developed with stakeholder participation since preliminary adoption of the draft rule will meet the requirements of both SEA 431 and the National CSO Policy. The notification process and procedures will be effective in protecting the affected public while CSO communities continue to work on abating the impacts of CSO discharges.

Comment: As a proponent of the legislation that directs the water board to adopt a rule for combined sewer overflow notification, the Improving Kids' Environment believes that the legislative negotiations did not distinguish how notification is to be made and whether it must be individual or community-wide. The intent of the legislation was to effectively provide the necessary information in the best manner possible to protect those members of the public who may be affected by waters contaminated by combined sewer overflow. The legislation places the water board in position to judge how best to effect public health protection. There will be circumstances when individual notification is the best manner to effectively protect the health of those in the public likely to be affected by combined sewer overflow. (IKE)

Response: Revisions to the preliminarily adopted rule that are being developed with stakeholder participation since preliminary adoption of the draft rule will more clearly define the dose/response relationship for an affected public coming into contact with affected waters and the appropriate notice a CSO community must give. Any water that receives a CSO discharge meets the definition of "affected waters". A CSO community is required to identify the affected public and make notification to those affected as they are the ones who will be at risk of exposure.

Comment: It would not create problems for this draft rule if it included a grandfather clause to allow the continued use of the warning signs presently in place at combined sewer overflow outfalls as required by the federal minimal controls/long term control plan. (IKE)

Response: The proposed (preliminarily adopted) rule that is the subject of this notice did not adequately address this issue of existing outfall signs that have been placed by CSO communities in accordance with provisions of their NPDES permits. However, the proposed rule is being revised since preliminary adoption, and those revisions will contain a new section 6(c) that makes provisions for the continued use of cautionary signs posted prior to October 2002.

Comment: Sufficient health protection would not be afforded by this rule if it were limited to the disinfection season. People, especially children, enter the water any time it is available. (IKE)

Response: IDEM agrees that SEA 431 does not direct the rule to be limited to the disinfection season (recreational season of April through October), and to do so would prevent compliance with the requirement clearly stated in SEA 431 that notification be given whenever any

reliable source indicates that a combined sewer overflow is occurring or there is reasonable likelihood that a discharge from one or more combined sewer overflow points will occur within the next twenty-four (24) hours.

327 IAC 5-2-9
327 IAC 5-2.1

SECTION 1. 327 IAC 5-2-9 IS AMENDED TO READ AS FOLLOWS:

327 IAC 5-2-9 Notification requirements for toxic pollutants

Authority: IC 13-14-8; IC 13-14-9; IC 13-15-2; IC 13-18-4
Affected: IC 13-15-1-2; IC 13-18-3

Sec. 9. In addition to the reporting requirements of ~~327 IAC 5-2-8(j),~~ **section 8(10) of this rule,** permits issued to ~~all~~ **any** manufacturing, commercial, mining, ~~and~~ **or** silvicultural ~~dischargers~~ **discharger** shall contain conditions requiring ~~such dischargers~~ **the discharger** to notify the commissioner as soon as ~~they know~~ **the discharger knows** or ~~have~~ **has** reason to ~~believe~~ **know the following:**

~~(a)~~ **(1)** That any activity has occurred or will occur ~~which~~ **that** would result in the discharge of any toxic pollutant ~~which~~ **that** is not limited in the permit if that discharge will exceed the highest of the following notification levels:

~~(1)~~ **(A)** One hundred **(100)** micrograms per liter. ~~(100 µg/l);~~

~~(2)~~ **(B)** Two hundred **(200)** micrograms per liter ~~(200 µg/l)~~ for acrolein and acrylonitrile; five hundred **(500)** micrograms per liter ~~(500 µg/l)~~ for 2,4-dinitrophenol and for 2-methyl-4,6-dinitrophenol; and one **(1)** milligram per liter ~~(1 mg/l)~~ for antimony.

~~(3)~~ **(C)** Five (5) times the maximum concentration value reported for that pollutant in the permit application in accordance with 40 CFR 122.21(g)(7). ~~or~~

~~(4)~~ **(D)** A notification level established by the commissioner on a case-by-case basis, either at ~~his~~ **the commissioner's** own initiative or upon a petition by the permittee. This notification level may exceed the levels specified in ~~subdivisions (1), (2), or (3)~~ **clause (A), (B), or (C)** but may not exceed the level which can be achieved by the technology-based treatment requirements applicable to the permittee under the CWA (see 327 IAC 5-5-2).

~~(b)~~ **(2)** That ~~they have~~ **the discharger has** begun or ~~expect~~ **expects** to begin to use or manufacture, as an intermediate or final product or byproduct, any toxic pollutant ~~which~~ **that** was not reported in the permit application under 40 CFR 122.21(g)(9). However, this ~~subsection~~ **subdivision** does not apply to the permittee's use or manufacture of a toxic pollutant solely under research or laboratory conditions.

(Water Pollution Control Board; 327 IAC 5-2-9; filed Sep 24, 1987, 3:00 p.m.: 11 IR 622)

SECTION 2. 327 IAC 5-2.1 IS ADDED TO READ AS FOLLOWS:

Rule 2.1. Combined Sewer Overflow Public Notification

327 IAC 5-2.1-1 Purpose

Authority: IC 13-14-1-5; IC 13-14-8; IC 13-14-9; IC 13-18-4-1
Affected: IC 13-18-3

Sec. 1. The purpose of this rule concerning community notification of potential health impacts resulting from a combined sewer overflow discharge is to promote and accomplish the following:

(1) Educate the public, in general, and those persons who, specifically, may come into contact with water that may be affected by a combined sewer overflow discharge as to the health implications possible from combined sewer overflow discharge tainted water.

(2) Alert persons who most likely would be immediately affected by a combined sewer overflow discharge or the potential for a combined sewer overflow discharge to occur.

(3) Protect persons from possible exposure to waterborne pathogens resulting from contact with or ingestion of water from a waterway that may be affected by a combined sewer overflow discharge.

(4) Complement the combined sewer overflow discharge requirements contained in a National Pollutant Discharge Elimination System (NPDES) permit but not obviate or supersede any more stringent requirements contained in an NPDES permit.

(Water Pollution Control Board; 327 IAC 5-2.1-1)

327 IAC 5-2.1-2 Applicability

Authority: IC 13-14-1-5; IC 13-14-8; IC 13-14-9; IC 13-18-4-1
Affected: IC 13-18-3

Sec. 2. Any person required to possess a National Pollutant Discharge Elimination System (NPDES) permit and having one (1) or more combined sewer overflow outfalls into waters of the state must comply with this rule. *(Water Pollution Control Board; 327 IAC 5-2.1-2)*

327 IAC 5-2.1-3 Definitions

Authority: IC 13-14-1-5; IC 13-14-8; IC 13-14-9; IC 13-18-4-1
Affected: IC 13-11-2-158; IC 13-11-2-265; IC 13-18-3

Sec. 3. The following definitions apply throughout this rule:

(1) "Affected persons" means those persons who most likely would be exposed to waterborne pathogens through direct contact with or ingestion of water affected by a combined sewer overflow discharge and includes:

(A) residents adjacent to a combined sewer overflow outfall;

(B) residents downstream of a combined sewer overflow outfall on affected waters; and

(C) owners or operators of facilities that provide access to or recreational opportunities in or on a waterbody affected by a combined sewer overflow discharge.

(2) "Affected waters" means those waters where the E. coli criteria may be exceeded due to a combined sewer overflow discharge.

(3) "Combined sewage" means a combination of wastewater, including domestic, commercial, or industrial wastewater and storm water transported in a combined sewer.

(4) "Combined sewer overflow community" or "CSO community" means a recipient of a National Pollutant Discharge Elimination System (NPDES) permit that includes one (1) or more combined sewer overflow outfalls.

(5) "Combined sewer overflow discharge" or "CSO discharge" means the discharge of combined sewage from an overflow point listed in an NPDES permit.

(6) "Combined sewer overflow outfall" or "CSO outfall" means a structure that:

(A) conveys combined sewage into a receiving waterbody; and

(B) is listed in an NPDES permit.

(7) "Combined sewer system" means a system that:

(A) is designed, constructed, and used to receive and transport combined sewage to a publicly owned wastewater treatment plant; and

(B) may contain one (1) or more combined sewer overflow outfalls that discharge sewage when the hydraulic capacity of the wastewater treatment plant, combined sewer system, or part of the system is exceeded as a result of a wet weather event.

(8) "Commissioner" means the commissioner of the department of environmental management.

(9) "Department" means the department of environmental management except as specifically referenced in this rule.

(10) "Person" has the meaning set forth at IC 13-11-2-158.

(11) "Waters of the state" has the meaning set forth for "waters" at IC 13-11-2-265.

(Water Pollution Control Board; 327 IAC 5-2.1-3)

327 IAC 5-2.1-4 CSO notification procedure

Authority: IC 13-14-1-5; IC 13-14-8; IC 13-14-9; IC 13-18-4-1
Affected: IC 13-18-3

Sec. 4. (a) A CSO community shall develop a CSO notification procedure that meets the requirements of this rule.

(b) A CSO notification procedure must include the following information:

(1) Locations of the CSO outfalls, public access points, and recreational facilities located on affected waters.

(2) Method, according to section 6 of this rule, that shall be used to provide notification to affected persons within the area of each affected water.

(3) Assignment of responsibilities within a CSO community for implementing the CSO notification procedure.

(c) A CSO notification procedure must meet the following:

(1) Be recorded on a form that is:

(A) designed by the commissioner; and

(B) made available from the commissioner within one (1) month after the effective date of this rule.

(2) Be submitted to the commissioner for approval before the latter of the following:

(A) Four (4) months after the effective date of this rule.

(B) Four (4) months after the form is available from the commissioner.

(3) Be included in the community's CSO operational plan.

(4) Immediately be implemented by the CSO community following submission according to subdivision (2)(A) or (2)(B).

(5) Be modified as necessary in accordance with comments received from the commissioner.

(Water Pollution Control Board; 327 IAC 5-2.1-4)

327 IAC 5-2.1-5 Notification

Authority: IC 13-14-1-5; IC 13-14-8; IC 13-14-9; IC 13-18-4-1
Affected: IC 13-18-3

Sec. 5. (a) A CSO community shall provide notification to:

(1) affected persons;

(2) persons who request to be notified; and

(3) local health departments and drinking water suppliers located within ten (10) river miles downstream of each CSO outfall experiencing or about to experience a CSO discharge.

(b) The notification must be appropriately worded to explain the nature of the potential health effects of a CSO discharge and steps that affected persons can take to avoid exposure.

(c) Unless specifically required in this rule, a CSO community is not responsible for confirming that the intended recipients of the notification required by subsection (a) received the notification.

(d) Notification must be provided whenever information from a reliable source indicates one (1) of the following:

(1) A discharge or discharges from one (1) or more combined sewer overflow outfalls is occurring.

(2) A reasonable likelihood exists that a discharge or discharges from one (1) or more combined sewer overflow outfalls will occur within the next twenty-four (24) hours.

(e) If a combined sewer overflow discharge occurs within the general time period predicted by a notification, then no additional notification is required to state that the discharge is occurring or has occurred.

(f) If a CSO discharge occurred and notification was not provided according to subsection (d), the CSO community shall report this fact on the monthly report required according to section 7(a) of this rule. *(Water Pollution Control Board; 327 IAC 5-2.1-5)*

327 IAC 5-2.1-6 Community notification methods
Authority: IC 13-14-1-5; IC 13-14-8; IC 13-14-9; IC 13-18-4-1
Affected: IC 13-18-3

Sec. 6. (a) A CSO community shall do the following:
(1) Send an invitation in March of each year to allow the following persons to request receipt of CSO notification:
(A) Media sources, such as newspapers, television, or radio.
(B) Affected persons.
(2) Provide notification to persons who accept the notification invitation according to clause (A):
(A) when a CSO discharge is occurring or is reasonably likely to occur within twenty-four (24) hours; and
(B) in a manner that is mutually agreeable to the recipient and the CSO community. If the recipient and CSO community do not reach agreement on an acceptable manner of notification, then the CSO community shall provide notice by telephone or facsimile.

(b) In addition to the requirements of subsection (a), a CSO community shall post a prominent sign:
(1) at access points to the water, including boat ramps, bridges, parks, and school yards;
(2) along linear public areas, such as parkways and greenways, adjacent to affected waters at intervals frequent enough to provide notification to persons who may come into direct contact with the water; and
(3) with the following wording printed in English and any other language common in the locale (including the language necessary to fill in the blanks): "Caution–Sewage pollution. Sewage may be in this water during and for several days after periods of rainfall or snow melt. People who swim in, wade in, or ingest this water may get sick. For more information, please call [insert local sewer authority, telephone number, and, if available, a Web site address].".

(c) If an access point to an affected water is located on private property, then a CSO community shall:
(1) annually offer to post the sign required under subsection (b) for the owner or operator of the private property;
(2) submit documentation to the department each March that the property owner or operator has refused to allow the CSO community to post the sign on the owner's property; and
(3) not be required to post the sign required under subsection (b) provided the private property owner or operator has refused the community's offer made according to subdivision (1).

(d) A CSO community may submit a request for the commissioner's approval to establish alternative notification methods specific to the CSO community's needs for providing notification to affected persons if the CSO community can demonstrate to the department that such alternative notification methods are more effective at providing actual notice. *(Water Pollution Control Board; 327 IAC 5-2.1-6)*

327 IAC 5-2.1-7 Record keeping and reporting
Authority: IC 13-14-1-5; IC 13-14-8; IC 13-14-9; IC 13-18-4-1
Affected: IC 13-18-3

Sec. 7. (a) A CSO community shall document its public notification efforts on its monthly CSO discharge monitoring report (DMR).

(b) A CSO community shall maintain a record of reports submitted according to subsection (a) that is:
(1) kept at the wastewater treatment plant; and
(2) available to the commissioner's representatives during the department's normal working hours.
(Water Pollution Control Board; 327 IAC 5-2.1-7)

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 January 8, 2003 at 1:30 p.m., at the Indiana Government Center-South, 402 West Washington Street, Conference Center Room A, Indianapolis, Indiana the Water Pollution Control Board will hold a public hearing on proposed new rule 327 IAC 5-2.1 concerning community notification by NPDES permit holders of potential health impacts of combined sewer overflows and amendments to 327 IAC 5-2-9.

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 new rule and 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 MaryAnn Stevens, Rules Section, Office of Water Quality, (317) 232-8635 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 or (317) 232-6565 (TDD). 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 Indiana Government Center-North, 100 North Senate Avenue, Room 1255 and Legislative Services Agency, One North Capitol, Suite 325, Indianapolis, Indiana and are open for public inspection.

Tim Method
Deputy Commissioner
Indiana Department of Environmental Management

TITLE 329 SOLID WASTE MANAGEMENT BOARD

Proposed Rule
LSA Document #00-185

DIGEST

Amends and repeals various sections of 329 IAC 10. Since the last substantive change of 329 IAC 10, effective September 1999, further technical clarifications and changes have been deemed necessary to the rule. This rule also will add requirements from the Clean Water Act, Phase 2 Storm Water provisions as they relate to landfills. Effective 30 days after filing with the secretary of state.

HISTORY

First Notice of Comment Period: September 1, 2000, Indiana Register (23 IR 3221).

Second Notice of Comment Period and Notice of First Hearing: July 1, 2002, Indiana Register (25 IR 3496).

Date of First Hearing: August 20, 2002 (Postponed).

Notice of Change of Public Hearing: August 1, 2002, Indiana Register (25 IR 3806).

Date of First Hearing: September 17, 2002.

PUBLIC COMMENTS UNDER IC 13-14-9-4.5

IC 13-14-9-4.5 states that a board may not adopt a rule under IC 13-14-9 that is substantively different from the draft rule published under IC 13-14-9-4, until the board has conducted a third comment period that is at least twenty-one (21) days long.

REQUEST FOR PUBLIC COMMENTS

Portions of this proposed rule are substantively different from the draft rule published on July 1, 2002, at 25 IR 3496. The Indiana Department of Environmental Management (IDEM) is requesting comment on the following portions of the proposed (preliminarily adopted) rule that are substantively different from the language contained in the draft rule.

The following sections of the proposed rule are substantively different from the draft rule:

329 IAC 10-15-12
329 IAC 10-20-11
329 IAC 10-21-7
329 IAC 10-21-15
329 IAC 10-21-16

This notice requests the submission of comments on the sections of the rule listed above, including suggestions for specific amendments to those sections. 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. Comments on additional sections of the proposed rule that the commentor believes are substantively different from the draft rule may also be submitted for the consideration of the board. Mailed comments should be addressed to:

#00-185 (SWMB) MSWLF Second Substantive Changes
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, Monday through Friday, between 8:15 a.m. and 4:45 p.m. 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 the Rules, Planning and Outreach Section at (317) 232-7995.

COMMENT PERIOD DEADLINE

Comments in any form must be postmarked, hand delivered, or faxed by November 22, 2002.

SUMMARY/RESPONSE TO COMMENTS FROM THE SECOND COMMENT PERIOD

The Indiana Department of Environmental Management (IDEM) requested public comment from July 1, 2002, through July 31, 2002, on IDEM's draft rule language. IDEM received comments from the following parties by the comment period deadline:

Mark E. Shere, Bethlehem Steel Corporation (BSC)

Vincent L. Griffin, Vice President, Environmental and Energy Policy, Indiana Chamber of Commerce (ICC)

Following is a summary of the comments received and IDEM's responses thereto:

Comment: IDEM's proposal includes numerous revisions to definitions in the solid waste rules. One of the current definitions applies to the term "Responsible corporate officer" at 329 IAC 10-2-158. The definition refers to a "president, secretary, treasurer, or any vice president of the corporation." Bethlehem recommends that this definition be amended by adding the words "or Division" after "corporation." The Burns Harbor Division employs about 6,000 people, but it is not its own corporation. It usually makes more sense, and fosters greater accountability, to designate people with on-site operating responsibility in Indiana as the "responsible corporate officer," rather than management at Bethlehem's headquarters in Pennsylvania. Bethlehem made this same comment in response to IDEM's first notice of rulemaking, and the agency's July 1 notice states that the agency "will consider modifying this definition." The time for this consideration is now, and the change makes sense. (BSC)

Response: This definition was under review for consideration of your earlier comments of July 1, 2002, and inadvertently left out of the published draft rule. IDEM agrees and will make the change.

Comment: IDEM's current regulations add to the stringency of federal requirements by using restrictive definitions of the laboratory terms "holding times" and "practical quantitation limit." The current rules define holding time as the "maximum allowable" time between sample collection and analysis. But there is no requirement or practical reason for Indiana to use these times as a rigid "maximum," rather than flexible guidelines. Similarly, the rules define practical quantitation

limit as the concentration level that can be "reliably achieved" during "routine laboratory operating conditions," despite extensive experience to the contrary. These essentially arbitrary definitions create needless regulatory issues without enhancing laboratory performance. (ICC)

Response: No change to 329 IAC 10 is needed. EPA publication "Test Methods for Evaluating Solid Waste, Physical/Chemical Methods," (SW-846) Third Edition, Final Update III defines "sample holding time" as "the storage time allowed between sample collection and sample analysis when the designated preservation and storage techniques are employed." The IDEM regulation does not add stringency to the federal definition. The word "maximum" emphasizes that there is a limit to the amount of time allowed between sample collection and analysis. Holding times are set according to the sampling and analysis methodologies and are not arbitrarily assigned. When set holding times are exceeded, the analytical results for the samples may not meet the data quality objectives for the project and re-sampling and re-analysis may be necessary.

Similarly, SW-846 defines "estimated quantitation limit" (SW-846 uses this term in place of "practical quantitation limit") as "the lowest concentration that can be reliably achieved within specified limits of precision and accuracy during routine laboratory operating conditions." Again the IDEM regulation does not add stringency to the federal definition. The words "practical" and "estimated" emphasize that quantitation limits are highly dependent on the matrix of the sample being analyzed. The words "reliably achieved" and "routine laboratory operating conditions" emphasize factors that must be considered when establishing practical quantitation limits.

SUMMARY/RESPONSE TO COMMENTS RECEIVED AT THE FIRST PUBLIC HEARING

On September 17, 2002, the Solid Waste Management (board) conducted the first public hearing/board meeting concerning the development of amendments to 329 IAC 10. Comments were made by the following parties:

Jim Meiers, Cinergy Corporation (CC)

Mark E. Shere, Bethlehem Steel Corporation (BSC)

Bill Paraskevas, Indiana Chapter of the National Solid Waste Management Association (NSWMA)

Following is a summary of the comments received and IDEM's responses thereto:

Comment: My comments are really a request for clarification. 329 IAC 10-21-7(f), detection ground water monitoring program, I would like clarification or a reference to which Arsenic MCL is being established there. The Office of Water Quality has adopted ground water quality standards for the state of Indiana. These standards were adopted for use in all of the regulatory programs in Indiana, and I would recommend that we use that–those ground water standards as reference to this Arsenic MCL.

Response: The agency agrees that there is some confusion on this issue. For the purposes of this rule, the.05 standard is legally what is being referenced. This was the standard established in the standing version of 329 IAC 10. While EPA has changed their MCL standard to.01, they provided a time frame for drinking water suppliers to obtain that standard by 2006. So, there is a phase-in for suppliers to meet that standard for purposes of supplying drinking water to homes. There is a need to have some discussion on whether or not to update this standard in 329 IAC 10 before the 2006 deadline. We would need to specifically reference in this version of the rule that we are adopting the newer version of the federal MCL and the agency is willing to talk with the regulated community regarding phasing-in this standard.

Comment: First, I'd like to emphasize that IDEM has done a really nice job of moving this rule along. IDEM has provided e-mail drafts on this rule in a very timely manner. It has responded to comments made informally, and we've been able to resolve some issues already, and we sure appreciate that.

The Burns Harbor Division supports preliminary adoption, but again, I'd like to identify one issue that I believe needs attention before final adoption, and it's an issue that I expect you'll be seeing again before long. That issue is electronic reporting. The regulated community is eager to see electronic reporting incorporated in the state's environmental rules. The opportunities for providing better information at less cost are obvious, but to do good, electronic reporting does need to mean something more than that companies will keep doing everything they're currently doing, but then duplicate it all in an electronic format.

Unfortunately, the rule as proposed for preliminary adoption really takes this duplication approach. In Section 10-1-4.5, the rule keeps the current requirements for paper copies and then uses electronic filing as merely an extra format, quote, when requested by the commissioner.

Electronic reporting will cut across a lot of programs, and this solid waste disposal rule, a fairly narrow rule, is probably not the best place to try to work through the issues on kind of a cutting edge basis.

The U.S. EPA is currently working on a cross-media electronic reporting and record keeping rule that is due out for comment this April. EPA describes this rule as providing a paperless system and says that the rule is on a fast track at EPA to meet statutory requirements and to respond to initiatives from the EPA administrator.

My suggestion is that DEM wait for EPA's rule to come out before moving ahead on state electronic reporting rules, especially rules that don't provide much practical benefit at their current stage of development and that will likely have to be redone when EPA issues its rule in any event.

Again, I think this issue can be resolved before final adoption. We do support preliminary adoption, with the expectation that the agency will continue to work on this question. (BSC)

Response: The electronic submittal language that IDEM has proposed will not interfere with or contradict EPA's Cross-Media Electronic Reporting and Recordkeeping Rule (CROMERR). CROMERR in its current form requires the electronic submittal of regulatory reports and digital signatures of the submittees. The receiving organizations, states, and EPA, must have infrastructure and policies in place to receive these electronic submittals and maintain them along with the digital signature. There are several legal and technical difficulties that the agency must resolve in order to be able to accept digital signatures and, therefore, not need duplicative paper submittals. Having reports submitted in electronic, as well as paper form does provide a benefit as the electronic data can be downloaded into data bases, avoiding manual data input. The agency will continue to monitor CROMERR and looks forward to the day when less paper will be needed to satisfy regulatory requirements.

Comment: The Association and its members have been following the development of this rule with some interest, and have met several times with the Office of Land Quality staff on this issue.

We appreciate the staff's willingness to consider our suggestions and our feedback on the rule changes, particularly our request for incorporation of the storm water NPDES rule requirements into the solid waste rules. We think this will help eliminate duplicative processing of permits for landfills, and we hope that the next time that the Solid Waste Processing Rules are opened, that a similar change can be made for transfer stations, also.

In general, the NSWMA supports preliminary adoption of this rule. We do have several major concerns and some disagreements with specifics in the rule, which we'd like to discuss further, but in the interest of brevity today, I'd like to confine my comments to two major issues, one being the storm water rules mentioned.

As noted earlier, the storm water rules are incorporated largely through the impetus of the changes in the water quality rulemaking process, which is still ongoing, and we note that currently, if adopted today, the solid waste rules would actually precede the water rules in adoption, when some of the changes are actually based on those water rules.

We hope that before the solid waste rules are finalized, that the board will wait until the water rules have been finalized so we can be sure that there is consistency with the rule making process between both sets of rules.

With regard to the ground water issue, the other major concern we have is the more recent changes in the incorporation of several parameters form the ground water protection standard rule. This opens up an area for further discussion as to the appropriate listing of parameters in the solid waste rule, and we have not had an opportunity to discuss this with the staff at this point. So, this is an area that we certainly would like to have more input and discussion on. (NSWMA)

Response: IDEM agrees. Staff will be working with all interested parties to discuss these adopted changes and further revisions to the rule, especially the more recent changes to the storm water and ground water sections. We plan on at least one more meeting with the regulated community to resolve these issues, as the agency attempts to eliminate duplicative procedures for MSWLFs, while still providing maximum protection to the environment through the regulations.

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329 IAC 10-39-10

SECTION 1. 329 IAC 10-1-4 IS AMENDED TO READ AS FOLLOWS:

329 IAC 10-1-4 Records and standards for submitted information

Authority: IC 13-14-8-7; IC 13-15-2-1; IC 13-19-3-1
Affected: IC 13-30-2; IC 36-9-30

Sec. 4. (a) Any owner, operator, or permittee required to monitor under this article or by any permit issued under this article, shall maintain all records of all monitoring information and monitoring activities, including:

(1) the date, exact place, and time of the sampling measurements;

(2) the sampling methods used;

(3) the person or persons who performed the sampling or measurements;

(4) the date or dates analyses were performed;

(5) the person or persons who performed the analyses;

(6) the analytical techniques or methods used;

(7) the results of such measurements or analyses; and

(8) all quality assurance/quality control documentation.

(b) The owner, operator, or permittee of a solid waste land disposal facility shall record and retain at the facility in an operating record, or, in an alternative location approved by the commissioner, any records required by this article.

(c) All records of monitoring activities required by this article and results thereof shall be retained by the owner, operator, or

permittee of a solid waste land disposal facility for three (3) years, unless otherwise specified in this article. The three (3) year period shall be extended:

(1) automatically during the course of any unresolved litigation between the commissioner and a permittee of a solid waste land disposal facility; or

(2) as required by the permit conditions.

(d) Information submitted to the department to meet a requirement of this article must meet the following standards:

(1) All drawings, plans, maps, and documentation must be properly titled.

(2) All drawings, plans, and maps must include the following:

(A) The date and author of each drawing, plan, or map.

(B) Documentation of the coordinate system of the drawing, plan, or map, including the following:

(i) Measurement units.

(ii) Datum.

(iii) Identification of the coordinate system that was used such as the Universal Transverse Mercator or the State Plane coordinate system.

(C) A bar scale on each drawing, plan, or map.

(D) Elevations that correlate with United States Geological Survey mean sea level data.

(E) The facility name.

(F) The state regulatory identification number, such as permit number or authorization number.

(G) The facility United States Environmental Protection Agency identification number, if available.

(H) A north arrow.

(I) A map legend.

(Solid Waste Management Board; 329 IAC 10-1-4; filed Mar 14, 1996, 5:00 p.m.: 19 IR 1763; filed Aug 2, 1999, 11:50 a.m.: 22 IR 3762; readopted filed Jan 10, 2001, 3:25 p.m.: 24 IR 1535)

SECTION 2. 329 IAC 10-1-4.5 IS ADDED TO READ AS FOLLOWS:

329 IAC 10-1-4.5 Electronic submission of information

Authority: IC 13-14-8-7; IC 13-15-2-1; IC 13-19-3-1
Affected: IC 13-30-2; IC 36-9-30

Sec. 4.5. (a) Electronic submission of information required by this article may be requested by the commissioner. The format and submittal mechanism will be prescribed by the commissioner. Any information submitted on electronic media also must be submitted as a paper copy or copies as required by this article.

(b) Electronically submitted information must meet the following requirements:

(1) Section 4 of this rule.

(2) The submittal deadlines of this article.

(c) In addition to the requirements of subsection (b), submittals of drawings, plans, or maps must meet one (1) of the following requirements:

(1) Be submitted in one (1) of the following coordinate systems:

(A) Universal Transverse Mercator.

(B) State Plane coordinate system.

(C) North American Datum (NAD) 1983 or NAD 1927 that includes a description of the coordinates on the document as annotation or described in a text file included with the drawing, plot plan, or map file. The description must include the following:

(i) Measurement units.

(ii) Datum.

(iii) Identification of the coordinate system.

(2) Provide information regarding the survey coordinate system used to create the drawings, plans, or maps, including the following:

(A) At least two (2), but preferably four (4) or more reference locations, field marked and of at least the third order, on each drawing, plan, or map if the site was surveyed.

(B) Coordinates for the reference locations in clause (A) should be supplied in either Universal Transverse Mercator or State Plane coordinate system and may be submitted in a separate text file or as annotation on the drawing, plan, or map.

(C) The degree of accuracy, precision, and the manner in which coordinates in clause (A) were determined for the reference coordinates is documented in a narrative on the drawing, plan, or map or in a metadata file.

(d) In addition to requirements of subsection (b), submittals of sampling and monitoring results must include the following:

(1) Results of laboratory analyses.

(2) Results of field measurements, including water elevations and well depths, if applicable.

(3) Laboratory name.

(4) Date of the sampling or monitoring event.

(Solid Waste Management Board; 329 IAC 10-1-4.5)

SECTION 3. 329 IAC 10-2-11 IS AMENDED TO READ AS FOLLOWS:

329 IAC 10-2-11 "Aquiclude" defined

Authority: IC 13-14-8-7; IC 13-15-2-1; IC 13-19-3-1
Affected: IC 13-30-2; IC 36-9-30

Sec. 11. "Aquiclude" means a body of relatively impermeable ~~rock~~ **material** that is capable of absorbing water slowly but does not transmit rapidly enough to supply a well or spring. *(Solid Waste Management Board; 329 IAC 10-2-11; filed Mar 14, 1996, 5:00 p.m.: 19 IR 1764)*

SECTION 4. 329 IAC 10-2-41 IS AMENDED TO READ AS FOLLOWS:

329 IAC 10-2-41 "Contaminant" defined
Authority: IC 13-14-8-7; IC 13-15-2-1; IC 13-19-3-1
Affected: IC 13-11-2-42; IC 13-30-2; IC 36-9-30

Sec. 41. "Contaminant" ~~means any of the following:~~
~~(1) Pollutant as defined in the Federal Water Pollution Control Act (33 U.S.C. 1362, as amended November 18, 1988).~~
~~(2) Radioactive material as regulated by the Atomic Energy Act of 1954 (42 U.S.C. 2014, as amended October 24, 1992).~~
~~(3) Solid or hazardous waste as determined by the Resource Conservation and Recovery Act (42 U.S.C. 6901 et seq., as effective January 1, 1989).~~
~~(4) Hazardous substance as defined by the Comprehensive Environmental Response, Compensation, and Liability Act (42 U.S.C. 9601 et seq., as amended November 23, 1988).~~
~~(5) Any toxic substance as determined by the Toxic Substances Control Act (15 U.S.C. 2603 et seq., as amended October 22, 1986).~~
~~(6) Any commingled waste containing waste as defined in subdivisions (1) through (5), from whatever source that:~~
~~(A) is injurious to human health, plant or animal life, or property;~~
~~(B) interferes unreasonably with the enjoyment of life or property; or~~
~~(C) is otherwise violative of this article.~~
has the meaning set forth in IC 13-11-2-42. *(Solid Waste Management Board; 329 IAC 10-2-41; filed Mar 14, 1996, 5:00 p.m.: 19 IR 1768)*

SECTION 5. 329 IAC 10-2-41.1 IS AMENDED TO READ AS FOLLOWS:

329 IAC 10-2-41.1 "Conterminous" defined
Authority: IC 13-14-8-7; IC 13-15-2-1; IC 13-19-3-1
Affected: IC 13-30-2; IC 36-9-30

Sec. 41.1. "Conterminous" means contained within the same ~~boundaries.~~ **common boundary.** *(Solid Waste Management Board; 329 IAC 10-2-41.1; filed Mar 14, 1996, 5:00 p.m.: 19 IR 1769)*

SECTION 6. 329 IAC 10-2-63.5 IS ADDED TO READ AS FOLLOWS:

329 IAC 10-2-63.5 "Electronic submission" defined
Authority: IC 13-14-8-7; IC 13-15-2-1; IC 13-19-3-1
Affected: IC 13-30-2; IC 36-9-30

Sec. 63.5. "Electronic submission" means any submission of information to IDEM via electronic media. Such media may include the following:
(1) Magnetic storage tape or disk.
(2) Compact disk read-only memory (CD-ROM).
(3) Electronic mail and/or attachments.
(4) File transfer protocol (FTP).
(5) Hypertext transfer protocol (HTTP).
(Solid Waste Management Board; 329 IAC 10-2-63.5)

SECTION 7. 329 IAC 10-2-64 IS AMENDED TO READ AS FOLLOWS:

329 IAC 10-2-64 "Endangered species" defined
Authority: IC 13-14-8-7; IC 13-15-2-1; IC 13-19-3-1
Affected: IC 13-30-2; IC 36-9-30

Sec. 64. "Endangered species" ~~has the meaning set forth in~~ **means any species listed as endangered or threatened under rules of the natural resource commission at** 312 IAC 9-3-19, 312 IAC 9-4-14, 312 IAC 9-5-4, ~~and~~ 312 IAC 9-6-9, **or 312 IAC 9-9-4.** *(Solid Waste Management Board; 329 IAC 10-2-64; filed Mar 14, 1996, 5:00 p.m.: 19 IR 1771; errata filed Dec 6, 1999, 9:41 a.m.: 23 IR 813)*

SECTION 8. 329 IAC 10-2-66.1 IS ADDED TO READ AS FOLLOWS:

329 IAC 10-2-66.1 "Erosion" defined
Authority: IC 13-14-8-7; IC 13-15-2-1; IC 13-19-3-1
Affected: IC 13-30-2; IC 36-9-30

Sec. 66.1. "Erosion" means the detachment and movement of soil, sediment, or rock fragments by water, wind, ice, or gravity. *(Solid Waste Management Board; 329 IAC 10-2-66.1)*

SECTION 9. 329 IAC 10-2-66.2 IS ADDED TO READ AS FOLLOWS:

329 IAC 10-2-66.2 "Erosion and sediment control measure" defined
Authority: IC 13-14-8-7; IC 13-15-2-1; IC 13-19-3-1
Affected: IC 13-30-2; IC 36-9-30

Sec. 66.2. "Erosion and sediment control measure" means a practice, or a combination of practices, to control erosion and resulting sedimentation. *(Solid Waste Management Board; 329 IAC 10-2-66.2)*

SECTION 10. 329 IAC 10-2-66.3 IS ADDED TO READ AS FOLLOWS:

329 IAC 10-2-66.3 "Erosion and sediment control system" defined
Authority: IC 13-14-8-7; IC 13-15-2-1; IC 13-19-3-1
Affected: IC 13-30-2; IC 36-9-30

Sec. 66.3. "Erosion and sediment control system" means the use of appropriate erosion and sediment control measures to minimize sedimentation by first reducing or eliminating erosion at the source, and then, as necessary, trapping sediment to prevent it from being discharged from or within a project site. *(Solid Waste Management Board; 329 IAC 10-2-66.3)*

SECTION 11. 329 IAC 10-2-69 IS AMENDED TO READ AS FOLLOWS:

329 IAC 10-2-69 "Facility" defined
Authority: IC 13-14-8-7; IC 13-15-2-1; IC 13-19-3-1
Affected: IC 13-30-2; IC 36-9-30

Sec. 69. "Facility" may consist of one (1) or more permitted processing, storage, disposal, or operational units used for processing, storing in conjunction with processing or disposal, or disposing of solid waste. The term includes:

(1) all conterminous land and structures related to the permit **within the facility boundary;**

(2) other appurtenances related to the permit; and

(3) improvements on the land related to the permit.

(Solid Waste Management Board; 329 IAC 10-2-69; filed Mar 14, 1996, 5:00 p.m.: 19 IR 1772)

SECTION 12. 329 IAC 10-2-74 IS AMENDED TO READ AS FOLLOWS:

329 IAC 10-2-74 "Flood plain" defined
Authority: IC 13-14-8-7; IC 13-15-2-1; IC 13-19-3-1
Affected: IC 13-30-2; IC 36-9-30

Sec. 74. "Flood plain" means the areas adjoining a river, stream, or lake that are inundated by the base flood. ~~as determined by 310 IAC 6.~~ *(Solid Waste Management Board; 329 IAC 10-2-74; filed Mar 14, 1996, 5:00 p.m.: 19 IR 1772)*

SECTION 13. 329 IAC 10-2-75 IS AMENDED TO READ AS FOLLOWS:

329 IAC 10-2-75 "Floodway" defined
Authority: IC 13-14-8-7; IC 13-15-2-1; IC 13-19-3-1
Affected: IC 13-30-2; IC 36-9-30

Sec. 75. "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~~ **of** the base flood. ~~as determined by 310 IAC 6.~~ *(Solid Waste Management Board; 329 IAC 10-2-75; filed Mar 14, 1996, 5:00 p.m.: 19 IR 1772)*

SECTION 14. 329 IAC 10-2-75.1 IS ADDED TO READ AS FOLLOWS:

329 IAC 10-2-75.1 "Floodway fringe" defined
Authority: IC 13-14-8-7; IC 13-15-2-1; IC 13-19-3-1
Affected: IC 13-30-2; IC 36-9-30

Sec. 75.1. "Floodway fringe" means any area of flood plain that has not been adequately protected from flooding by the base flood by means of dikes, levees, reservoirs, or other similar works. *(Solid Waste Management Board: 329 IAC 10-2-75.1)*

SECTION 15. 329 IAC 10-2-96 IS AMENDED TO READ AS FOLLOWS:

329 IAC 10-2-96 "Infectious waste" defined
Authority: IC 13-14-8-7; IC 13-15-2-1; IC 13-19-3-1
Affected: IC 13-30-2; IC 36-9-30

Sec. 96. "Infectious waste" has the meaning set forth in **the rules of the state board of health at** 410 IAC 1-3-10, as supported by the ancillary definitions of 410 IAC 1-3. ~~and applies to facilities regulated under 410 IAC 1-3.~~ *(Solid Waste Management Board; 329 IAC 10-2-96; filed Mar 14, 1996, 5:00 p.m.: 19 IR 1775; errata filed Apr 4, 1996, 4:00 p.m.: 19 IR 2045)*

SECTION 16. 329 IAC 10-2-97.1 IS AMENDED TO READ AS FOLLOWS:

329 IAC 10-2-97.1 "Insignificant facility modification" defined
Authority: IC 13-14-8-7; IC 13-15-2-1; IC 13-19-3-1
Affected: IC 13-30-2; IC 36-9-30

Sec. 97.1. "Insignificant facility modification" means the following:

(1) Relocation of a solid waste land disposal facility waste hauling road.

(2) Relocation of office buildings.

(3) Changes in sequences of filling in permitted areas.

(4) Installation of temporary sediment control measures.

(5) Installation of leachate control systems to prevent leachate migration off-site.

(6) Installation of additional methane venting wells to an approved system.

(7) Installation of weighing scales.

(8) Replacement of a **ground water** monitoring well **or piezometer** no more than ~~ten (10)~~ **fifteen (15)** feet horizontally from the original location and at an equal depth.

(9) An alternative daily cover (ADC) under 329 IAC 10-20-14.1(c).

(10) Approvals granted under 329 IAC 10-21 unless the commissioner determines otherwise.

(11) ~~Any modification to the solid waste land disposal facility that the commissioner determines will improve the operation of the facility without significantly altering the approved solid waste land disposal permit.~~ **Alternative storage methods for salvaged and recycled materials under 329 IAC 10-20-6(b).**

(12) An ADC under 329 IAC 10-20-14.1(d).

(13) Improvements to drainage at the facility **or modifications to sediment controls.**

(14) Changes in the frequency that collection containers regulated under 329 IAC 10-20-4(g)(1) and 329 IAC 10-20-4(g)(2) must be emptied.

(15) Any modification to the solid waste land disposal facility that the commissioner determines will improve the operation of the facility without significantly altering the approved solid waste land disposal permit.

(Solid Waste Management Board; 329 IAC 10-2-97.1; filed Mar 14, 1996, 5:00 p.m.: 19 IR 1775; filed Mar 19, 1998, 11:07 a.m.: 21 IR 2746; filed Aug 2, 1999, 11:50 a.m.: 22 IR 3765)

SECTION 17. 329 IAC 10-2-99 IS AMENDED TO READ AS FOLLOWS:

329 IAC 10-2-99 "Karst terrain" defined
Authority: IC 13-14-8-7; IC 13-15-2-1; IC 13-19-3-1
Affected: IC 13-30-2; IC 36-9-30

Sec. 99. "Karst ~~terrains[22]~~ **terrain"** means an area where karst topography, ~~with its~~ **including the** characteristic surface and subterranean features, ~~is~~ **has** developed as the result of dissolution of limestone, dolomite, or other soluble rock. Characteristic physiographic features present ~~to~~ **in** karst terrains include any of the following:

(1) Sinkholes.
(2) Sinking streams.
(3) Caves.
(4) Large springs.
(5) Blind valleys.

(Solid Waste Management Board; 329 IAC 10-2-99; filed Mar 14, 1996, 5:00 p.m.: 19 IR 1775)

SECTION 18. 329 IAC 10-2-100 IS AMENDED TO READ AS FOLLOWS:

329 IAC 10-2-100 "Land application unit" defined
Authority: IC 13-14-8-7; IC 13-15-2-1; IC 13-19-3-1
Affected: IC 13-30-2; IC 36-9-30

Sec. 100. "Land application unit" means an area where waste is applied onto or incorporated **or injected** into the soil surface excluding manure spreading operations, for agricultural purposes. *(Solid Waste Management Board; 329 IAC 10-2-100; filed Mar 14, 1996, 5:00 p.m.: 19 IR 1775)*

SECTION 19. 329 IAC 10-2-105.3 IS ADDED TO READ AS FOLLOWS:

329 IAC 10-2-105.3 "Licensed professional geologist" defined
Authority: IC 13-14-8-7; IC 13-15-2-1; IC 13-19-3-1
Affected: IC 13-30-2; IC 25-17.6-1-6.5; IC 36-9-30

Sec. 105.3. "Licensed professional geologist" means a person who is licensed as a geologist by the state under IC 25-17.6-1-6.5. *(Solid Waste Management Board; 329 IAC 10-2-105.3)*

SECTION 20. 329 IAC 10-2-106 IS AMENDED TO READ AS FOLLOWS:

329 IAC 10-2-106 "Liquid waste" defined
Authority: IC 13-14-8-7; IC 13-15-2-1; IC 13-19-3-1
Affected: IC 13-30-2; IC 36-9-30

Sec. 106. "Liquid waste" means any waste material that contains free liquids as determined by Method ~~9095~~ **9095A** (Paint Filter Liquids Test), as described in ~~"Test Methods for Evaluating Solid Waste, Physical/Chemical Methods",~~ **U.S.** 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).~~ *(Solid Waste Management Board; 329 IAC 10-2-106; filed Mar 14, 1996, 5:00 p.m.: 19 IR 1776)*

SECTION 21. 329 IAC 10-2-109 IS AMENDED TO READ AS FOLLOWS:

329 IAC 10-2-109 "Major modification of solid waste land disposal facilities" defined
Authority: IC 13-14-8-7; IC 13-15-2-1; IC 13-19-3-1
Affected: IC 13-30-2; IC 36-9-30

Sec. 109. "Major modification of solid waste land disposal facilities" means any increase in a permitted solid waste land disposal facility that would:

(1) increase the permitted capacity to process or dispose of solid waste by the lesser of:
(A) more than ten percent (10%); or
(B) five hundred thousand (500,000) cubic yards; or
(2) ~~change~~ **increase** the permitted solid waste boundary by more than one (1) acre.

(Solid Waste Management Board; 329 IAC 10-2-109; filed Mar 14, 1996, 5:00 p.m.: 19 IR 1776; filed Aug 2, 1999, 11:50 a.m.: 22 IR 3766)

SECTION 22. 329 IAC 10-2-111.5 IS ADDED TO READ AS FOLLOWS:

329 IAC 10-2-111.5 "Measurable storm event" defined
Authority: IC 13-14-8-7; IC 13-15-2-1; IC 13-19-3-1
Affected: IC 13-30-2; IC 36-9-30

Sec. 111.5. "Measurable storm event" means a precipitation event, which results in a total measured precipitation accumulation equal to, or greater than, one-half (0.5) inch of rainfall. *(Solid Waste Management Board; 329 IAC 10-2-111.5)*

SECTION 23. 329 IAC 10-2-112 IS AMENDED TO READ AS FOLLOWS:

329 IAC 10-2-112 "Minor modification of solid waste land disposal facilities" defined
Authority: IC 13-14-8-7; IC 13-15-2-1; IC 13-19-3-1
Affected: IC 13-30-2; IC 36-9-30

Sec. 112. (a) "Minor modification of solid waste land disposal facilities" means any increase in a permitted solid waste land disposal facility that would not:

(1) increase the facility's permitted capacity to dispose of solid waste by the lesser of:
(A) more than ten percent (10%); or
(B) five hundred thousand (500,000) cubic yards;
(2) change the permitted solid waste boundary by more than one (1) acre;

(3) include those items determined to be insignificant modifications by 329 IAC 10-3-3(b) or by the commissioner; or
(4) include those items determined to be major modifications by section 109 of this rule.

(b) The term includes:
(1) an alternative daily cover (ADC) under 329 IAC 10-20-14.1(e); ~~and~~
(2) a baled waste management plan under 329 IAC 10-20-31(3); **and**
(3) a borrow pit:
(A) owned by the facility;
(B) not previously permitted by the department on the latest effective date of this section; and
(C) located on-site or on property adjoining the facility.
(Solid Waste Management Board; 329 IAC 10-2-112; filed Mar 14, 1996, 5:00 p.m.: 19 IR 1777; filed Aug 2, 1999, 11:50 a.m.: 22 IR 3766)

SECTION 24. 329 IAC 10-2-121.1 IS AMENDED TO READ AS FOLLOWS:

329 IAC 10-2-121.1 "Nonmunicipal solid waste landfill unit" or "non-MSWLF unit" defined
Authority: IC 13-14-8-7; IC 13-15-2; IC 13-19-3
Affected: IC 13-11-2; IC 36-9-30

Sec. 121.1. "Nonmunicipal solid waste landfill unit" or "non-MSWLF unit" means a discrete area of land or an excavation that is permitted to receive general types of solid waste, excluding municipal solid waste as defined in section 115 of this rule and hazardous waste regulated by 329 IAC 3.1, for disposal and that is not a land application unit, surface impoundment, injection well, or waste pile. ~~as those terms are defined in 40 CFR 257.2.~~ Such a landfill unit may be publicly or privately owned. A nonmunicipal solid waste landfill unit may be a new nonmunicipal solid waste landfill unit, an existing nonmunicipal solid waste landfill unit, or a lateral expansion. *(Solid Waste Management Board; 329 IAC 10-2-121.1; filed Jan 9,1998, 9:00 a.m.: 21 IR 1703, eff one hundred eighty (180) days after filing with the secretary of state)*

SECTION 25. 329 IAC 10-2-132.2 IS ADDED TO READ AS FOLLOWS:

329 IAC 10-2-132.2 "Peak discharge" defined
Authority: IC 13-14-8-7; IC 13-15-2-1; IC 13-19-3-1
Affected: IC 13-30-2; IC 36-9-30

Sec. 132.2. "Peak discharge" means the maximum rate of flow during a storm, usually in reference to a specific design storm event. *(Solid Waste Management Board; 329 IAC 10-2-132.2)*

SECTION 26. 329 IAC 10-2-132.3 IS ADDED TO READ AS FOLLOWS:

329 IAC 10-2-132.3 "Permanent stabilization" defined
Authority: IC 13-14-8-7; IC 13-15-2-1; IC 13-19-3-1
Affected: IC 13-30-2; IC 36-9-30

Sec. 132.3. "Permanent stabilization" means the establishment, at a uniform density of ninety percent (90%) across the disturbed area, of vegetative cover or permanent nonerosive material that will ensure the resistance of the soil to erosion, sliding, or other movement. *(Solid Waste Management Board; 329 IAC 10-2-132.3)*

SECTION 27. 329 IAC 10-2-142.5 IS ADDED TO READ AS FOLLOWS:

329 IAC 10-2-142.5 "Preliminary exceedance" defined
Authority: IC 13-14-8-7; IC 13-15-2-1; IC 13-19-3-1
Affected: IC 13-30-2; IC 36-9-30

Sec. 142.5. "Preliminary exceedance" means the statistically significant increase in concentration of any constituent prior to the increase being verified under 329 IAC 10-21-8. *(Solid Waste Management Board; 329 IAC 10-2-142.5)*

SECTION 28. 329 IAC 10-2-147.2 IS ADDED TO READ AS FOLLOWS:

329 IAC 10-2-147.2 "Qualified professional" defined
Authority: IC 13-14-8-7; IC 13-15-2-1; IC 13-19-3-1
Affected: IC 13-30-2; IC 36-9-30

Sec. 147.2. "Qualified professional", regarding only 329 IAC 10-15-12 and 329 IAC 10-20-11, means an individual who has experience and training in storm water management techniques and related fields as may be demonstrated by state registration, professional certification, experience, or completion of course work that enable the individual to make sound, professional judgments regarding storm water control or treatment and monitoring pollutant fate and transport, and drainage planning. *(Solid Waste Management Board; 329 IAC 10-2-147.2)*

SECTION 29. 329 IAC 10-2-158 IS AMENDED TO READ AS FOLLOWS:

329 IAC 10-2-158 "Responsible corporate officer" defined
Authority: IC 13-14-8-7; IC 13-15-2-1; IC 13-19-3-1
Affected: IC 13-30-2; IC 25-31; IC 36-9-30

Sec. 158. "Responsible corporate officer" means a president, secretary, treasurer, or any vice president of the corporation **or division** in charge of a principal business function that includes the activity to be permitted. *(Solid Waste Management Board; 329 IAC 10-2-158; filed Mar 14, 1996, 5:00 p.m.: 19 IR 1782)*

SECTION 30. 329 IAC 10-2-165.5 IS ADDED TO READ AS FOLLOWS:

329 IAC 10-2-165.5 "Sedimentation" defined
Authority: IC 13-14-8-7; IC 13-15-2-1; IC 13-19-3-1
Affected: IC 13-30-2; IC 36-9-30

Sec. 165.5. "Sedimentation" means the settling and accumulation of unconsolidated sediment carried by storm water run-off. *(Solid Waste Management Board; 329 IAC 10-2-165.5)*

SECTION 31. 329 IAC 10-2-172.5 IS ADDED TO READ AS FOLLOWS:

329 IAC 10-2-172.5 "Soil and Water Conservation District" defined
Authority: IC 13-14-8-7; IC 13-15-2-1; IC 13-19-3-1
Affected: IC 13-30-2; IC 36-9-30; IC 14-32

Sec. 172.5. "Soil and Water Conservation District" or "SWCD" means a political subdivision established under IC 14-32. *(Solid Waste Management Board; 329 IAC 10-2-172.5)*

SECTION 32. 329 IAC 10-2-181.2 IS ADDED TO READ AS FOLLOWS:

329 IAC 10-2-181.2 "Storm water discharge" defined
Authority: IC 13-14-8-7; IC 13-15-2-1; IC 13-19-3-1
Affected: IC 13-30-2; IC 36-9-30

Sec. 181.2. "Storm water discharge" means the release or flow of storm water which leaves the facility's property or enters a water of the state. *(Solid Waste Management Board; 329 IAC 10-2-181.2)*

SECTION 33. 329 IAC 10-2-181.5 IS ADDED TO READ AS FOLLOWS:

329 IAC 10-2-181.5 "Storm water pollution prevention plan" or "SWP3" defined
Authority: IC 13-14-8-7; IC 13-15-2-1; IC 13-19-3-1
Affected: IC 13-30-2; IC 36-9-30

Sec. 181.5. "Storm water pollution prevention plan" or "SWP3" means a written plan to minimize the impact of storm water pollutants, resulting from construction and landfill operation activities. *(Solid Waste Management Board; 329 IAC 10-2-181.5)*

SECTION 34. 329 IAC 10-2-181.6 IS ADDED TO READ AS FOLLOWS:

329 IAC 10-2-181.6 "Storm water quality measure" defined
Authority: IC 13-14-8-7; IC 13-15-2-1; IC 13-19-3-1
Affected: IC 13-30-2; IC 36-9-30

Sec. 181.6. "Storm water quality measure" means a practice, or a combination of practices, to control or minimize pollutants associated with storm water run-off. *(Solid Waste Management Board; 329 IAC 10-2-181.6)*

SECTION 35. 329 IAC 10-2-187.5 IS ADDED TO READ AS FOLLOWS:

329 IAC 10-2-187.5 "Temporary stabilization" defined
Authority: IC 13-14-8-7; IC 13-15-2-1; IC 13-19-3-1
Affected: IC 13-30-2; IC 36-9-30

Sec. 187.5. "Temporary stabilization" means the covering of soil to ensure its resistance to erosion, sliding, or other movement. The term includes vegetative cover, anchored mulch, or other nonerosive material applied at a uniform density of seventy percent (70%) across the disturbed area. *(Solid Waste Management Board; 329 IAC 10-2-187.5)*

SECTION 36. 329 IAC 10-3-1 IS AMENDED TO READ AS FOLLOWS:

329 IAC 10-3-1 Exclusions; general
Authority: IC 13-14-8-7; IC 13-15-2-1; IC 13-19-3-1
Affected: IC 13-14; IC 13-19-3; IC 13-20; IC 36-9-30

Sec. 1. The following solid waste management activities are not subject to the provisions of this article:

(1) Disposing of only uncontaminated rocks, bricks, concrete, road demolition waste materials, or dirt.

(2) Land application activities regulated ~~by 327 IAC 6~~ **under rules of the water pollution control board at 327 IAC 6.1** and ~~327 IAC 7.~~ **327 IAC 7.1.**

(3) Confined feeding control activities regulated ~~by IC 13-18-10.~~ **under 327 IAC 16.**

(4) Wastewater discharge activities regulated ~~by~~ **under rules of the water pollution control board at** 327 IAC 5.

(5) Solid waste management activities regulated ~~by~~ **under** 329 IAC 11.

(6) Disposal of ~~saw dust which is derived from processing untreated natural wood~~ **uncontaminated and untreated natural growth solid waste, including tree limbs, stumps, leaves, and grass clippings.**

(7) ~~The~~ Disposal of ~~coal ash, transported by water, into an ash pond which has received a water pollution control facility construction permit under 327 IAC 3~~ **saw dust derived from processing untreated natural wood.**

(8) The ~~operation of surface impoundments; however, the final disposal of solid waste in such facilities at the end of their operation is subject to approval by the commissioner except as excluded under subdivisions (7) and (9).~~ **disposal of coal ash, transported by water, into an ash pond which has received a water pollution control facility construction permit under rules of the water pollution control board at 327 IAC 3.**

(9) The ~~disposal of coal ash at a site receiving a total of less than one hundred (100) cubic yards per year from generators who each produce less than one hundred (100) cubic yards~~

~~per year.~~ **operation of surface impoundments; however, the final disposal of solid waste in such facilities at the end of their operation is subject to approval by the commissioner except as excluded under subdivisions (8) and (10).**

(10) ~~Uses and~~ **The** disposal of coal ~~waste as exempted from regulation in IC 13-19-3.~~ **ash at a site receiving a total of less than one hundred (100) cubic yards per year from generators who each produce less than one hundred (100) cubic yards per year.**

(11) The ~~legitimate use of iron and steelmaking slags including the use as a base for road building, but not including use for land reclamation except as allowed under subdivision (13).~~ **uses and disposal of coal waste as exempted under IC 13-19-3-3.**

(12) ~~The legitimate use of foundry sand which has been demonstrated to the satisfaction of the commissioner as suitable for restricted waste site type III under the provisions of 329 IAC 10-9-4, including the use as a base for road building, but not including use for land reclamation except as allowed under subdivision (13).~~ **Activities concerning wastes containing polychlorinated biphenyls (PCBs) regulated under 329 IAC 4.1, except those regulated as alternative daily cover under 329 IAC 10-20-14.1.**

(13) ~~Other uses of solid waste may be approved by the commissioner if the commissioner determines them to be legitimate uses that do not pose a threat to public health and environment.~~ **Storage, transportation, and processing of used oil as regulated under 329 IAC 13.**

(14) The legitimate use of slag under IC 13-19-3-8.

(15) The legitimate use of foundry sand under IC 13-19-3-7.

(16) Any other use of solid waste approved by the commissioner based on the commissioner's determination that the use is a legitimate use that does not pose a threat to public health or the environment.

(Solid Waste Management Board; 329 IAC 10-3-1; filed Mar 14, 1996, 5:00 p.m.: 19 IR 1795; filed Mar 19, 1998, 11:07 a.m.: 21 IR 2749; filed Aug 2, 1999, 11:50 a.m.: 22 IR 3771; readopted filed Jan 10, 2001, 3:25 p.m.: 24 IR 1535)

SECTION 37. 329 IAC 10-3-2 IS AMENDED TO READ AS FOLLOWS:

329 IAC 10-3-2 Exclusion; hazardous waste

Authority: IC 13-14-8-7; IC 13-15-2-1; IC 13-19-3-1
Affected: IC 13-14; IC 13-30; IC 36-9-30

Sec. 2. (a) Hazardous wastes are regulated by and shall be treated, stored, and disposed of in accordance with 329 IAC 3.1. Hazardous waste that is regulated by 329 IAC 3.1 is not subject to the provisions of this article.

(b) No hazardous waste that is regulated by 329 IAC 3.1 shall be disposed at any solid waste land disposal facility regulated under this article.

(c) As used in this article, "hazardous waste that is regulated by 329 IAC 3.1" does not include **CESQG** hazardous waste. ~~generated in quantities less than one hundred (100) kilograms per month and is therefore excluded from regulation under the hazardous waste management article, 329 IAC 3.1. Such small quantities of~~ **CESQG** hazardous waste ~~shall~~ **must only** be disposed of in **a municipal solid waste landfill permitted in** accordance with this article.

(d) Facilities permitted under 329 IAC 3.1 are not required to obtain permits under this article for the storage, treatment, or disposal of nonhazardous solid waste where such solid waste is treated or disposed of as a hazardous waste at the receiving hazardous waste facility. *(Solid Waste Management Board; 329 IAC 10-3-2; filed Mar 14, 1996, 5:00 p.m.: 19 IR 1795; filed Aug 2, 1999, 11:50 a.m.: 22 IR 3776; readopted filed Jan 10, 2001, 3:25 p.m.: 24 IR 1535)*

SECTION 38. 329 IAC 10-3-3 IS AMENDED TO READ AS FOLLOWS:

329 IAC 10-3-3 Insignificant facility modifications

Authority: IC 13-14-8-7; IC 13-15-2-1; IC 13-19-3-1
Affected: IC 13-14; IC 13-30; IC 36-9-30

Sec. 3. (a) A permittee of a solid waste land disposal facility proposing insignificant facility modifications may not be required to apply for a minor or a major modification of the current permit from the commissioner. See the definition of insignificant facility modification at 329 IAC 10-2-97.1.

(b) If a permittee proposes or is required to make an insignificant facility modification described in 329 IAC 10-2-97.1(1), 329 IAC 10-2-97.1(2), 329 IAC 10-2-97.1(3), 329 IAC 10-2-97.1(4), 329 IAC 10-2-97.1(5), 329 IAC 10-2-97.1(6), 329 IAC 10-2-97.1(7), 329 IAC 10-2-97.1(8), 329 IAC 10-2-97.1(9), or ~~329 IAC 10-2-97.1(10),~~ **329 IAC 10-2-97.1(12)** the permittee shall provide notice to the commissioner ~~via certified mail~~ no later than seven (7) calendar days after the modification has been made. The notice shall include a detailed description of the project and the date the project was or is expected to be completed.

(c) If the permittee proposes to make an insignificant facility modification described in **329 IAC 10-2-97.1(10),** 329 IAC 10-2-97.1(11), ~~or 329 IAC 10-2-97.1(12),~~ **329 IAC 10-2-97.1(13), 329 IAC 10-2-97.1(14), or 329 IAC 10-2-97.1(15),** the permittee shall submit documentation of the proposed insignificant facility modifications to the commissioner. The documentation must include a detailed description of the proposed project.

(d) If the commissioner determines that insufficient documentation has been provided to evaluate whether or not the modification under subsection (c) is an insignificant modification, the permittee will be notified in writing within thirty (30) days after receipt of the information to the

commissioner that the permittee must submit a new proposal concerning the insignificant modification.

~~(d)~~ **(e)** If the commissioner determines that the modification under subsection (c) is a major or minor modification, the permittee will be notified in writing within thirty (30) days after receipt of the information to the commissioner that the permittee must submit an application for a minor or major modification to the current permit.

~~(e)~~ **(f)** If the permittee does not receive notification from the commissioner within thirty (30) days after submission of the proposed modifications to the commissioner, the permittee may initiate the insignificant facility modifications in accordance with documentation provided to the commissioner.

~~(f)~~ **(g)** No permit modification shall be required for insignificant facility modifications made under this subsection to:

(1) correct operational violations under this article; or

(2) protect human health ~~and~~ **or** the environment.

(Solid Waste Management Board; 329 IAC 10-3-3; filed Mar 14, 1996, 5:00 p.m.: 19 IR 1795; filed Mar 19, 1998, 11:07 a.m.: 21 IR 2749; filed Aug 2, 1999, 11:50 a.m.: 22 IR 3776; readopted filed Jan 10, 2001, 3:25 p.m.: 24 IR 1535)

SECTION 39. 329 IAC 10-6-4 IS AMENDED TO READ AS FOLLOWS:

329 IAC 10-6-4 Remedial action

Authority: IC 13-14-8-7; IC 13-15-2-1; IC 13-19-3-1
Affected: IC 13-25-4-7; IC 13-25-4-8; IC 36-9-30

Sec. 4. If the commissioner determines that the closed solid waste land disposal facility is or may be a threat to human health or the environment, due to a release **or threat of release** of contaminants from the solid waste land disposal facility into the environment, the commissioner may proceed under IC 13-25-4 and rules adopted under IC 13-25-4-7 that require the owner, operator, or permittee of a closed solid waste land disposal facility or the owner of real estate upon which a closed solid waste land disposal facility is located, or any other responsible person under IC 13-25-4-8, to perform remedial action, including the installation and monitoring of ground water monitoring wells or other devices **and corrective action under 329 IAC 10-21-13.** *(Solid Waste Management Board; 329 IAC 10-6-4; filed Mar 14, 1996, 5:00 p.m.: 19 IR 1798; filed Mar 19, 1998, 11:07 a.m.: 21 IR 2751; filed Aug 2, 1999, 11:50 a.m.: 22 IR 3778)*

SECTION 40. 329 IAC 10-10-1 IS AMENDED TO READ AS FOLLOWS:

329 IAC 10-10-1 Applicability

Authority: IC 13-14-8-7; IC 13-15-2-1; IC 13-19-3-1
Affected: IC 13-30-2; IC 36-9-30

Sec. 1. (a) Unless otherwise addressed in this rule, all MSWLFs and new and existing MSWLF units must comply with applicable requirements in this article after the effective date of this article.

(b) Within ~~one hundred twenty (120)~~ **sixty (60)** days following the effective date of this rule, the owner, operator, or permittee of a MSWLF permitted under 329 IAC 1.5, which was repealed in 1989, or 329 IAC 2, which was repealed in 1996, shall submit any necessary permit modification applications to comply with the requirements of this article. *(Solid Waste Management Board; 329 IAC 10-10-1; filed Mar 14, 1996, 5:00 p.m.: 19 IR 1807; errata filed Apr 4, 1996, 4:00 p.m.: 19 IR 2045; filed Aug 2, 1999, 11:50 a.m.: 22 IR 3787)*

SECTION 41. 329 IAC 10-10-2 IS AMENDED TO READ AS FOLLOWS:

329 IAC 10-10-2 Pending applications

Authority: IC 13-14-8-7; IC 13-15; IC 13-19-3
Affected: IC 13-14; IC 13-20; IC 36-9-30

Sec. 2. A permit application:

(1) that is received on or before ~~June 21, 1995,~~ **the date of preliminary adoption of this rule, as amended in 2002,** will not be required to be revised to meet the requirements of this article; ~~however, the application must comply with 329 IAC 2, which was repealed in 1996, and applicable federal requirements;~~ or

(2) that is received after ~~June 21, 1995,~~ **the date of preliminary adoption** will be required to comply with all applicable requirements of this article **as effective on January 30, 2003.**

(Solid Waste Management Board; 329 IAC 10-10-2; filed Mar 14, 1996, 5:00 p.m.: 19 IR 1807; filed Mar 19, 1998, 11:07 a.m.: 21 IR 2751)

SECTION 42. 329 IAC 10-11-2.1 IS AMENDED TO READ AS FOLLOWS:

329 IAC 10-11-2.1 Permit application requirements; general

Authority: IC 13-14-8-7; IC 13-15-2-1
Affected: IC 4-21.5-3-5; IC 13-14-11-3; IC 13-19-4; IC 13-20-21; IC 36-7-4; IC 36-9-30

Sec. 2.1. (a) An application for any solid waste land disposal facility permit, including renewals, or for a modification to a solid waste land disposal facility permit, excluding insignificant modifications, must be submitted to the commissioner on permit application forms provided by the commissioner, in a format specified by the commissioner. All narrative, plans, and other support documentation accompanying the application must also be submitted in a format specified by the commissioner.

(b) A complete application must include all of the following information:

(1) The name and address of the applicant.

(2) The name and address of the solid waste land disposal facility site.

(3) The name and address of the solid waste land disposal facility owner, operator, or permittee if different from the real property owner.
(4) The names and addresses of members of the board of county commissioners of a county that is affected by the permit application.
(5) The names and addresses of the mayors of any cities that are affected by the permit application.
(6) The names and addresses of the presidents of town councils of any towns that are affected by the permit application.
(7) The legal description as defined in 329 IAC 10-2-104 for the following:
(A) The solid waste land disposal facility ~~boundaries.~~ **boundary.**
(B) If applicable, the solid waste boundary defining the area where the solid waste is to be deposited.
(C) Sufficient documentation must be provided to verify that the waste deposition area is located within the facility boundaries. Documentation must include a map of the legal description for these areas certified by a registered land surveyor.
(8) Solid waste land disposal facility information, including the following:
(A) A description of the type of operation.
(B) The planned **or remaining** life of the solid waste land disposal facility in years.
(C) The expected ~~volume~~ **amount** of waste to be received in tons per operating day ~~and~~ **or** cubic yards per operating day.
(D) The type of waste to be received.
(9) Signatures and certification statements in compliance with section 3 of this rule.
(10) Disclosure of all good character requirements as described in IC 13-19-4, except for a minor modification.

(c) Five (5) copies of the completed application and all supporting documentation must be submitted to the commissioner as follows:
(1) Sent by registered mail, ~~or~~ certified mail, **or private carrier** or delivered in person.
(2) In addition to the paper copies, a copy of the completed application and all supporting documentation may be submitted ~~on digital media,~~ **by electronic submission,** the type and format of which will be prescribed by the department.
(3) Plans and documentation accompanying the application shall be submitted as required in 329 IAC 10-15-1(c).
(4) Documentation submitted to the department as required by this article may be in an electronic format as prescribed by the commissioner. Any documentation submitted in an electronic format also must be submitted as a paper copy or copies as required by this article.

(d) Confidential treatment of information may be requested in accordance with ~~the rules of the solid waste management board~~ **329 IAC 6.1** for **all or a portion of** the permit application and supporting documents.

(e) All corporations must submit a copy of the certificate of existence signed by the secretary of state.

(f) Fees must be submitted with the application in accordance with IC 13-20-21. *(Solid Waste Management Board; 329 IAC 10-11-2.1; filed Aug 2, 1999, 11:50 a.m.: 22 IR 3788)*

SECTION 43. 329 IAC 10-11-2.5 IS AMENDED TO READ AS FOLLOWS:

329 IAC 10-11-2.5 Permit application for new land disposal facility and lateral expansions

Authority: IC 13-14-8-7; IC 13-15-2-1; IC 13-19-3-1
Affected: IC 4-21.5-3-5; IC 13-11-2-265; IC 13-14-11-3; IC 13-20-21; IC 14-4-5; IC 36-7-4; IC 36-9-30

Sec. 2.5. (a) In addition to the application requirements given at section 2.1 of this rule, a complete application for a solid waste land disposal facility permit or for a major modification of a solid waste land disposal facility permit for a lateral expansion must include all the following information:
(1) Detailed plans and design specifications as required by:
(A) 329 IAC 10-15 through 329 IAC 10-19 and 329 IAC 10-22, as applicable;
(B) 329 IAC 10-24 through 329 IAC 10-27 and 329 IAC 10-30, as applicable; or
(C) 329 IAC 10-32 through 329 IAC 10-35 and 329 IAC 10-37, as applicable.
(2) Closure and post-closure plans as required by:
(A) 329 IAC 10-22-2 and 329 IAC 10-23-3, as applicable;
(B) 329 IAC 10-30-4 and 329 IAC 10-31-3, as applicable; or
(C) 329 IAC 10-37-4 and 329 IAC 10-38-3, as applicable.
(3) The detailed plans and design specifications required by subdivision (1) and the closure and post-closure plans required by subdivision (2) must be certified by a registered professional engineer and must be properly titled.
(4) A description of the financial instrument that will be used to achieve compliance with financial responsibility provisions of 329 IAC 10-39.
(5) Documents necessary to establish ownership or other tenancy, such as an option to purchase, of the real estate upon which the solid waste land disposal facility to be permitted is located. The documentation must include a certified copy of the deed to the subject real estate showing ownership in the person identified as the owner in the application or the deed and evidence satisfactory to the commissioner that ownership will be transferred to the proper person for purposes of this rule, if not already done, prior to operation of the solid waste land disposal facility.
(6) Documentation that proper zoning approvals have been obtained, including the following, if applicable:
(A) A copy of the zoning requirements, if any, for solid

waste facilities in the area where the solid waste land disposal facility is to be located.

(B) A copy of the improvement location permit or occupancy permit issued by the zoning authority having jurisdiction for the site, if a solid waste land disposal facility is permitted by the zoning ordinance in the area where the solid waste land disposal facility is to be located.

(C) A copy of the amendment to the zoning ordinance adopted under IC 36-7-4-901 et seq. if a change in the zone maps is required for the area where the solid waste land disposal facility is to be located.

(D) A copy of the amendment to the zoning ordinance adopted under IC 36-7-4-901 et seq. if such amendment is required for the area where the solid waste land disposal facility is to be located.

(E) A copy of the variance, special exception, special use, contingent use, or conditional use approved under IC 36-7-4-921 et seq. if such approval is required for the area where the solid waste land disposal facility is to be located.

(F) The status of any appeal of any zoning determination as described in clauses (B) through (E), and if none is pending, the date by which the appeal must be initiated.

(7) A United States Geological Survey topographical quadrangle map seven and one-half (7½) minute, or equivalent, to include all areas within two (2) miles of the proposed facility boundaries with property boundaries and proposed solid waste boundaries clearly delineated.

(8) Documentation of the base flood elevation within one-fourth (¼) mile of the proposed facility boundaries. Either of the following forms of documentation are acceptable:

(A) A letter from the department of natural resources.

(B) A national flood insurance program map.

(9) A scaled map that depicts the following features, **(please note if none exist),** which are known to the applicant or are discernable from public records, on and within one-half (½) mile of the proposed facility boundaries:

(A) Airports.

(B) Buildings.

(C) City, township, county, state, or national forests or parks.

(D) Coal borings.

(E) Culverts.

(F) Drainage tiles.

(G) Dwellings.

(H) Fault areas.

(I) Floodplains, **floodway fringes, and floodways.**

(J) Gas or oil wells.

(K) Hospitals.

(L) Legal drains.

(M) Nature preserves regulated under IC 14-4-5 *[IC 14-4 was repealed by P.L.1-1995, SECTION 91, effective July 1, 1995.]* or **any** critical habitats ~~regulated under 50 CFR 17.~~ **as contained in 50 CFR 17.95 or 50 CFR 17.96.**

(N) Pipelines.

(O) Power lines.

(P) Roads.

(Q) Schools.

(R) Sewers.

(S) Sinkholes.

(T) Springs and seeps.

(U) Surface or underground mines.

(V) Swamps.

(W) Water courses or surface water, including reservoirs.

(X) Wells.

(Y) Wetlands.

(10) Potential areas where storm water may enter ground water, such as abandoned wells or sinkholes. Please note if none exist.

(11) Locations of specific points where storm water discharge will leave the facility boundary.

(12) Name of all receiving waters of the storm water discharge. If the discharge is to a separate municipal storm sewer, identify the name of the municipal operator and the ultimate receiving water of the storm water discharge.

~~(10)~~ **(13)** A soil map and related description data as published by the United States Department of Agriculture, Natural Resources Conservation Service.

(14) Current United States Geological Survey (USGS) hydrologic unit code (up to fourteen (14) digits).

~~(11)~~ **(15)** Well logs and a topographic map indicating the location and identifying with respect to the drilling logs, all wells within one (1) mile of the proposed facility boundaries that are on file with the department of natural resources.

~~(12)~~ **(16)** A survey must be conducted for any residences or occupied buildings within one-fourth (¼) of a mile of the proposed facility boundaries that do not have a well log. The survey is to determine whether wells that do not have well logs on file with the department of natural resources are present and obtain any information regarding these wells. A summary of the results of the survey and any information gained must be included with the application.

~~(13)~~ **(17)** The name and address of all owners or last taxpayers of record of property:

(A) located within one (1) mile of the proposed solid waste boundaries of a solid waste land disposal facility; and

(B) of adjoining land that is within one-half (½) of a mile of the solid waste boundary.

~~(14)~~ **(18)** A signed affidavit to the department agreeing to notify adjoining land owners as required in 329 IAC 10-12-1(b)(1).

~~(15)~~ **(19)** The following information relative to wetlands under 329 IAC 10-16-3 and other waters ~~of the state:~~ **as defined under IC 13-11-2-265:**

(A) A copy of the U.S. Army Corps of Engineers Section 404 of the Clean Water Act permit and a copy of the Indiana department of environmental management Section 401 water quality certification or documentation acceptable to the department that a Section 404 and Section 401 water quality certification are not required.

(B) Any other mitigation plans required by any other government agency including permit conditions or restric-

tions placed on the siting of the solid waste land disposal facility in relationship to any other waters ~~of the state~~ as defined ~~by 329 IAC 10-2-205.~~ **under IC 13-11-2-265.**

(b) Restricted waste site Type III and construction/demolition landfills are exempt from submitting the information required in subsection (a)(9). *(Solid Waste Management Board; 329 IAC 10-11-2.5; filed Aug 2, 1999, 11:50 a.m.: 22 IR 3789)*

SECTION 44. 329 IAC 10-11-5.1 IS AMENDED TO READ AS FOLLOWS:

329 IAC 10-11-5.1 Renewal permit application
Authority: IC 13-14-8-7; IC 13-15; IC 13-19-3
Affected: IC 13-20-21; IC 36-9-30

Sec. 5.1. (a) In addition to the application requirements given at section 2.1 of this rule, **excluding section 2.1(c)(3) of this rule,** a complete application for a renewal of a solid waste land disposal facility permit must include all the following information:

(1) The name and address of all owners or last taxpayers of record of property of adjoining land that is within one-half (½) mile of the solid waste boundary.

(2) The operation permit number of the solid waste land disposal facility.

(3) The ~~legal description of the solid~~ **number of acres permitted for** waste ~~land~~ disposal. ~~facility location as defined in 329 IAC 10-2-104.~~

~~(4) Facility information, including the following:~~

~~(A) A description of the type of operation under 329 IAC 10-9-1.~~

~~(B) The number of acres permitted for waste disposal.~~

~~(C) The remaining life of the solid waste land disposal facility in years.~~

~~(D) The volume of waste received at the solid waste land disposal facility in cubic yards per operating day or tons per operating day.~~

~~(E) The type of waste received at the solid waste land disposal facility.~~

~~(5)~~ **(4)** A topographic plot plan that reflects the current condition of the solid waste land disposal facility and current elevations taken within ~~six (6)~~ **twelve (12)** months of the submittal of the application and accurately identifying the following information to a scale as required by 329 IAC 10-15-2(a), 329 IAC 10-24-2(a), or 329 IAC 10-32-2(a):

(A) Areas of final cover, grading, and seeding.

(B) Filled areas lacking final cover, grading, and seeding.

(C) Current areas of operation, including depth of waste fill.

(D) Projected solid waste disposal areas on a per year basis for the next five (5) years.

~~(6) Signatures and certification statements in compliance with section 3 of this rule.~~

(5) A copy of the latest approved final contour plot plan with scale, as required by 329 IAC 10-15-2(a).

(6) A copy of the latest approved subgrade contours or the uppermost contour of the soil liner.

(b) An application for a renewal of a solid waste land disposal facility permit must be submitted at least one hundred twenty (120) days prior to the expiration date of the permit or the permit will be invalid upon expiration.

(c) Fees must be submitted with the application in accordance with IC 13-20-21. *(Solid Waste Management Board; 329 IAC 10-11-5.1; filed Aug 2, 1999, 11:50 a.m.: 22 IR 3791)*

SECTION 45. 329 IAC 10-11-6 IS AMENDED TO READ AS FOLLOWS:

329 IAC 10-11-6 Minor modification applications
Authority: IC 13-14-8-7; IC 13-15; IC 13-19-3; IC 13-20-1
Affected: IC 13-20-21; IC 13-21-5; IC 36-9-30

Sec. 6. (a) In addition to the application requirements given at section 2.1 of this rule, ~~for a minor modification of a solid waste facility permit,~~ **excluding section 2.1(b)(10) of this rule,** adequate information must be included in an application for a minor modification of a solid waste land disposal facility permit to demonstrate that the minor modification will be protective of human health ~~and~~ **or** the environment. The commissioner shall determine the information adequate based on the type of minor modification requested by the facility.

(b) In addition to any requirements in subsection (a), the application must also include the name and address of all owners or last taxpayers of record of property of adjoining land that is within one-half (½) mile of the solid waste boundary.

(c) Fees must be submitted with the application in accordance with IC 13-20-21.

(d) Borrow pits owned by the facility and not permitted by the department on the latest effective date of this section must be included in the facility permit through application for minor modification on application forms provided by the commissioner. This requirement only includes a borrow pit:

(1) owned by the facility;

(2) not previously permitted by the department on the latest effective date of this section; and

(3) located on-site or on property adjoining the facility.

(Solid Waste Management Board; 329 IAC 10-11-6; filed Mar 14, 1996, 5:00 p.m.: 19 IR 1812; filed Mar 19, 1998, 11:07 a.m.: 21 IR 2755; filed Aug 2, 1999, 11:50 a.m.: 22 IR 3791)

SECTION 46. 329 IAC 10-12-1 IS AMENDED TO READ AS FOLLOWS:

329 IAC 10-12-1 Public process for new solid waste land disposal facility permits; major permit modifications; minor permit modifications
Authority: IC 13-14-8-7; IC 13-15; IC 13-19-3; IC 13-20-1
Affected: IC 5-3-1-2; IC 5-3-1-6; IC 5-3-2; IC 13-15-3-3; IC 13-20; IC 36-9-30

Sec. 1. (a) A person submitting an affidavit as required by ~~329 IAC 10-11-2.5(a)(13)~~ **329 IAC 10-11-2.5(a)(20)** and an application for one (1) of the following shall make notice as required in subsection (b):

(1) A new solid waste land disposal facility permit.

(2) A major modification for a lateral expansion permit **or a vertical expansion permit**.

(3) A minor modification permit ~~under 329 IAC 10-2-112(a)(2).~~ **for a lateral expansion that would not:**

(A) increase the facility's permitted capacity to dispose of solid waste by the lesser of:

(i) more than ten percent (10%); or

(ii) five hundred thousand (500,000) cubic yards; or

(B) in a lateral expansion, increase the area within the permitted solid waste boundary by more than one (1) acre.

(b) The notice required by subsection (a) must include the following:

(1) Not more than ten (10) working days after submitting an application, an applicant shall make a reasonable effort to notify the owners of record of adjoining land to the solid waste land disposal facility or proposed solid waste land disposal facility.

(2) The notice provided by the applicant in this subsection must:

(A) be in writing;

(B) include the date on which the application for the permit was submitted to the department; and

(C) include a brief description of the subject of the application.

(c) A public meeting must be conducted by the applicant submitting an application for the following:

(1) A new solid waste land disposal facility permit.

(2) A major modification to a solid waste land disposal facility permit.

(d) The applicant shall complete the following for the public meeting **as** required in subsection (c):

(1) Within sixty (60) days after the date the applicant received notification from the commissioner that the application has been deemed complete, conduct a public meeting in the county where the solid waste land disposal facility or major modification designated in the application ~~is~~ **will be** located.

(2) Publish notice of the public meeting ~~required in subdivision (1)~~ at least ten (10) days prior to the meeting in a newspaper of general circulation in the county where the solid waste land disposal facility or major modification will be located. The notice must:

(A) be at least two (2) columns wide by five (5) inches long;

(B) not be placed in the part of the newspaper where the legal notices and classified advertisements appear;

(C) include the time and date of the public meeting;

(D) state the exact place of the public meeting; and

(E) have every effort made by the applicant and the department to coordinate the publication date of the notice of the public meeting held by the applicant as required by this subdivision with the publication date of the notice of public hearing held by the department as required in subsection (i)(1).

(3) Conduct the public meeting as follows:

(A) Present a brief description of the location and operation of the proposed solid waste land disposal facility or major modification.

(B) Indicate where copies of the application have been filed.

(C) If the applicant proposes a design alternative, the applicant must briefly describe the alternative design.

(D) State that the department will accept written comments and questions from the public on the permit application and announce the address of the department and name of the person accepting comments on behalf of the department.

(E) Provide fact sheets on the proposed solid waste land disposal facility or major modification that have been prepared by the department for the public. A department representative shall attend the meeting.

(F) Offer the opportunity for public comments and questions.

(e) Within five (5) days after the date the applicant received notification from the commissioner that the application has been deemed complete by the department, the applicant shall place a copy of the complete application and any additional information that the department requests at a library in the county where the solid waste land disposal facility or major modification will be located.

(f) The applicant shall pay the costs of complying with subsections (c) through (e).

(g) Failure of the applicant to comply with subsections (c) through (f) may result in the denial of the application by the department.

(h) Public notice must be made by the department as required by IC 5-3-1-2(h) after the date the applicant received notification from the commissioner that the permit application is deemed completed. The public notice must meet the following requirements:

(1) Indicate where copies of the application are available for public review.

(2) State that the department will accept comments from the public on the application for at least thirty (30) days.

(3) Offer the opportunity for a public hearing on the application.

(4) The department shall publish the notice in accordance with IC 5-3-1-6.

(5) If the facility boundary of the proposed solid waste land disposal facility or major modification, if also a lateral

expansion, will be within one (1) mile of the county boundary, the department will publish the notice in accordance with IC 5-3-1-6 in the adjacent county.

(6) In addition to the requirements in IC 5-3-1-6, the department shall publish the notice in two (2) newspapers in the county where the solid waste land disposal facility or major modification is located, if there are two (2) newspapers of general circulation in the county.

(i) The department shall hold a public hearing ~~as~~ **if** required by IC 13-15-3-3. The following apply to a public hearing:

(1) The department shall publish notice of the hearing as required in IC 5-3-1 and IC 5-3-2 in newspapers of general circulation in the county where the solid waste land disposal facility (if a major modification) or proposed solid waste land disposal facility is located.

(2) During a hearing, a person may testify within the time provided or submit written comments, or both. The department will consider testimony that is relevant to the requirements of IC 13 and this article.

(Solid Waste Management Board; 329 IAC 10-12-1; filed Mar 14, 1996, 5:00 p.m.: 19 IR 1812; filed Mar 19, 1998, 11:07 a.m.: 21 IR 2756; filed Aug 2, 1999, 11:50 a.m.: 22 IR 3792)

SECTION 47. 329 IAC 10-13-1 IS AMENDED TO READ AS FOLLOWS:

329 IAC 10-13-1 Issuance procedures; original permits

Authority: IC 13-14-8-7; IC 13-15; IC 13-19-3
Affected: IC 13-11; IC 13-12; IC 13-13; IC 13-14-8; IC 13-16; IC 13-17; IC 13-19; IC 13-20; IC 13-21; IC 13-22; IC 13-23; IC 13-24; IC 13-25; IC 13-26; IC 13-27; IC 13-27.5; IC 13-29; IC 13-30-2; IC 36-9-30

Sec. 1. (a) The department shall comply with the procedural requirements of IC 13-15-3, IC 13-15-5, and IC 13-15-6 pertaining to public notice, public comment, and public hearing for an application for ~~an original~~ **a** permit for a solid waste land disposal facility regulated under IC 13-19-3.

(b) Subject to the provision of 329 IAC 10-11-1(c), if the department determines that the permit application meets the requirements of this article, and that the solid waste land disposal facility will be constructed and operated in accordance with the requirements of this article and the applicant is otherwise in compliance with the environmental statutes of Indiana, the permit will be granted. The department may impose such conditions in a permit as may be necessary to:

(1) comply with the requirements of this article, IC 13-11 through IC 13-30, and IC 36-9-30; or

(2) protect the public health ~~and~~ **or** the environment.

(c) The notice of the granting of a permit must state that the permit will not become effective until

~~(1) all financial responsibility documents have been executed and delivered to the department in the form and amount specified; and~~

~~(2)~~ the completion and execution of any real estate transfers necessary to vest legal title of the real estate upon which the permitted activity is to occur in the name of the owner listed on the application have been completed, executed, and such documentation necessary to evidence such transfer has been recorded and delivered to the department, or proof of the applicant's agreement regarding the leasing of this property has been submitted to the department.

(d) Notwithstanding subsection (c), a variance granted under IC 13-14-8 must not be transferred to another person without independent proof of undue hardship or burden by the person seeking transfer. *(Solid Waste Management Board; 329 IAC 10-13-1; filed Mar 14, 1996, 5:00 p.m.: 19 IR 1814; filed Mar 19, 1998, 11:07 a.m.: 21 IR 2757; errata filed Jun 10, 1998, 9:23 a.m.: 21 IR 3939; filed Aug 2, 1999, 11:50 a.m.: 22 IR 3793)*

SECTION 48. 329 IAC 10-13-5 IS AMENDED TO READ AS FOLLOWS:

329 IAC 10-13-5 Transferability of permits

Authority: IC 13-14-8-7; IC 13-15; IC 13-19-3
Affected: IC 13-15-7; IC 13-30-6; IC 36-9-30-35

Sec. 5. (a) A permit may be transferred to a third person by the permittee without the need for a new permit or modification or revocation of the existing permit being required if:

(1) the permittee notifies the commissioner of the proposed transfer at least sixty (60) days before the proposed date of transfer on forms provided by the commissioner;

(2) a written contract between the permittee and the third person containing a specific date of transfer of permit responsibility is submitted to the commissioner;

(3) the transferee has not been convicted under IC 13-30-6 or IC 36-9-30-35;

(4) the commissioner has not revoked under IC 13-15-7 a permit to the transferee that was issued under:

(A) this article;

(B) 329 IAC 1.5, which was repealed in 1989; or

(C) 329 IAC 2, which was repealed in 1996;

(5) the third person is, at the time of the application or permit decision, in compliance with the Environmental Protection Acts and ~~regulations~~ **rules** promulgated thereunder and does not have a history of repeated violations of the Acts or ~~regulations~~ **rules** or material permit conditions that evidence an inability or unwillingness to comply with requirements of this article or a facility permit;

(6) the transferee provides proof **to the department** of financial responsibility under 329 IAC 10-39; and

(7) the transferee provides proof **to the department** that ~~it~~ **the transferee** is, or will be, the owner of the real property or provides proof of the applicant's agreement regarding the leasing of the property. ~~to the department.~~

(b) The transfer will be effective on the specific date of transfer provided by the permittee unless the commissioner

notifies the permittee and the transferee that the transfer will be denied.

(c) Notwithstanding the transfer of a permit, a variance must not be transferred to another person. *(Solid Waste Management Board; 329 IAC 10-13-5; filed Mar 14, 1996, 5:00 p.m.: 19 IR 1815; errata filed Apr 4, 1996, 4:00 p.m.: 19 IR 2045; filed Mar 19, 1998, 11:07 a.m.: 21 IR 2758)*

SECTION 49. 329 IAC 10-13-6 IS AMENDED TO READ AS FOLLOWS:

329 IAC 10-13-6 Permit revocation and modification
Authority: IC 13-14-8-7; IC 13-15; IC 13-19-3
Affected: IC 4-21.5-3; IC 13-15-7-1; IC 13-15-7-3; IC 36-9-30

Sec. 6. (a) The commissioner may revoke or modify a permit issued under this article if cause exists under IC 13-15-7-1 and may request an updated application if necessary. When a permit is modified, only the conditions ~~subject to modifications~~ **modified** are reopened and subject to review under ~~IC 13-15-7 and IC 4-21.5-3-7.~~ **IC 13-15-7-3.** If a permit is revoked, the entire permit is reopened and subject to revision and if the permit is reissued, it may be for a new term.

~~(b) The commissioner may revoke a permit if the permit applicant is found by the department to have knowingly or intentionally falsified or supplied inaccurate information.~~

~~(c)~~ **(b)** If the solid waste land disposal facility is located in an area that is not suitable for the placement of waste as specified by this article, the department shall consider the nonsuitability issue as a sufficient basis for denying the modification or for revoking the permit unless the permittee demonstrates to the department that continued use of the solid waste land disposal facility will not pose a threat to human health or the environment.

~~(d)~~ **(c)** To request a change in the solid waste land disposal facility plans or operation, the permittee must request that the commissioner modify the permit before any permitted changes are made in the approved plans. The application must provide the rationale for such modification to the commissioner for review. If the commissioner determines that the requested modification is consistent with ~~the standards established in~~ this article, the commissioner shall grant the modification. Only the conditions ~~subject to modifications~~ **modified** are reopened. The commissioner shall give notice to the permittee of the determination on the modification in accordance with ~~IC 13-15-7 and IC 4-21.5-3-7.~~ **IC 4-21.5-3.**

~~(e)~~ **(d)** Other than for minor modifications, requests to modify a permit to increase the permitted acreage of the solid waste disposal area of a solid waste land disposal facility shall be processed in accordance with section 1 of this rule. *(Solid Waste Management Board; 329 IAC 10-13-6; filed Mar 14, 1996, 5:00 p.m.: 19 IR 1815; filed Mar 19, 1998, 11:07 a.m.: 21 IR 2758; filed Aug 2, 1999, 11:50 a.m.: 22 IR 3794)*

SECTION 50. 329 IAC 10-14-1 IS AMENDED TO READ AS FOLLOWS:

329 IAC 10-14-1 Quarterly reports
Authority: IC 13-14-8-7; IC 13-15; IC 13-19-3
Affected: IC 13-20; IC 24-6; IC 36-9-30

Sec. 1. (a) A quarterly tonnage report of solid waste received at the solid waste land disposal facility must be submitted to the commissioner by the owner, operator, or permittee of that facility.

(b) The report required by subsection (a) must be submitted on or before the fifteenth day of the month immediately following the end of the calendar quarter being reported. If the submittal date falls on a Saturday, a Sunday, or a national or state legal holiday, the submittal date will be the next day that is not a Saturday, a Sunday, or a national or state legal holiday.

(c) The report required by subsection (a) must be submitted by the owner, operator, or permittee of the solid waste land disposal facility that is open to accept solid waste for disposal unless the owner, operator, or permittee of the solid waste land disposal facility has ceased accepting solid waste for a period of at least one (1) calendar quarter, and has sent written notification to the commissioner indicating the initiation of final closure under 329 IAC 10-22-4, 329 IAC 10-30-6, or 329 IAC 10-37-6 as appropriate.

(d) The solid waste hauler shall provide the owner, operator, or permittee of the solid waste land disposal facility with the origin of the solid waste delivered to the solid waste land disposal facility. The hauler shall estimate, by percent, the type and amount of solid waste originating in each county and state, or country if other than the United States, if the load contains solid waste from more than one (1) county, state, or country.

(e) The owner, operator, or permittee of the solid waste land disposal facility shall submit the quarterly tonnage report required by subsection (a) as follows:

(1) ~~On~~ **In** the most current paper ~~report form~~ **or electronic submittal format** prescribed by the ~~department.~~ **commissioner.** The owner, operator, or permittee may obtain a quarterly tonnage report form from the department. The form:

(A) may be photocopied **or electronically copied** by the owner, operator, or permittee of the solid waste land disposal facility; and

(B) in its most current format, may be computer generated by the owner, operator, or permittee of the solid waste land disposal facility.

(2) The original of each paper report must be signed by the solid waste land disposal facility owner, operator, or permittee as certification of report accuracy.

(3) Each report must be accurate, legible, and complete.

~~(4) One (1) additional paper copy of each original paper report must be submitted with the original paper report required in subdivision (6).~~

~~(5) In addition to the paper report required in subdivision (1), an electronic report in a format approved by the commissioner may also be submitted.~~

~~(6)~~ **(4)**The ~~paper~~ report ~~and any approved format~~ required by this subsection must **meet the requirements of 329 IAC 10-1-4, as applicable, and must** include at least the following information:

(A) The weight in total tons of solid waste received at the solid waste land disposal facility for that calendar quarter compiled by waste type and origin.

(B) The county and state in which the solid waste originated. If the solid waste originated outside of the United States, the country must be designated. The origin must be provided to the solid waste land disposal facility by the solid waste hauler as described in subsection (d).

(C) The type, total weight in tons, and final destination of solid waste diverted from disposal for reuse or recycling after being received at the solid waste land disposal facility.

~~(D) The estimated remaining disposal capacity, in cubic yards, that is calculated by subtracting the existing fill volume as determined by the contour map required by 329 IAC 10-20-8(a)(6) from the design capacity.~~

~~(E) The estimated remaining solid waste land disposal facility life, in years, for the remaining disposal capacity.~~

~~(F)~~ **(D)** Waste types, including the following:

(i) Municipal solid waste.

(ii) Construction/demolition waste.

(iii) ~~Special~~ **Foundry** waste.

(iv) **Coal ash.**

(v) Flue gas desulfurization wastes.

(vi) Other solid waste.

(f) If the owner, operator, or permittee of the solid waste land disposal facility ascertains that there is an error in any report previously submitted as required by subsection (a), a revised report reflecting the correct information must be submitted in the same format as the original submission. The revised report must:

(1) have "Amended" written or typed at the top of each page of the resubmitted report; and

(2) be submitted before or with the submission of the next quarterly tonnage report after ascertaining an error.

(g) Copies of reports required by this section must be:

(1) maintained on-site by the solid waste land disposal facility owner, operator, or permittee for three (3) years after the submittal date of the report; and

(2) made available during normal operating hours for on-site inspection and photocopying **or electronic copying** by a representative of the department.

(h) The solid waste land disposal facility owner, operator, or permittee shall maintain the documentation on-site to substantiate reports required by this section. Such documentation must be:

(1) maintained by the solid waste land disposal facility owner, operator, or permittee for three (3) years after the report's submittal date; and

(2) made available during normal operating hours for on-site inspection and photocopying **or electronic copying** by a representative of the department.

(i) Failure to submit reports and copies as required by this section or maintain copies of reports and records as required by this section constitutes an operational violation under 329 IAC 10-1-2. *(Solid Waste Management Board; 329 IAC 10-14-1; filed Mar 14, 1996, 5:00 p.m.: 19 IR 1815; filed Mar 19, 1998, 11:07 a.m.: 21 IR 2759; filed Aug 2, 1999, 11:50 a.m.: 22 IR 3795)*

SECTION 51. 329 IAC 10-15-1 IS AMENDED TO READ AS FOLLOWS:

329 IAC 10-15-1 General requirements

Authority: IC 13-14-8-7; IC 13-15; IC 13-19-3
Affected: IC 13-20; IC 25-17.6-1-6.5; IC 36-9-30

Sec. 1. (a) A permit application for a new MSWLF or a lateral expansion must be accompanied by the following plans and documentation:

(1) Plot plans as specified under section 2 of this rule.

(2) Cross-sectional drawings and details as specified under section 3 of this rule.

(3) A hydrogeologic site investigation report as specified under sections 4 and 5 of this rule.

(4) An operational plan of the proposed MSWLF as specified under section 6 of this rule.

(5) A CQA/CQC plan as specified under section 7 of this rule.

(6) Calculations and analyses pertaining to MSWLF design as specified under section 8 of this rule.

(7) An explosive gas management plan as specified under 329 IAC 10-20-17.

(8) A closure plan as specified under 329 IAC 10-22-2.

(9) A post-closure plan, as specified under 329 IAC 10-23-3.

(10) A quality assurance project plan as specified under 329 IAC 10-21-2(b)(13).

(11) A sampling and analysis plan as specified under 329 IAC 10-21-2.

(12) A general description for developing a statistical evaluation plan as required by 329 IAC 10-21-6(c). The description must include a time frame for submitting the statistical evaluation plan.

(13) If applicable, a baled waste management plan as specified under section 9 of this rule.

(14) A leak detection plan as specified under section 10 of this rule.

(15) A leachate collection contingency plan as specified under section 11 of this rule.

(16) A storm water pollution prevention plan as specified under section 12 of this rule.

~~(16)~~ **(17)** Other plans as may be required by the commissioner.

(b) Plans and documentation that accompany a permit application for a new MSWLF or a lateral expansion must be certified as follows:

(1) The hydrogeologic site investigation report required in subsection (a)(3) must be certified by a ~~certified~~ **licensed** professional geologist **under IC 25-17.6-1-6.5** or a qualified ground water scientist, either of whom shall have educational or professional experience in hydrogeology or ground water hydrology.

(2) With the exception of the hydrogeologic site investigation report and the sampling and analysis plan, all plans and documentation required in subsection (a) must be certified by a registered professional engineer.

(c) A full set of plans and documentation required by this section must accompany each of the five (5) copies of the permit application required in 329 IAC 10-11-2.1(c). ~~In addition to the paper copies, a copy of the plans and documentation required by this section may also be submitted on a computer diskette, the type and format of which will be prescribed by the department.~~

(d) All plans and documentation must be properly titled. *(Solid Waste Management Board; 329 IAC 10-15-1; filed Mar 14, 1996, 5:00 p.m.: 19 IR 1817; filed Mar 19, 1998, 11:07 a.m.: 21 IR 2760; filed Aug 2, 1999, 11:50 a.m.: 22 IR 3797)*

SECTION 52. 329 IAC 10-15-2 IS AMENDED TO READ AS FOLLOWS:

329 IAC 10-15-2 Plot plan requirements

Authority: IC 13-14-8-7; IC 13-15-2-1; IC 13-19-3-1
Affected: IC 13-30-2; IC 36-9-30

Sec. 2. (a) Plot plans required by subsections (b) through (d) must:

(1) use a scale of at least one (1) inch per one hundred (100) feet for a MSWLF of less than eighty (80) acres;

(2) use a scale of at least one (1) inch per two hundred (200) feet, for a MSWLF of eighty (80) acres to and including one hundred fifty (150) acres;

(3) use a scale of at least one (1) inch per three hundred (300) feet for an MSWLF greater than one hundred fifty (150) acres;

(4) include a bar scale on each drawing;

(5) include elevations that correlate with United States Geological Survey (USGS) mean sea level data;

(6) include a north arrow; and

(7) include a map legend.

(b) A permit application for a new MSWLF or a lateral expansion must be accompanied by an existing features plot plan that includes the facility boundary, and the solid waste boundary and indicates the presence or absence of each of the following features within three hundred (300) feet **outside** of the facility boundary:

(1) Location and elevations of all existing boreholes.

(2) Rock outcroppings.

(3) Surface water run-off directions.

(4) Fences.

(5) Utility easements and rights-of-way.

(6) Existing structures.

(7) Benchmark descriptions.

(8) Surface contours with intervals of no more than:

(A) two (2) feet if the MSWLF is less than eighty (80) acres; or

(B) five (5) feet if the MSWLF is equal to or greater than eighty (80) acres.

(9) Real property boundary.

(c) The proposed final contour plot plan required by subsection (d)(1) must indicate surface contours of the MSWLF and three hundred (300) feet beyond the facility boundary. The contour intervals must be no more than:

(1) two (2) feet if the MSWLF is less than eighty (80) acres; or

(2) five (5) feet if the MSWLF is equal to or greater than eighty (80) acres.

(d) A permit application for a new MSWLF or a lateral expansion must be accompanied by plot plans showing the following:

(1) Proposed final contours, indicating the following features that would remain after closure:

(A) Any buildings.

(B) Proposed drainage.

(C) Proposed sedimentation and erosion control structures.

(D) Proposed vegetation, fencing, and visual screening.

(E) Proposed roadways providing access to and around the site that are necessary for post-closure care and monitoring.

(F) Proposed berms, flood protection dikes, and surface water diversion structures.

(G) Proposed explosive gas monitoring and management system.

(H) Proposed solid waste boundary.

(I) Proposed monitoring wells.

(2) Proposed leachate collection system, indicating the following:

(A) Proposed ~~soil liner top~~ **uppermost** contour **of the soil liner.**

(B) Piping layout.

(C) Cleanout and riser locations.

(D) Sump contours or elevations if applicable.

(E) Lift station locations if applicable.

(F) Leachate storage areas if applicable.

~~applicable.~~

(3) Initial facility development plan and details, indicating the following:

(A) Proposed benchmarks.
(B) Proposed buildings and on-site transfer.
(C) Proposed drainage, including permanent sedimentation and erosion control structures, **including only typical details for temporary erosion structures.**
(D) Proposed explosive gas monitoring and management system.
(E) Proposed fencing and visual screening.
(F) Proposed on-site roads.
(G) Proposed **uppermost contour of the** soil liner. ~~top contours.~~
(H) ~~On-site~~ Borrow area for soil liner material and daily cover if applicable.
(I) Delineation of other construction activities within the property boundary of the landfill.

(4) Operational plot plan indicating the sequence of cell development, and indicating the following:
(A) Additional proposed benchmarks, if applicable.
(B) Additional proposed buildings, if applicable.
(C) Additional drainage features and permanent erosion and sediment control features, **including only typical details for temporary erosion structures.**
(D) Additional fencing and visual screening.
(E) Proposed on-site roads.
(F) Direction of fill progression.

(5) Any other plot plan that ~~may be determined to be required by~~ the commissioner **may require based on particular site or facility conditions.**

(Solid Waste Management Board; 329 IAC 10-15-2; filed Mar 14, 1996, 5:00 p.m.: 19 IR 1818; filed Aug 2, 1999, 11:50 a.m.: 22 IR 3797)

SECTION 53. 329 IAC 10-15-5 IS AMENDED TO READ AS FOLLOWS:

329 IAC 10-15-5 Description of proposed ground water monitoring well system

Authority: IC 13-14-8-7; IC 13-15; IC 13-19-3
Affected: IC 13-20; IC 36-9-30

Sec. 5. (a) The hydrogeologic site investigation report that accompanies permit applications for new MSWLFs and lateral expansions must contain a description of the proposed **ground water** monitoring well system that, at a minimum, includes the following information:

(1) Monitoring point locations, design, and installation procedures. Installation procedures must comply with 329 IAC 10-21-4.

(2) A thorough evaluation of the suitability of any existing monitoring points proposed for inclusion in the **ground water** monitoring well system.

(3) An explanation of how the proposed **ground water** monitoring well system addresses the hydrogeologic conditions identified within the uppermost aquifer system and any significant zones of saturation that exist above the uppermost aquifer system.

(4) A description of how and where ground water monitoring wells will be installed at appropriate locations and depths, to yield ground water samples from the uppermost aquifer and any significant zones of saturation that exist above the uppermost aquifer system. Ground water samples must represent both the quality of background ground water quality that has not been affected by the proposed MSWLF unit and ground water quality passing the monitoring boundary of the proposed MSWLF unit.

(5) A description of how ~~upgradient~~ **background ground water monitoring** wells will monitor the same hydrologic units as the downgradient **ground water** monitoring wells.

(6) If a single monitoring well cannot adequately intercept and monitor the vertical extent of a potential pathway of contaminant migration at a sampling location, a description of how a **ground water monitoring** well cluster will be installed.

(7) For the uppermost aquifer system, a description of how ground water monitoring well spacing will not exceed five hundred (500) feet along the monitoring boundary of the proposed MSWLF unit. In geologically complex environments as determined by the commissioner, closer **monitoring** well spacing may be required. Alternate spacing of ground water monitoring wells must be approved by the commissioner. **Monitoring** well spacing must provide at least two (2) ~~upgradient~~ **background ground water monitoring wells** and four (4) downgradient monitoring wells or well clusters within the uppermost aquifer system and any significant zones of saturation that exist above the uppermost aquifer system. An alternate number of ~~upgradient~~ **background** wells must be approved by the commissioner.

(8) Alternative ground water monitoring devices or sampling devices may be approved by the commissioner if it is demonstrated that the alternative will provide results that represent ground water quality from beneath the MSWLF in an equivalent manner as provided by ground water monitoring wells. Regardless of location of the alternative monitoring device, the monitoring boundary, for the purposes of 329 IAC 10-21-13, must remain within fifty (50) feet of the solid waste boundary. Any such demonstration must include the following:

(A) A complete description of the device and how it complies or differs from 329 IAC 10-21-1 through 329 IAC 10-21-13.
(B) A scientifically valid justification for any deviations from 329 IAC 10-21.
(C) Any references that indicate the proficiency of the device under similar conditions.
(D) Provision for the ground water monitoring device or devices construction plan to be approved prior to their construction.
(E) A complete description of the proposed location of the device or devices, or the methods of determining the

most adequate location, including proof of the facility's control, accessibility, and security of each location.

(b) The commissioner may consider an individual compliance **ground water** monitoring well system for intrawell statistical comparison methods if the permittee can demonstrate either of the following:

(1) The uppermost aquifer system, and any significant zones of saturation that exist above the uppermost aquifer system are discontinuous.

(2) Significant spatial variability exists within the aquifer.

(Solid Waste Management Board; 329 IAC 10-15-5; filed Mar 14, 1996, 5:00 p.m.: 19 IR 1823; filed Mar 19, 1998, 11:07 a.m.: 21 IR 2765; filed Aug 2, 1999, 11:50 a.m.: 22 IR 3804)

SECTION 54. 329 IAC 10-15-8 IS AMENDED TO READ AS FOLLOWS:

329 IAC 10-15-8 Calculations and analyses pertaining to landfill design

Authority: IC 13-14-8-7; IC 13-15; IC 13-19-3
Affected: IC 13-20; IC 36-9-30

Sec. 8. (a) The applicant shall provide calculations and analyses pertaining to the design of the proposed MSWLF unit, if applicable, and if necessary as determined by the commissioner, to indicate that the proposed design complies with the design requirements of 329 IAC 10-17. Any required calculations must be accompanied by a discussion of methods, assumptions, and the references used. Calculations that may be required include the following:

(1) A transmissivity, **in plane hydraulic conductivity,** calculation or an assessment based on the maximum compressive load placed above the geosynthetic, using a minimum safety factor of ten (10), when a geosynthetic material is used for the drainage layer. In addition, the long term creep impact on the transmissivity of the geosynthetic must be evaluated using a minimum safety factor of five (5).

(2) A permitivity, **cross-plane hydraulic conductivity,** calculation using a minimum factor of safety of fifty (50), when a geosynthetic material is used for the drainage layer.

(3) A filter-retention calculation **or assessment,** when a geosynthetic material is used for the drainage layer.

(4) A tensile stresses calculation to evaluate stresses generated during the construction and operation of the interior of the side slope of the proposed MSWLF unit. A minimum safety factor of five (5) on yield is required.

~~(5) A strain-settlement calculation to evaluate the ability of the geosynthetic layer to resist down-drag forces resulting from the subsidence of the contained waste. A minimum ultimate safety factor of one and one-half (1.5) on ultimate stress is required.~~

~~(6)~~ **(5)** A filter-clogging calculation to evaluate the influence of retained soil particles on the permitivity of a geotextile or geonet. Also, a gradient ratio test or a hydraulic conductivity ratio test, as appropriate, must be performed in accordance with test standards specified in 329 IAC 10-17-17.

~~(7)~~ **(6)** A localized subsidence calculation, if applicable, to evaluate the strains induced in the geomembrane used for the liner system and for final cover.

~~(8)~~ **(7)** A stability of final cover calculation to evaluate the likelihood and extent to which final cover components may slide with respect to each other. A minimum safety factor ~~of one and three-tenths (1.3)~~ **as outlined in Table 1 of this section** is required.

~~(9)~~ **(8)** A ~~geomembrane~~ **geosynthetic** anchor **or pull-out anchorage** calculation **or assessment** to evaluate the anchoring capacity and stresses in a geomembrane. A minimum safety factor of one and two-tenths (1.2) is required. **An anchor must provide sufficient restraint to hold a geosynthetic liner in place, but should not be so rigid or strong that the geosynthetic liner will tear before the anchor yields.**

~~(10)~~ **(9)** A settlement potential calculation to estimate the total and differential settlement of the foundation soil due to stresses imposed by the liner system, in-place waste, daily cover, intermediate cover, equipment usage, and final cover.

~~(11)~~ **(10)** A bearing capacity and stability calculation to estimate the load bearing capacity and slope stability of the foundation soil during construction. A minimum safety factor of two (2.0) is required for a static condition.

~~(12) A bottom heave and blow-out calculation to estimate the potential for a bottom heave or blow-out due to unequal hydrostatic or gas pressure.~~

(11) The uplift pressure or hydrostatic pore water pressure must be evaluated based on site-specific conditions.

~~(13)~~ **(12)** A waste settlement analysis to assess the potential for the final cover system to stretch due to total and differential settlement of the solid waste. If there is a lack of documented settlement of the solid waste, a value of approximately seven percent (7%) to fifteen percent (15%) of the solid waste height may be used for this calculation.

~~(14)~~ **(13)** A wind uplift force calculation **or an assessment** to provide an indication that wind uplift will not damage the geomembrane during installation.

~~(15)~~ **(14)** A wheel loading calculation to indicate that the amount of wheel loading of construction equipment will not damage the liner system.

~~(16)~~ **(15)** A puncture of geomembrane calculation to indicate that the amount of down drag force induced by the leachate collection sumps and manhole with vertical standpipe settlement will not cause failure of the underlying liner system. A minimum safety factor of two (2.0) on tensile strength at yield is required.

~~(17)~~ **(16)** An erosion calculation to indicate that the erosion rate will not exceed five (5) tons per acre per year, as is required under 329 IAC 10-22-7(c)(3).

~~(18)~~ **(17)** Pipe calculations to assess the leachate collection piping for deflection, buckling, and crushing.

~~(19)~~ **(18)** If applicable, or if required under 329 IAC 10-16-5(b), an analysis of the effect of seismic activity on the structural components of the landfill.

~~(20)~~ **(19)** A peak flow calculation to identify surface water flow expected from a twenty-five (25) year storm.

~~(21)~~ **(20)** A calculation to identify the total run-off volume expected to result from a twenty-four (24) hour, twenty-five (25) year storm event.

~~(22)~~ **(21)** A chemical resistance evaluation to demonstrate that the leachate collection and removal system components are chemically resistant to the waste and the leachate expected to be generated.

~~(23)~~ **(22)** A clogging evaluation to demonstrate that the system as designed will be resistant to clogging throughout the active life and post-closure period of the MSWLF.

~~(24)~~ **(23)** A slope stability analysis that follows the requirements outlined in Table 1 of this subdivision. Any geosynthetic materials installed on landfill slopes must be designed to withstand the calculated tensile forces acting upon the geosynthetic materials. The design must consider the minimum friction angle of the geosynthetic with regard to any soil-geosynthetic or geosynthetic-geosynthetic interface.

TABLE 1

Minimum Values of Safety Factors for Slope Stability Analyses **for Liner and Final Cover Systems**

	Uncertainty of Strength Measurements	
Consequences of Slope Failure	Small[1]	Large[2]
No imminent danger to human life or major environmental impact if slope fails	1.25 (1.2)*	1.5 (1.3)*
Imminent danger to human life or major environmental impact if slope fails	1.5 (1.3)*	2.0 or greater (1.7 or greater)*

[1]The uncertainty of the strength measurements is smallest when the soil conditions are uniform and high quality strength test data provide a consistent, complete, and logical picture of the strength characteristics.

[2]The uncertainty of the strength measurements is greatest when the soil conditions are complex and when the available strength data do not provide a consistent, complete, and logical picture of strength characteristics.

*Numbers without parentheses apply ~~for~~ **to** static conditions and those within parentheses apply to seismic conditions.

~~(25)~~ **(24)** Any additional calculation determined by the commissioner to be necessary to ascertain whether the proposed design complies with the requirements of this article.

(b) Test standards for MSWLF liner systems are listed in 329 IAC 10-17-17. *(Solid Waste Management Board; 329 IAC 10-15-8; filed Mar 14, 1996, 5:00 p.m.: 19 IR 1825; filed Mar 19, 1998, 11:07 a.m.: 21 IR 2767; filed Aug 2, 1999, 11:50 a.m.: 22 IR 3806)*

SECTION 55. 329 IAC 10-15-12 IS ADDED TO READ AS FOLLOWS:

329 IAC 10-15-12 Storm water pollution prevention plan

Authority: IC 13-14-8-7; IC 13-15; IC 13-19-3
Affected: IC 13-20; IC 36-9-30

Sec. 12. (a) This section applies to the requirements of implementing a storm water pollution prevention plan at an MSWLF.

(b) The plan must:

(1) identify potential sources of pollution that may reasonably be expected to affect the quality of storm water discharges from the facility;

(2) describe implementation of practices and measures that will be used to reduce pollutants in storm water discharges to the facility; and

(3) assure compliance with this article.

(c) The pollution prevention plan must, at a minimum, contain the following information:

(1) Identification, by title, of staff on the facility's storm water pollution prevention team and their responsibilities.

(2) A site description and map of the facility describing or showing a description of the planned construction and landfill operational activities.

(d) The pollution prevention plan must include a written spill response program to include the following information:

(1) Location, description, and quantity of all response materials and equipment.

(2) Response procedures for facility personnel to respond to a release.

(3) Contact information for reporting spills, both for facility staff and external emergency response entities.

(4) All corrective actions that will be taken for spills found during inspections, testing, and maintenance, must be documented and included in the SWP3.

(e) A narrative description of potential pollutant source areas, including descriptions for any existing or historical areas, and any other areas thought to be a potential source of storm water exposure to pollutants. The narrative descriptions for each area must include the following:

(1) Type and typical quantity of materials present in the area.

(2) Methods of storage, including presence of any secondary containment measures.

(3) Any remedial actions undertaken in the area, including the following:

(A) The date and type of each action, for example, removal of an underground storage tank.

(B) The quantity and type of contaminated materials, such as soils or water, removed or treated.

(C) The results of any analytical sampling data to confirm an adequate removal of contaminated media.

(D) The name and address of any disposal facility utilized.

(4) Any release or spill history dating back a period of three (3) years from the date of the pollution prevention plan, in the area, for materials spilled outside of secondary containment structures in excess of the materials' reportable quantity or twenty-five (25) gallons, whichever is less, including the following:

(A) The date and type of material released or spilled.

(B) The estimated volume released or spilled.

(C) A description of the remedial actions undertaken, including disposal or treatment.

(D) The results of any analytical sampling data to confirm an adequate removal of contaminated media.

For permit renewals, the history shall date back for a period of five (5) years from the date of the storm water pollution prevention plan.

(5) The descriptions for each area must include a risk identification analysis of chemicals or materials stored or used within the area. The analysis must include the following:

(A) Toxicity data of chemicals or materials used within the area, referencing appropriate Material Safety Data Sheet information locations.

(B) The frequency and typical quantity of listed chemicals or materials to be stored on site.

(C) Potential ways in which storm water discharges may be exposed to listed chemicals and materials.

(D) The likelihood of the listed chemicals and materials to come into contact with storm water.

(6) A narrative description of existing and planned management practices and measures to improve the quality of storm water run-off leaving the facility property or entering a water of the state. Descriptions must be created for existing or historical areas and any other areas thought to be a potential source of storm water exposure to pollutants. The description must include the following:

(A) Any existing or planned structural and nonstructural control practices and measures.

(B) Any treatment the storm water receives prior to leaving the facility property.

(C) The ultimate disposal of any solid or fluid wastes collected in structural control measures other than by discharge.

(7) A mapped or narrative description of any such management practice or measure must be added to the SWP3.

(f) The facility shall submit with the SWP3 the following:

(1) The results of monitoring required in 329 IAC 10-20-11(h).

(2) The monitoring data must include:

(A) completed field data sheets;

(B) chain-of-custody forms; and

(C) laboratory results.

(3) As two (2) or more sample monitoring events are completed, the laboratory results must be placed in a comparative table, so that each sampled parameter can be compared to indicate water quality improvements in the run-off from the facility.

(g) For the entire facility, storm water exposure to pollutants must be minimized. To ensure this reduction, a written preventative maintenance program must be written and implemented that includes the following:

(1) Implementation of good housekeeping practices to ensure the facility will be operated in a clean and orderly manner and that pollutants will not have the potential to be exposed to storm water via vehicular tracking or other means.

(2) Maintenance of storm water management measures, for example, catch basins or the cleaning of oil or water separators. All maintenance must be documented and contained in the SWP3.

(3) Inspection and testing of facility equipment and systems to ensure appropriate maintenance of such equipment and systems and to uncover conditions that could cause breakdowns or failures resulting in discharges of pollutants to surface waters must be documented and contained in the pollution prevention plan.

(Solid Waste Management Board; 329 IAC 10-15-12)

SECTION 56. 329 IAC 10-16-1 IS AMENDED TO READ AS FOLLOWS:

329 IAC 10-16-1 Airport siting restrictions

Authority: IC 13-14-8-7; IC 13-15; IC 13-19-3
Affected: IC 13-18; IC 13-20; IC 36-9-30

Sec. 1. (a) This section applies to:

(1) permit applications under this article for new MSWLFs and lateral expansions; or

(2) MSWLFs permitted under 329 IAC 1.5, which was repealed in 1989, or 329 IAC 2, which was repealed in 1996.

(b) Applicants for new MSWLFs and lateral expansions that are applying for a permit under this article must not locate a proposed MSWLF unit within ten thousand (10,000) feet of any airport runway end used by turbojet aircraft or within five thousand (5,000) feet of any airport runway end used by only piston-type aircraft unless the permit application includes a demonstration that the proposed MSWLF unit is designed and operated so as not to pose a bird hazard to aircraft.

(c) Permittees of MSWLFs permitted under 329 IAC 1.5, which was repealed in 1989, or 329 IAC 2, which was repealed in 1996, located within ten thousand (10,000) feet of any airport

runway end used by turbojet aircraft or within five thousand (5,000) feet of any airport runway end used by only piston-type aircraft must complete the following:

(1) A demonstration that any MSWLF unit within the MSWLF is designed and operated so that the MSWLF unit does not pose a bird hazard to aircraft.

(2) Provide a copy of the demonstration to the commissioner.

(3) Provide a copy of the demonstration to the affected airport.

(d) Applicants for new MSWLFs and lateral expansions that are applying for a permit under this article or permittees of MSWLFs permitted under 329 IAC 1.5, which was repealed in 1989, or 329 IAC 2, which was repealed in 1996, must complete the following if any proposed or existing MSWLF unit within the MSWLF is located within a five (5) mile radius of any airport runway end used by turbojet or piston-type aircraft:

(1) Notification to the affected airport and the Federal Aviation Administration (FAA) of the intent to site a solid waste land disposal facility.

(2) If a demonstration is required by this section, provide a copy of the demonstration to the affected airport.

(e) For all demonstrations, the commissioner may ask for additional information prior to approval or denial of the demonstration.

(f) A new MSWLF must not be permitted to be constructed within six (6) miles of a public airport as specified under 40 CFR 258.10(e), unless the MSWLF permittee has been granted an exemption under 40 CFR 258.10(e)(1). *(Solid Waste Management Board; 329 IAC 10-16-1; filed Mar 14, 1996, 5:00 p.m.: 19 IR 1826; errata filed Apr 4, 1996, 4:00 p.m.: 19 IR 2046; filed Mar 19, 1998, 11:07 a.m.: 21 IR 2769; filed Aug 2, 1999, 11:50 a.m.: 22 IR 3807)*

SECTION 57. 329 IAC 10-16-8 IS AMENDED TO READ AS FOLLOWS:

329 IAC 10-16-8 Karst terrain siting restrictions

Authority: IC 13-14-8-7; IC 13-15; IC 13-19-3
Affected: IC 13-20; IC 36-9-30

Sec. 8. (a) This section applies to:

(1) permit applications under this article for new MSWLFs and lateral expansions; or

(2) MSWLFs permitted under 329 IAC 1.5, which was repealed in 1989, or 329 IAC 2, which was repealed in 1996.

(b) Applicants for new MSWLFs and lateral expansions that are applying for a permit under this article, and for new ~~MSWLFs~~ **MSWLF** and lateral expansions permitted under 329 IAC 1.5, which was repealed in 1989, or 329 IAC 2, which was repealed in 1996, must not locate any MSWLF unit ~~within the new MSWLFs or lateral expansions~~ in or over karst terrains.

(c) MSWLF units permitted and constructed under 329 IAC 1.5, which was repealed in 1989, or 329 IAC 2, which was repealed in 1996, must not be located in or over karst terrains without provisions to collect and contain all of the leachate generated by the MSWLF units and without a demonstration that the integrity of the MSWLF units will not be damaged by subsidence.

(d) For all demonstrations, the commissioner may ask for additional information prior to approval or denial of the demonstration. *(Solid Waste Management Board; 329 IAC 10-16-8; filed Mar 14, 1996, 5:00 p.m.: 19 IR 1829; errata filed Apr 4, 1996, 4:00 p.m.: 19 IR 2046; filed Mar 19, 1998, 11:07 a.m.: 21 IR 2772; filed Aug 2, 1999, 11:50 a.m.: 22 IR 3810)*

SECTION 58. 329 IAC 10-17-2 IS AMENDED TO READ AS FOLLOWS:

329 IAC 10-17-2 Overview of liner designs and criteria for selection of design

Authority: IC 13-14-8-7; IC 13-15; IC 13-19-3
Affected: IC 13-20; IC 36-9-30

Sec. 2. (a) The following liner design is required for any section of a new MSWLF unit within an MSWLF or lateral expansion to be permitted under this article that will not be located over an aquifer of significance, as defined under 329 IAC 10-2-13, or will be located over an aquifer of significance, but there is a continuous layer of at least ten (10) feet of nonaquifer material, as defined under 329 IAC 10-2-120, separating the base of the proposed soil liner and the uppermost portion of the aquifer:

(1) At the base and side slopes, starting from the subgrade and extending upward, the liner must include the following components:

(A) A minimum of three (3) feet of compacted soil, having a hydraulic conductivity of 1×10^{-7} centimeters per second or less.

(B) A geomembrane.

(C) A drainage layer.

(D) A protective cover.

(2) At all sump areas, ~~and,~~ at a minimum, ~~at~~ **the** liner ~~areas within twenty-five (25) feet lateral to the center of each sump,~~ **must extend ten (10) feet from the outermost edge of the designated sump boundary, on all sides,** starting from the subgrade and extending upward, the liner must include the following components:

(A) A minimum of two (2) feet of compacted soil, having a hydraulic conductivity of 1×10^{-6} centimeters per second or less.

(B) A leak detection zone. The leak detection zone must meet the applicable requirements in this section and sections 8, 9, and 13 through 16 of this rule for drainage layers.

(C) A minimum of three (3) feet of compacted soil having a hydraulic conductivity of 1×10^{-7} centimeters per second or less.

(D) A geomembrane.
(E) A geosynthetic clay liner.
(F) A geomembrane.
(G) A drainage layer.
(H) A protective cover.

(b) The following liner design is required for any section of a new MSWLF unit or lateral expansion within an MSWLF to be permitted under this article that will be located over an aquifer of significance, as defined under 329 IAC 10-2-13, and there is not a continuous layer of at least ten (10) feet of nonaquifer material, as defined under 329 IAC 10-2-120, separating the base of the proposed soil liner and the uppermost portion of the aquifer:

(1) At the base and side slopes, starting from the subgrade and extending upward, the liner must include the following components:

(A) A minimum of two (2) feet of compacted soil, having a hydraulic conductivity of 1×10^{-6} centimeters per second or less. This component must extend up the side slope of the proposed MSWLF unit to a height at least two (2) feet above the highest temporal fluctuation of the ground water table, as determined from the hydrogeologic site investigation required under 329 IAC 10-15-4.

(B) A drainage layer. This component must extend up the side slope of the proposed MSWLF unit to a height at least two (2) feet above the highest temporal fluctuation of the ground water table, **but not closer than five (5) feet from the ground surface,** as determined from the hydrogeologic site investigation required under 329 IAC 10-15-4.

(C) A minimum of three (3) feet of compacted soil having a hydraulic conductivity of 1×10^{-7} centimeters per second or less.

(D) A geomembrane.

(E) A drainage layer.

(F) A protective cover.

(2) At all sump areas, ~~and,~~ at a minimum, ~~at~~ **the** liner ~~areas within twenty-five (25) feet lateral to the center of each sump,~~ **must extend ten (10) feet from the outermost edge of the designated sump boundary, on all sides,** starting from the subgrade and extending upward, the liner must incorporate the design components described in subsection (a)(2).

(c) For the purposes of this rule, sump areas are considered to be those areas of the proposed MSWLF unit that are designed to collect and remove leachate where leachate is expected to accumulate to a depth of at least one (1) foot.

(d) The minimum distance for extension of liner design components related to sump areas may be increased at the discretion of the commissioner, depending on site-specific factors, with consideration of the highest temporal fluctuations of the ground water table at the site.

(e) The commissioner may make available to the applicant standardized municipal solid waste landfill designs that are not less stringent than the requirements of this rule. *(Solid Waste Management Board; 329 IAC 10-17-2; filed Mar 14, 1996, 5:00 p.m.: 19 IR 1831; filed Mar 19, 1998, 11:07 a.m.: 21 IR 2774; filed Aug 2, 1999, 11:50 a.m.: 22 IR 3813)*

SECTION 59. 329 IAC 10-17-7 IS AMENDED TO READ AS FOLLOWS:

329 IAC 10-17-7 Geomembrane component of the liner; construction and quality assurance/quality control requirements

Authority: IC 13-14-8-7; IC 13-15; IC 13-19-3
Affected: IC 13-20; IC 36-9-30

Sec. 7. (a) Before geomembrane field construction, the project engineer shall review documentation of quality control testing as follows:

(1) In a review of the testing of raw materials used to manufacture the geomembrane, the project engineer shall do the following:

(A) Ensure that the quality control testing meets the specifications of the approved construction plan.

(B) Review copies of the origin and identification of the raw materials.

(C) Review copies of quality control certificates issued by the producers of the raw materials. The certificates must be accompanied by results of the following tests unless a particular test requirement is waived by the commissioner:

(i) Density test.

(ii) Melt flow index test.

(iii) Any other test deemed necessary by the commissioner to verify raw material quality.

(2) In a review of the testing documentation of the geomembrane rolls that are fabricated into geomembrane, the project engineer shall do the following:

(A) Check the manufacturer's certified quality control documentation to verify that the geomembrane was continuously inspected during the manufacturing process for the following:

(i) Lack of uniformity.

(ii) Damage.

(iii) Imperfections.

(iv) Holes.

(v) Cracks.

(vi) Thin spots.

(vii) Foreign materials.

(B) Ensure that any imperfections discovered during inspection were repaired and then reinspected, either at the manufacturing facility or on-site at the MSWLF.

(C) Review the results of **manufacturer's** quality control tests ~~conducted on the finished product by the geomembrane manufacturer.~~ **for conformance with project specifications.** These tests must include, at a minimum, the following:

(i) ~~Single point~~ Stress ~~rupture~~ **crack resistance** test.
(ii) Tensile strength test.
(iii) Tear and puncture resistance test.
(iv) ~~Any other test deemed necessary by the commissioner to verify finished product quality.~~ **Oxidative induction time (OIT) at:**
(AA) standard OIT; or
(BB) high pressure OIT.
(v) Ultraviolet resistance at high pressure OIT.
(vi) Any other test deemed necessary by the commissioner to verify quality.

(3) The project engineer shall ensure that manufacturer quality control testing of the raw materials and of the finished geomembrane product was conducted:
(A) as required in the approved construction plans; or
(B) as otherwise required by the commissioner.

(b) During geomembrane field construction, the project engineer shall ensure the following:
(1) The geomembrane is installed on supporting soil that is reasonably free of the following:
(A) Stones.
(B) Organic material, except that organic material naturally occurring in the soil.
(C) Irregularities.
(D) Protrusions.
(E) Loose soil or soft spots.
(F) Standing water.
(G) Any abrupt change in grade that could damage the geomembrane.
(2) All aspects of geomembrane installation are carried out in accordance with the following:
(A) The approved construction plan.
(B) The manufacturer's recommendations.
(C) The design standards described under section 6 of this rule.
(D) Any additional requirements necessary to obtain adequate geomembrane liner construction and installation, as specified in the construction plans or as determined by the commissioner **to assure the quality of the geomembrane liner.**
(3) The anchor trench is excavated to the length and width prescribed in the approved construction plans.
(4) Field seaming is conducted as follows:
(A) To meet the requirements for design of the geomembrane component of the liner, as described under section 6 of this rule.
(B) In a manner that leaves seams free of the following:
(i) Dust.
(ii) Dirt.
(iii) Moisture.
(iv) Debris.
(v) Foreign material of any kind.
(C) Using an appropriate method consistent with:
(i) the approved construction plan; or
(ii) a method otherwise approved by the commissioner.
(D) At a time when the following conditions exist, unless otherwise approved by the commissioner or project engineer, or otherwise recommended by the manufacturer:
(i) Air temperature is at least thirty-two (32) degrees Fahrenheit but does not exceed one hundred twenty (120) degrees Fahrenheit.
(ii) Sheet temperature is at least thirty-two (32) degrees Fahrenheit but does not exceed one hundred fifty-eight (158) degrees Fahrenheit.
(iii) Wind gusts are not in excess of twenty (20) miles per hour.
(5) Quality assurance and quality control testing conducted in the field conforms with requirements of the approved construction plan and includes the following:
(A) A sample is taken from each lot number of geomembrane material that arrives on site and is tested in the following manner for the purpose of fingerprinting the material:
(i) Thickness of the sample must be measured at a rate of five (5) measurements per roll of geomembrane, at locations evenly distributed throughout the roll.
(ii) The following tests must be conducted at a rate of either once per lot or once per fifty thousand (50,000) square feet of geomembrane:
(AA) Tensile characteristics test for strength and elongation at yield and at break.
(BB) Carbon black content test.
(CC) Carbon black dispersion test, if applicable.
(DD) Any additional tests that are necessary as determined by the commissioner **to demonstrate the integrity of the geomembrane.**
(B) Visual inspections of the geomembrane material, followed by appropriate repairs and reinspections, are made for:
(i) lack of uniformity;
(ii) damage;
(iii) imperfections;
(iv) tears;
(v) punctures;
(vi) blisters; and
(vii) excessive folding.
(C) Test seams for shear strength and peel strength are made as follows:
(i) At the start of each work period for each seaming crew.
(ii) After every four (4) hours of continuous seaming.
(iii) Every time seaming equipment is changed.
(iv) When significant changes in geomembrane temperature, as determined by the project engineer or by manufacturer recommendation, are observed.
(v) As required in the approved construction plan.
(vi) As may be required by the commissioner.
(D) Nondestructive seam testing proceeds as follows:
(i) Testing is performed on all seams over their full length using a test method:
(AA) in accordance with the approved construction plans;

(BB) in accordance with section 17 of this rule; or

(CC) otherwise acceptable to the commissioner.

(ii) Testing is monitored by the project engineer, and seaming and patching operations are inspected for uniformity and completeness.

(iii) Results of testing are recorded by the project engineer in records that include the following information:

(AA) The location of the seam test.

(BB) The test unit number.

(CC) The name of the person conducting the test.

(DD) The results of all tests.

(EE) Any other information that may be necessary to judge the adequacy of the seaming and patching procedures.

(E) Geomembrane seams that cannot be nondestructively tested are overlain with geomembrane material of identical type.

(F) Destructive seam testing is performed at the site, or at an independent laboratory, according to the approved construction plans, and meets the following requirements:

(i) Testing is performed:

(AA) on a minimum of one (1) test per five hundred (500) feet of seam length if the seam is welded with a fusion weld;

(BB) on a minimum of one (1) test per four hundred (400) feet of seam length if the seam is welded with an extrusion weld;

(CC) on a minimum of one (1) test for each seaming machine; and

(DD) as otherwise required by the commissioner.

(ii) Destructive seam testing includes:

(AA) a shear strength test; and

(BB) a peel strength test.

(iii) If a seam location fails destructive testing:

(AA) the seam is reconstructed over a minimum of ten (10) feet in each direction from the site of the failed test;

(BB) additional samples are taken for testing; and

(CC) reconstruction and retesting is repeated, as necessary, until at least eighty percent (80%) of the samples at the test location pass the destructive seam test.

(Solid Waste Management Board; 329 IAC 10-17-7; filed Mar 14, 1996, 5:00 p.m.: 19 IR 1834; filed Mar 19, 1998, 11:07 a.m.: 21 IR 2776; filed Aug 2, 1999, 11:50 a.m.: 22 IR 3815)

SECTION 60. 329 IAC 10-17-9 IS AMENDED TO READ AS FOLLOWS:

329 IAC 10-17-9 Drainage layer component of the liner; construction and quality assurance/quality control requirements

Authority: IC 13-14-8-7; IC 13-15-2-1; IC 13-19-3-1
Affected: IC 13-20-2; IC 36-9-30

Sec. 9. (a) If the drainage layer material is to consist of soil or soil like materials, the project engineer shall ensure the following:

(1) A grain size analysis and hydraulic conductivity test is completed **during the installation** for soil drainage layer materials at frequencies described in Table 1 of this subsection.

(2) The quality control and quality assurance testing of the soil drainage material meets the requirements of the approved construction plans.

(3) The soil drainage layer is constructed and graded in accordance with the approved construction plans.

(4) Carbonate content testing must be performed prior to and during the installation of a drainage layer, if the drainage material is limestone ($CaCO_3$) or dolomite/dolostone (Ca-Mg $(CO_3)_2$) or from a source likely to contain a high percentage of carbonate materials. The test must be performed:

(A) at a pH of less than seven (7); and

(B) at every three thousand (3,000) cubic yards, with a carbonate content no greater than fifteen percent (15%).

Higher carbonate content may be allowed in drainage layer materials if a demonstration is submitted showing that the hydraulic conductivity of the drainage layer will not be decreased below the minimum of 10^{-1} centimeters per second because of carbonate mineral precipitation.

TABLE 1

Soil Drainage Layer Materials:
Minimum Testing Frequencies

Item Tested	Minimum Frequency
Grain size (to the No. 200 sieve)	1 test per 1,500 cubic yards (2,400 per ton)
Hydraulic conductivity test	1 test per 3,000 cubic yards (4,800 per ton) or minimum of 3 tests

(b) If the drainage layer material is to consist of a geosynthetic material, the project engineer shall ensure the following:

(1) The geosynthetic drainage layer material is chemically compatible with the waste to be deposited and with the leachate that will be generated.

(2) Effective liquid removal will be maintained by the drainage layer throughout the active life, closure and post-closure period of the MSWLF.

(3) The geosynthetic drainage layer is constructed and installed in accordance with the approved construction plans.

(4) The quality control and quality assurance testing of the geosynthetic drainage material meets the requirements of the approved construction plans.

(5) Results of the following tests, or equivalent tests where applicable to a specific product, and the following criteria are adequately addressed:

(A) If the geosynthetic material is a geotextile:

(i) grab elongation test;

(ii) grab tensile strength test;

(iii) puncture resistance test;

(iv) trapezoidal tear test;

(v) ultraviolet (five hundred (500) hours) resistance test;
(vi) abrasion or tumble test;
(vii) permitivity test;
(viii) apparent opening size (AOS) test;
(ix) long term flow (clogging) test;
(x) gradient ratio (clogging) test;
(xi) the nature of the fibers (i.e., continuous filament or stable fibers);
(xii) the chemical compatibility of the geotextile;
(xiii) the polymer composition;
(xiv) the structure of the geotextile (i.e., woven or nonwoven);
(xv) thermal degradation and oxidation in extreme acidic conditions;
(xvi) pH resistance of the geotextile;
(xvii) creep;
(xviii) resistance to extreme temperature;
(xix) resistance to bacteria;
(xx) resistance to burial deterioration; and
(xxi) other tests or information that may become necessary, as determined by the commissioner, **to demonstrate the integrity of the drainage layer component.**

(B) If the geosynthetic material is a geonet:
(i) tensile strength test;
(ii) hydraulic transmissivity test;
(iii) specific gravity test;
(iv) melt flow index test;
(v) carbon black content test;
(vi) abrasion or tumble test;
(vii) creep;
(viii) thickness;
(ix) chemical compatibility;
(x) resistance to extreme temperature;
(xi) resistance to bacteria;
(xii) resistance to burial deterioration; and
(xiii) other tests or information that may become necessary, as determined by the commissioner, **to demonstrate the integrity of the geosynthetic material.**

(Solid Waste Management Board; 329 IAC 10-17-9; filed Mar 14, 1996, 5:00 p.m.: 19 IR 1837; filed Aug 2, 1999, 11:50 a.m.: 22 IR 3818)

SECTION 61. 329 IAC 10-17-12 IS AMENDED TO READ AS FOLLOWS:

329 IAC 10-17-12 Protective cover component of the liner; construction and quality assurance/quality control requirements

Authority: IC 13-14-8-7; IC 13-15-2-1; IC 13-19-3-1
Affected: IC 13-30-2; IC 36-9-30

Sec. 12. (a) The protective cover must be installed in a single lift with no compaction. Quality control and quality assurance testing on the protective cover must include the following tests conducted at the indicated frequencies during installation of the protective cover:

(1) Grain size distribution to the number 200 sieve must be performed for every one thousand five hundred (1,500) cubic yards of protective cover placed on the liner system.

~~(2) Carbonate content testing must be performed:~~
~~(A) at a pH of four (4.0); and~~
~~(B) every three thousand (3,000) cubic yards;~~
~~and the carbonate content must be no greater than five percent (5%).~~

~~(3)~~ **(2)** Any additional tests as specified in the construction plans or as determined by the commissioner **to assure quality control and quality assurance.**

(b) If the geotextile described in section 11(b) of this rule is used as an alternative to the protective cover, the project engineer shall ensure the following:

(1) Proper quality control and quality assurance testing is performed on the geotextile, and adequate results are obtained for the following tests, where applicable, or equivalent tests, performed in accordance with section 17 of this rule:
(A) Grab elongation test.
(B) Grab tensile strength test.
(C) Puncture resistance test.
(D) Trapezoidal tear test.
(E) Ultraviolet (five hundred (500) hours) resistance test.
(F) Abrasion or tumble test.
(G) Other tests that may become necessary as determined by the commissioner **to demonstrate the integrity of the geotextile.**

(2) The following criteria are addressed when determining the quality of the geotextile:
(A) The nature of the fibers (i.e., continuous filament or stable fibers).
(B) The chemical compatibility of the geotextile.
(C) The polymer composition.
(D) The structure of the geotextile (i.e., woven or nonwoven).
(E) Thermal degradation and oxidation in extreme acidic conditions.
(F) pH resistance of the geotextile.
(G) Creep.
(H) Resistance to extreme temperatures.
(I) Resistance to bacteria.
(J) Resistance to burial deterioration.
(K) Other criteria that may become necessary as determined by the commissioner **to determine the quality of the geotextile.**

(Solid Waste Management Board; 329 IAC 10-17-12; filed Mar 14, 1996, 5:00 p.m.: 19 IR 1838; filed Aug 2, 1999, 11:50 a.m.: 22 IR 3819)

SECTION 62. 329 IAC 10-17-18 IS AMENDED TO READ AS FOLLOWS:

329 IAC 10-17-18 CQA/CQC preconstruction meeting
Authority: IC 13-14-8-7; IC 13-15-2-1; IC 13-19-3-1
Affected: IC 13-30-2; IC 36-9-30

Sec. 18. For the purposes of ensuring coordination of all aspects of CQA/CQC, a preconstruction meeting must be held ~~upon the award of the~~ **prior to** construction ~~contract.~~ **in any area not approved to accept solid waste.** The preconstruction meeting must involve all relevant persons involved with implementing the CQA/CQC plan, such as the MSWLF owner or operator, the design engineer, CQA/CQC personnel, and the primary construction contractor. The preconstruction meeting may be used to accomplish the following:

(1) Provide each involved entity with all relevant CQA/CQC documents and supporting information addressing the site-specific CQA/CQC plan and its role relevant to the construction plans.

(2) Review the responsibilities, authorities, and lines of communication for each of the involved entities.

(3) Review the established procedures for observation and testing, including sampling strategies identified in the CQA/CQC plan.

(4) Review the established acceptance and rejection criteria as specified in the CQA/CQC plan.

(5) Review the approved specifications, with methods and means for decision making and resolution of problems pertaining to data.

(6) Review methods for documenting and reporting all inspection data.

(7) Discuss procedures for the storage and protection of MSWLF construction material on-site.

(8) Organize for relevant persons a site walk-around to review the project site layout, construction material and equipment storage locations.

(9) Discuss the CQA/CQC plan and other relevant issues and concerns.

(10) Discuss storm water management practices and sedimentation control appropriate for the construction work or as outlined in the construction specifications and plans.

(Solid Waste Management Board; 329 IAC 10-17-18; filed Mar 14, 1996, 5:00 p.m.: 19 IR 1840; filed Aug 2, 1999, 11:50 a.m.: 22 IR 3820)

SECTION 63. 329 IAC 10-19-1 IS AMENDED TO READ AS FOLLOWS:

329 IAC 10-19-1 Preoperational requirements and operational approval
Authority: IC 13-14-8-7; IC 13-15; IC 13-19-3
Affected: IC 13-20; IC 36-9-30

Sec. 1. (a) A new MSWLF or lateral expansion that is permitted under this article must not accept solid waste before the owner, operator, or permittee submits to the commissioner a certification of completion. The certification of completion is a written statement by the owner, operator, or permittee that certifies the following:

(1) A construction certification report (CCR) has been prepared by a professional engineer and has been submitted to the commissioner. In the CCR, the professional engineer shall certify that the construction of the liner system components proceeded in accordance with the approved construction plans. The CCR must also include the following items:

(A) The following information for all components of the liner system:

(i) Documentation provided by the manufacturer that describes quality control and quality assurance tests conducted on raw materials and products used in the construction of the liner system component, including a description of methods for sample selection and the frequency with which tests were conducted.

(ii) Certification that the CQA/CQC tests were conducted in accordance with the approved construction plan, or as specified by the commissioner.

(iii) A summary of the results of all testing, including documentation of any failed test results.

(iv) A description of corrective measures taken in response to failed tests.

(v) A description of all retesting conducted and the results of those tests.

(vi) A description of the previous relevant work experience and qualifications of the field crew foreman in charge of liner installation.

(B) The following information for the soil component of the liner system:

(i) All measures taken to prevent or remedy soil liner damage from either desiccation or freezing, both during and after construction.

(ii) The results of all testing required in Table 1 and Table 2 of 329 IAC 10-17-5(a), including:

(AA) description of steps taken to correct any improperly constructed soil material; and

(BB) test frequencies.

(iii) Certification that construction quality control testing indicated the soil liner material met the applicable hydraulic conductivity requirements.

(C) The following information for the geomembrane component of the liner system:

(i) Certification that the test seams were made:

(AA) at the start of work for each seaming crew;

(BB) after every four (4) hours of continuous seaming;

(CC) every time seam equipment is changed;

(DD) when significant changes in geomembrane temperature are observed; and

(EE) as additionally required in the approved construction plans.

(ii) Certification that field seams were nondestructively tested using a method in accordance ~~with the Geosynthetic Research Institute (GRI), the American Society for Testing and Materials (ASTM), the National Sanitation Foundation (NSF), current industry standards, or~~ with construction plans and specifications.

(iii) Certification that all seams that could not be nondestructively tested were overlain with geomembrane material of the same type.

(iv) Certification that a professional engineer monitored all nondestructive testing, informed the installer of any required repairs, and inspected the seaming and patching operation for uniformity and completeness.

(v) Records of:

(AA) the locations where samples were taken;

(BB) the name of the person conducting the tests; and

(CC) the results of all tests.

(D) If an optional drainage layer filter is used in the liner system design, an assessment of the geotextile filter that includes the following information:

(i) Polymer property density.

(ii) Polymer type.

(iii) Ultraviolet stability.

(iv) Mechanical properties.

(v) Tensile strength.

(vi) Permitivity.

(vii) Apparent opening size.

(viii) Puncture strength.

(E) Test results documenting the following:

(i) The chemical compatibility of the geomembrane and leachate collection pipes with waste and leachate. Relevant compatibility test results may be obtained from the manufacturer. If deemed necessary by the commissioner, additional compatibility testing may be required.

(ii) Adequate transmissivity upon the maximum compressive load for any geosynthetic material used in a drainage layer.

(2) Certifications by a professional engineer or a ~~certified~~ **licensed** professional geologist, whichever is appropriate, have been submitted to the commissioner to certify the following:

(A) Initial site development and construction has been completed in accordance with the plot plans specified under 329 IAC 10-15-2 and in accordance with any preoperational conditions imposed as conditions in the facility permit, **including all permanent storm water control measures.**

(B) Identifiable boundary markers have been established that delineate the approved facility boundaries and the solid waste boundary.

(C) Permanent on-site benchmarks have been established with latitude and longitude and Universal Transverse Mercator coordinates, where available, and with vertical (mean sea level elevation) and horizontal control, such that no portion of the constructed solid waste disposal area is further than one thousand (1,000) feet from a benchmark, unless a greater distance is:

(i) necessary to avoid placement of benchmarks on filled areas; and

(ii) approved by the commissioner.

(D) The installation of all required ground water monitoring wells and piezometers and any required road leading to a **monitoring** well or piezometer has been completed.

(3) The following items have been submitted to the commissioner:

(A) A plot plan indicating location, mean sea level elevations, and identification of all ground water monitoring wells and piezometers.

(B) A copy of all ground water monitoring well and piezometer logs, including diagrammatical drilling logs and diagrammatical design and construction logs.

(C) From each **ground water monitoring** well in the monitoring system, the results of the first of the four (4) required water level measurements and four (4) independent ground water sampling analyses for the constituents in 329 IAC 10-21-15(a) (Table 1A). **Piezometers must be included to collect static water level measurements if part of the ground water monitoring system.** The remaining water level measurements and sampling analyses must be submitted ~~along with an initial statistical evaluation of the ground water quality data,~~ no later than six (6) months after the initial receipt of waste at the MSWLF unit.

(D) A ground water potentiometric surface map or a flow map, as described under 329 IAC 10-21-1(p).

(E) All financial responsibility documents have been executed and delivered to the department in the form and amount specified.

(4) All applicable post construction care procedures were followed.

(b) Upon satisfying all the requirements of subsection (a), a new MSWLF or lateral expansion permitted under this article may begin accepting waste in accordance with this article and with any additional permit conditions, unless the commissioner denies operational approval within twenty-one (21) days of receipt of the certification of completion. *(Solid Waste Management Board; 329 IAC 10-19-1; filed Mar 14, 1996, 5:00 p.m.: 19 IR 1843; filed Mar 19, 1998, 11:07 a.m.: 21 IR 2782; filed Aug 2, 1999, 11:50 a.m.: 22 IR 3822)*

SECTION 64. 329 IAC 10-20-3 IS AMENDED TO READ AS FOLLOWS:

329 IAC 10-20-3 Signs

Authority: IC 13-14-8-7; IC 13-15; IC 13-19-3
Affected: IC 13-20; IC 36-9-30

Sec. 3. (a) For all MSWLFs, a sign of at least sixteen (16) square feet must be erected at each MSWLF entrance. The sign must identify the following:

(1) The MSWLF's name.

(2) The operating schedule.

(3) The type of solid waste land disposal facility.

(4) The MSWLF permit number.

(5) The name and phone number of a designated emergency contact person to be contacted in case of an emergency.

(b) For purposes of subsection (a)(5), the designated emergency contact person shall be the following:

(1) Authorized to respond to a reported emergency or be

capable of contacting a person authorized to respond to a reported emergency.

(2) One (1) of the following:

(A) An employee or contractor of the facility operator.

(B) An answering service who can contact facility emergency personnel.

(C) For a municipally owned facility, a local emergency entity and telephone number may be used.

(c) Traffic signs or other devices, as needed, must be provided to promote an orderly traffic pattern to and from the discharge area.

(d) The operator shall post a notice near the main entrance of a new MSWLF when construction is occurring. The notice must be maintained in a legible condition and contain the following information:

(1) The on-site location of a copy of the completed MSWLF operating permit available for viewing.

(2) Name, telephone number, and address of a local designated emergency contact person.

(3) Location of the construction plan if the site does not have an on-site location to store the plan.

(Solid Waste Management Board; 329 IAC 10-20-3; filed Mar 14, 1996, 5:00 p.m.: 19 IR 1845; filed Mar 19, 1998, 11:07 a.m.: 21 IR 2784; filed Aug 2, 1999, 11:50 a.m.: 22 IR 3824; errata filed Sep 8, 1999, 11:38 a.m.: 23 IR 27; readopted filed Jan 10, 2001, 3:25 p.m.: 24 IR 1535)

SECTION 65. 329 IAC 10-20-8 IS AMENDED TO READ AS FOLLOWS:

329 IAC 10-20-8 Records and reports

Authority: IC 13-14-8-7; IC 13-15; IC 13-19-3
Affected: IC 13-20; IC 24-6; IC 36-9-30

Sec. 8. (a) The owner, operator, or permittee of a MSWLF shall record and retain at the MSWLF, in an operating record or in an alternative location approved by the commissioner, all MSWLF records, reports, and plans required by this article, including the following:

(1) An up-to-date copy of the plans and specifications approved by the commissioner in granting the permit.

(2) A copy of the current permit approved by the commissioner, including any modifications submitted to the commissioner and the response of the commissioner.

(3) A plot plan that must be updated quarterly. The owner, operator, or permittee shall maintain a log indicating dates of quarterly updates. The plot plan must describe the following:

(A) Areas of excavation.

(B) Areas of current filling.

(C) Areas under intermediate cover.

(D) Filled areas lacking final cover.

(E) Finished areas with final cover; contoured and seeded.

(4) Copies of department operating inspection reports during the preceding twelve (12) months.

(5) An inspection log as required by section 28(c) of this rule.

(6) A contour map resulting from the annual survey required under section 24(c) of this rule.

(7) ~~All special waste disposal notifications, certifications, verification notices, notices of denial, site-specific approvals,~~ Documentation ~~of waste determinations, and quarterly reports required under 329 IAC 10-8.1.~~ **used to determine compliance with section 14.1(b)(1) of this rule.**

(8) Any location restriction demonstration required under 329 IAC 10-16.

(9) Inspection records, training procedures, and notification procedures required by section 23 of this rule.

(10) Gas monitoring results from monitoring and any remediation plans required by section 17 of this rule.

(11) Any gas condensate testing results and amounts generated recorded on a weekly basis.

(12) Any leachate testing results and weekly leachate pumping quantities.

(13) Any MSWLF design documentation for placement of leachate or gas condensate in a MSWLF as required under section 27(a)(2) of this rule.

(14) Any demonstration, certification, finding, monitoring, testing, or analytical data required by 329 IAC 10-21. The owner, operator, or permittee shall maintain records of all monitoring information and monitoring activities, including the following:

(A) The date, exact place, and time of the sampling or measurements.

(B) The person or persons who performed the sampling or measurements.

(C) The date or dates analyses were performed.

(D) The person or persons who performed the analyses.

(E) The analytical techniques or methods used.

(F) The results of such measurements or analyses.

(15) Closure and post-closure care plans and any monitoring, testing, or analytical data as required by 329 IAC 10-22 and 329 IAC 10-23.

(16) Any cost estimates and financial assurance documentation required by 329 IAC 10-39.

(17) Under 329 IAC 11-15-4(b), the owner, operator, or permittee of the MSWLF to which the municipal waste is transported shall retain each manifest for one (1) year and send one (1) copy of each manifest to the commissioner within three (3) months after receiving the manifest. The manifests must be retained on-site at the MSWLF and must be made available to the commissioner's staff upon request.

(18) Monitoring records for storm water compliance.

(b) All information contained in the operating record and self-inspections must be furnished upon request to any representative of the commissioner.

(c) All reports submitted to the commissioner must be unbound or bound in a three-hole notebook and preferably copied on both sides of the pages.

(d) The commissioner may set alternative schedules for record keeping and notification requirements except for 329 IAC 10-16-1(d) and 329 IAC 10-21-13. *(Solid Waste Management Board; 329 IAC 10-20-8; filed Mar 14, 1996, 5:00 p.m.: 19 IR 1846; filed Jan 9, 1998, 9:00 a.m.: 21 IR 1727, eff one hundred eighty (180) days after filing with the secretary of state; filed Mar 19, 1998, 11:07 a.m.: 21 IR 2785, eff Jul 10, 1998; errata filed Apr 8, 1998, 2:20 p.m.: 21 IR 2990; filed Aug 2, 1999, 11:50 a.m.: 22 IR 3826; readopted filed Jan 10, 2001, 3:25 p.m.: 24 IR 1535)*

SECTION 66. 329 IAC 10-20-11 IS AMENDED TO READ AS FOLLOWS:

329 IAC 10-20-11 Diversion of surface water and run-on and run-off control systems

Authority: IC 13-14-8-7; IC 13-15-2-1; IC 13-19-3-1
Affected: IC 13-30-2; IC 36-9-30

Sec. 11. (a) The owner, operator, or permittee of MSWLFs shall design, construct, and maintain the following:

(1) A run-on control system to prevent flow onto the active portion of the MSWLF during the peak discharge from a twenty-five (25) year storm.

(2) A run-off control system from the active portion of the MSWLF to collect and control at least the water volume resulting from a twenty-four (24) hour, twenty-five (25) year storm.

(b) The owner, operator, or permittee of MSWLFs shall not deposit solid waste in standing or ponded water.

(c) **Storm water** run-off ~~from the active portion of the MSWLF~~ **leaving a facility** must be ~~handled~~ **discharged** in ~~accordance with 327 IAC 15-5, 327 IAC 15-6, and the discharge must meet the effluent limitations of the National Pollutant Discharge Elimination System under 327 IAC 5.~~ **a manner that does not cause or contribute to erosion or sedimentation or a violation of rules of the water pollution control board at 327 IAC 2-1-6(a).**

(d) Appropriate measures shall be planned and installed as part of an erosion and sediment control system.

(e) All storm water quality measures and erosion and sediment controls necessary to comply with this rule must be implemented in accordance with the approved storm water pollution prevention plan.

(f) Monitoring requirements shall be as follows:

(1) Each discharge outfall, or representative discharge outfall, composed of storm water run-off and any other permitted discharge, shall be monitored as follows:

Parameter	Units	Sample Type	Frequency
Oil and grease	**mg/l**	**grab**	**Annual**
$CBOD_5$ (Carbonaceous biochemical oxygen demand)	**mg/l**	**grab**	**Annual**
COD (Chemical oxygen demand)	**mg/l**	**grab**	**Annual**
TSS (Total suspended solids)	**mg/l**	**grab**	**Annual**
TKN (Total Kjeldehl nitrogen)	**mg/l**	**grab**	**Annual**
Total phosphorous	**mg/l**	**grab**	**Annual**
pH	**s.u.**	**grab**	**Annual**
Nitrate plus nitrite nitrogen	**mg/l**	**grab**	**Annual**

(2) Each discharge outfall subject to subdivision (1) shall be monitored for any other pollutant that is reasonably expected to be present in the discharge, as well as for any other pollutant as requested by the commissioner.

(3) Facilities that have other pollutants limited by or required to be monitored under a NPDES discharge permit issued by the commissioner for any discharge shall also monitor the storm water grab sample for any additional parameters listed in that permit. This additional parameter requirement does not include whole effluent toxicity testing, or other parameters required by another NPDES permit which are determined to be in concentrations below laboratory detection limitations.

(4) During the first year after the latest effective date of this section and prior to implementation of the SWP3, an owner, operator or permittee shall sample and analyze the discharge from the outfall identified in the approved pollution prevention plan. The monitoring data taken from this first year event shall be used by the owner, operator, or permittee as an aid in developing and implementing the SWP3. Subsequent annual sampling data shall be used to verify the effectiveness of the SWP3 and will aid the permittee with revising the SWP3 and with the implementation of additional best management practices, as necessary.

(5) The commissioner may require an owner, operator, or permittee to sample additional storm events beyond the required five (5) annual events upon finding reasonable cause. The commissioner shall notify the facility in writing that additional sampling is required.

(6) A grab sample must be collected during the first thirty (30) minutes, or as soon thereafter as practicable.

(7) The pH measurement must be taken at the time the grab sample is collected and by using a portable pH meter that has been properly calibrated to the manufacturer's specifications and that provides results displayed in numeric units. A color comparison analysis for pH is not acceptable.

(8) There shall be a minimum of three (3) months between reported sampling events.

(9) Samples must be taken at a point representative of the discharge but prior to entry into surface waters of the state or a municipal separate storm sewer conveyance, unless an alternative location has been granted by the commissioner. For discharges that flow through on-site detention basins, samples shall be taken at a point representative of the discharge from the basin.

(10) All samples must be collected from a discharge resulting from a measurable storm event at least seventy-two (72) hours from the previous measurable storm event and, where feasible, where the duration and total precipitation does not exceed fifty percent (50%) from the average or median precipitation event in the area, as determined by the nearest United States National Weather Service Information Center. Documentation of weather conditions that prevent sampling as described in this subsection must be provided to the commissioner.
(11) The analytical and sampling methods used must meet quality assurance and quality control requirements.
(12) Run-off events resulting from snow or ice melt should not be sampled and shall not be used to meet the minimum annual monitoring requirements.

(g) Reporting requirements shall be as follows:
(1) All samples must be reported as a value of concentration.
(2) For each measurement or sample taken under this rule, the owner, operator, or permittee of the facility shall record and submit the following information to the commissioner:
(A) The:
(i) exact place, date, and time of the start of the discharge;
(ii) magnitude of the storm event sampled in inches; and
(iii) time of sampling.
(B) The duration between the storm event sampled and the end of the previous measurable storm event.
(C) The individual who performed the sampling or measurements.
(D) The dates the analyses were performed.
(E) The individual who performed the analyses.
(F) The analytical techniques or methods used.
(G) The results of all required analyses and measurements.
(H) A complete copy of the laboratory report, including chain-of-custody.
(3) All records and information resulting from the monitoring activities, including all records of analyses performed and calibration and maintenance of instrumentation, must be retained for a minimum of five (5) years following the expiration of the facility's permit, or longer if requested by the commissioner.
(4) An owner, operator, or permittee shall submit sampling data results to the commissioner within thirty (30) days after laboratory analyses have been completed.
(5) An owner, operator, or permittee of a facility that has a discharge that enters a municipal separate storm sewer shall also submit a copy of the sampling data results to the operator of the municipal system upon request.
(6) If an owner, operator, or permittee monitors a pollutant more frequently than required by this rule, using analytical methods referenced in this rule, the results of such monitoring must be reported as additional information. Such increased frequency must also be indicated.

(Solid Waste Management Board; 329 IAC 10-20-11; filed Mar 14, 1996, 5:00 p.m.: 19 IR 1848; filed Aug 2, 1999, 11:50 a.m.: 22 IR 3827; readopted filed Jan 10, 2001, 3:25 p.m.: 24 IR 1535)

SECTION 67. 329 IAC 10-20-12 IS AMENDED TO READ AS FOLLOWS:

329 IAC 10-20-12 Erosion and sedimentation control measures; general requirements

Authority: IC 13-14-8-7; IC 13-15; IC 13-19-3
Affected: IC 13-20; IC 36-9-30

Sec. 12. (a) Erosion and sedimentation control measures must be instituted to minimize the off site migration of any sediment. All run-off from disturbed acreage must pass through a sedimentation basin or an approved alternative sediment control practice. The commissioner may require additional erosion and sediment control measures.

(b) A storm water or sedimentation basin or series of basins permitted and constructed under this article must be constructed in accordance with the following:
(1) Be designed to handle, simultaneously, the run-off resulting from the ten (10) year, twenty-four (24) hour precipitation event and the sediment storage volume required by subdivision (3).
(2) An appropriate combination of principal and emergency spillway shall be provided to discharge safely the run-off from a twenty-five (25) year, twenty-four (24) hour precipitation event with a minimum of two (2) feet of freeboard.
(3) Provide a minimum of three (3) years of sediment storage volume. The following requirements apply:
(A) Sediment must be removed from sedimentation basins when the volume of sediment accumulates to fifty percent (50%) or more of the designed sediment storage volume.
(B) A sediment storage volume of less than three (3) years may be approved by the commissioner if an annual approved maintenance program will be performed.
(4) Provide a detention time of at least twenty-four (24) hours for the ten (10) year, twenty-four (24) hour precipitation event. A detention time of less than twenty-four (24) hours may be approved by the commissioner if the following is demonstrated by the owner, operator, or permittee:
(A) The discharge will not result in the release of a significant quantity of sediment from the MSWLF.
(B) Will not violate any local, state, or federal laws pertaining to discharges.
(5) The principal spillway must be located at a height above the maximum elevation of the designed sediment storage volume required by subdivision (3).
(6) Discharge in compliance with all applicable state and federal laws.
(7) The length-to-width ratio of the flow path shall be 2:1 or

greater from the inflow to the outflow. Baffles may be used within the basin to achieve this ratio.

(c) If deemed necessary by the commissioner, additional erosion and sediment control practices may be required in the drainage areas of permanent basins for the purposes of increasing the life of the basin and increasing the overall efficiency of removing sediment from run-off.

(d) Alternatives to the requirements in subsections (b) through (c) may be approved by the commissioner. Factors that will be considered include the following:
(1) The amount of water collected from disturbed areas and undisturbed areas.
(2) Use of erosion control measures on disturbed areas.
(3) Sedimentation control measures utilized in the drainageways.

(e) The commissioner may require the submittal of the following information for any storm water/sedimentation pond or basin to verify it is designed and constructed properly:
(1) Basin plan view.
(2) Typical cross section.
(3) All the inlet and outlet elevations.
(4) Assumptions used to size the basin.
(5) Calculations used.
(6) Justifications.

(f) A storm water pollution prevention plan must be prepared in accordance with 329 IAC 10-15-12. The plan must be updated whenever there is a change at the facility that would significantly affect the storm water discharges authorized under the facility permit. The plan must be kept on-site and must be available to the commissioner at the time of an on-site inspection. *(Solid Waste Management Board; 329 IAC 10-20-12; filed Mar 14, 1996, 5:00 p.m.: 19 IR 1848; filed Mar 19, 1998, 11:07 a.m.: 21 IR 2786; filed Aug 2, 1999, 11:50 a.m.: 22 IR 3827; readopted filed Jan 10, 2001, 3:25 p.m.: 24 IR 1535)*

SECTION 68. 329 IAC 10-20-13 IS AMENDED TO READ AS FOLLOWS:

329 IAC 10-20-13 Cover; general provisions
Authority: IC 13-14-8-7; IC 13-15-2-1; IC 13-19-3-1
Affected: IC 13-30-2; IC 36-9-30

Sec. 13. (a) Except as provided in subsection (c), daily cover for MSWLFs must be earthen material or an alternative daily cover as allowed under section 14.1 of this rule. Intermediate cover for MSWLFs must be ~~Classification ML,~~ earthen material or other suitable material approved by the commissioner to provide an adequate level of environmental protection. Final cover must be as specified in 329 IAC 10-22-6 or 329 IAC 10-22-7, whichever is applicable.

(b) Cover must be applied and maintained at MSWLFs in accordance with the applicable requirements of this rule and 329 IAC 10-22. Other provisions for cover may be approved by the commissioner if it can be demonstrated that an alternate cover or site design will provide an adequate level of environmental protection.

(c) Daily and intermediate cover for MSWLFs without a:
(1) leachate collection system; and
(2) composite liner;
must be soil of Unified Soil Classification ML, CL, MH, CH, or OH, or other suitable material approved by the commissioner to provide an adequate level of environmental protection. Final cover must be as specified in 329 IAC 10-22-6 or 329 IAC 10-22-7, whichever is applicable. *(Solid Waste Management Board; 329 IAC 10-20-13; filed Mar 14, 1996, 5:00 p.m.: 19 IR 1849; filed Aug 2, 1999, 11:50 a.m.: 22 IR 3828; readopted filed Jan 10, 2001, 3:25 p.m.: 24 IR 1535)*

SECTION 69. 329 IAC 10-20-20 IS AMENDED TO READ AS FOLLOWS:

329 IAC 10-20-20 Leachate collection, removal, and disposal
Authority: IC 13-14-8-7; IC 13-15-2-1; IC 13-19-3-1
Affected: IC 13-30-2; IC 36-9-30

Sec. 20. (a) The owner, operator, or permittee of an MSWLF ~~that has a previously existing leachate collection or leachate removal system~~ shall ~~develop~~ **have** a leachate contingency plan. ~~within six (6) months of the effective date of this rule.~~ At a minimum, the plan must address all the requirements listed in 329 IAC 10-15-11(a).

(b) The owner, operator, or permittee shall:
(1) operate the leachate collection or leachate removal system in compliance with the design standards and plans specified in 329 IAC 10-15 and 329 IAC 10-17-8 through 329 IAC 10-17-9;
(2) monitor and maintain the leachate collection or leachate removal system as required in the leachate contingency plan under 329 IAC 10-15-11(a)(1) through 329 IAC 10-15-11(a)(2) or subsection (a); and
(3) implement the leachate contingency plan required under 329 IAC 10-15-11(a)(4) or subsection (a), if the leachate collection or leachate removal system is not ~~operation~~ **operational** or leachate levels are exceeded.

(c) Any discharge or disposal of collected leachate must be accomplished in accordance with all applicable local, state, and federal laws.

(d) The leachate contingency plans required by 329 IAC 10-15-11 and subsection (a) must be retained in the operating record on-site at the MSWLF as required by section 8(a) of this rule and be made available to representatives of the department upon request. *(Solid Waste Management Board; 329 IAC 10-*

20-20; filed Mar 14, 1996, 5:00 p.m.: 19 IR 1852; filed Aug 2, 1999, 11:50 a.m.: 22 IR 3832; readopted filed Jan 10, 2001, 3:25 p.m.: 24 IR 1535)

SECTION 70. 329 IAC 10-20-24 IS AMENDED TO READ AS FOLLOWS:

329 IAC 10-20-24 Survey requirements
Authority: IC 13-14-8-7; IC 13-15; IC 13-19-3
Affected: IC 13-20; IC 36-9-30

Sec. 24. (a) The owner, operator, or permittee of an MSWLF shall maintain the series of identifiable boundary markers required under 329 IAC 10-19-1(a)(2)(B) to delineate the approved solid waste land disposal facility ~~boundaries~~ **boundary** and approved solid waste boundaries for the life of the MSWLF.

(b) The owner, operator, or permittee shall maintain the on-site benchmarks required under 329 IAC 10-19-1(a)(2)(C) so that no portion of the proposed solid waste disposal area is further than one thousand (1,000) feet from a benchmark unless a greater distance is necessary to avoid the placement of benchmarks on filled areas and is approved by the commissioner.

(c) The owner, operator, or permittee shall conduct an annual survey between October 1 and December 31 of each year for the purpose of establishing a contour map that indicates existing contours of the MSWLF and the existing limits of solid waste disposed at the MSWLF. The contour map must be done at the same scale as the final contour map required under 329 IAC 10-15-2. The contour map must indicate the day the survey was conducted and must be submitted to the department by February 15 of the year following the survey in a paper copy form as required by ~~329 IAC 10-15-2(b). In addition to the paper copy, a copy may also be submitted electronically.~~ **section 8 of this rule.**

(d) The owner, operator, or permittee of a currently permitted MSWLF shall submit a present contour map and a proposed final contour map on paper copy form as required by 329 IAC 10-15-2(b). In addition to the paper copy forms, a copy may also be submitted electronically. No subsequent annual submissions of the final contour map will be necessary unless there is a change to the approved final contours. *(Solid Waste Management Board; 329 IAC 10-20-24; filed Mar 14, 1996, 5:00 p.m.: 19 IR 1853; filed Mar 19, 1998, 11:07 a.m.: 21 IR 2789; filed Aug 2, 1999, 11:50 a.m.: 22 IR 3834; readopted filed Jan 10, 2001, 3:25 p.m.: 24 IR 1535)*

SECTION 71. 329 IAC 10-20-26 IS AMENDED TO READ AS FOLLOWS:

329 IAC 10-20-26 Surface water requirements
Authority: IC 13-14-8-7; IC 13-15-2-1; IC 13-19-3-3-1
Affected: IC 13-30-2; IC 36-9-30

Sec. 26. (a) The owner, operator, or permittee of an MSWLF shall not cause a discharge of pollutants into waters of the state, including wetlands, that violates any requirements of **rules of the water pollution control board at** 327 IAC and the Clean Water Act, including the National Pollutant Discharge Elimination System requirements, under Section 402 of the Clean Water Act, 33 U.S.C. 1342, as amended October 31, 1992.

(b) The owner, operator, or permittee of an MSWLF shall not cause the discharge of a nonpoint source of pollution to waters of the United States, including wetlands, that violates any requirement of an area wide or statewide water quality management plan that has been approved under Section 208, 33 U.S.C. 1288, as amended February 4, 1987, or Section 319, 33 U.S.C. 1329, as added February 4, 1987, of the Clean Water Act.

(c) Proper storage and handling of materials, such as fuels or hazardous wastes, and spill prevention and clean-up measures shall be implemented to minimize the potential for pollutants to contaminate surface or ground water or degrade soil quality. *(Solid Waste Management Board; 329 IAC 10-20-26; filed Mar 14, 1996, 5:00 p.m.: 19 IR 1853; filed Aug 2, 1999, 11:50 a.m.: 22 IR 3835; readopted filed Jan 10, 2001, 3:25 p.m.: 24 IR 1535)*

SECTION 72. 329 IAC 10-20-28 IS AMENDED TO READ AS FOLLOWS:

329 IAC 10-20-28 Self-inspections
Authority: IC 13-14-8-7; IC 13-15-2-1; IC 13-19-3-1
Affected: IC 13-30-2; IC 36-9-30

Sec. 28. (a) The owner, operator, or permittee of an MSWLF shall monitor and inspect the MSWLF a minimum of at least twice each month for malfunctions, deteriorations, operator errors, discharges, and leachate outcroppings that may cause a release to the environment or a threat to human health. **Inspections shall include erosion and sedimentation control measures.**

(b) The owner, operator, or permittee shall promptly correct any deterioration or malfunction of equipment or structures or any other problems revealed by the inspections to comply with the MSWLF's permit and this article and to ensure that no environmental or human health hazard develops. Where a hazard is imminent or has already occurred, remedial action must be taken immediately to correct or repair the hazard.

(c) The owner, operator, or permittee shall record inspections on an inspection form provided by the department or at a minimum, on a form that includes the following:
(1) The date and time of the inspection.
(2) The name of the inspector.
(3) A description of the inspection, including an identification of the specific equipment and structures inspected.
(4) The observations recorded.

(5) The date and nature of any remedial actions implemented or repairs made as a result of the inspection.

These records must be retained at the MSWLF for at least three (3) years from the date of inspection. *(Solid Waste Management Board; 329 IAC 10-20-28; filed Mar 14, 1996, 5:00 p.m.: 19 IR 1854; filed Aug 2, 1999, 11:50 a.m.: 22 IR 3835; readopted filed Jan 10, 2001, 3:25 p.m.: 24 IR 1535)*

SECTION 73. 329 IAC 10-21-1 IS AMENDED TO READ AS FOLLOWS:

329 IAC 10-21-1 General ground water monitoring requirements

Authority: IC 13-14-8-7; IC 13-15; IC 13-19-3
Affected: IC 13-20; IC 36-9-30

Sec. 1. (a) The owner, operator, or permittee of MSWLFs shall comply with the ground water monitoring requirements of this rule according to the following schedule:

(1) Existing MSWLF units and lateral expansions less than or equal to two (2) miles from a drinking water surface or subsurface intake must be in compliance with the applicable ground water monitoring requirements specified in this rule by the effective date of this rule.

(2) Existing MSWLF units and lateral expansions greater than two (2) miles from a drinking water surface or subsurface intake must be in compliance with the applicable ground water monitoring requirements specified in this rule by October 9, 1996.

(3) New MSWLF units must be in compliance with the applicable ground water monitoring requirements specified in this rule before waste can be placed in the unit.

(b) Alternative methods, procedures, or equipment to those prescribed in this rule may be used provided the selected alternative yields results or measurements that are equivalent in accuracy and reliability and the use of the alternative is approved by the commissioner. **Alternative ground water monitoring devices or sampling devices may be approved by the commissioner if it is demonstrated that the alternative will provide results that represent ground water quality from beneath the MSWLF in an equivalent manner than could be provided by ground water monitoring wells. Regardless of location of the alternative monitoring device, the monitoring boundary, for the purposes of section 13 of this rule, must remain within fifty (50) feet of the solid waste boundary. Any such demonstration must include the following:**

(1) A complete description of the device and how it complies or differs from this section and sections 2 through 13 of this rule.

(2) A scientifically valid justification for any deviations from this rule.

(3) Any references that indicate the proficiency of the device under similar conditions.

(4) Provision for the construction plan for the device or devices to be approved prior to the actual construction.

(5) A complete description of the proposed location of the device or devices, or the methods of determining the most adequate location, including proof of the facility's control, accessibility for operations and inspections, and security of each location.

(c) The number, spacing, and location of ground water monitoring wells **and piezometers** for an existing MSWLF must comply with the MSWLF's permit. The number, spacing, and location of ground water monitoring wells **and piezometers** for new MSWLFs must meet the requirements of 329 IAC 10-15-5.

(d) All ground water monitoring wells **and piezometers** must be affixed with permanent identification that uniquely identifies each **monitoring** well at the MSWLF. The owner, operator, or permittee shall:

(1) number;

(2) label; and

(3) maintain labels;

on all ~~ground water~~ monitoring wells **and piezometers.**

(e) Ground water monitoring wells **and piezometers** must be accessible and visible at all times. Access to ~~ground water~~ **monitoring** wells through on-site roads must be available, regardless of weather conditions. Access to monitoring wells for four (4) wheel drive vehicles must be provided to ensure vehicle access throughout any season of the year. Vegetation must be controlled on the on-site roads and around the **monitoring** wells **and piezometers.** Access to all ~~ground water~~ monitoring wells **and piezometers** approved by the commissioner must be restricted to operating personnel, department personnel, and persons contracted by the owner, operator, or permittee to collect samples.

(f) Ground water monitoring wells, **piezometers,** and equipment must be properly maintained to ensure representative ground water samples. The owner, operator, or permittee must practice proper maintenance procedures, including the following:

(1) Keep ~~all~~ **the ground water monitoring** wells securely capped and locked when not in use. The owner, operator, or permittee shall maintain all the caps and locks.

(2) Make repairs as necessary to correct any wear, decay, severe corrosion, or physical damages that are observed on or in the **ground water monitoring** well, **piezometer,** or dedicated equipment and submit to the commissioner documentation that the necessary repairs have been made to maintain the integrity of the **monitoring** well.

(3) Maintain proper drainage around each **ground water monitoring** well head ~~by~~ **and piezometer. Repairs as necessary must be made to** the ~~use of a~~ concrete ~~pad around the protective casing~~ **apron** of ~~each well~~ **the monitoring wells to prevent water infiltration or ponding.**

(4) Control vegetation height around each of the wells. ~~as required in 329 IAC 10-20-2(d).~~

(5) Redevelop a **ground water monitoring** well that has accumulated a silt volume ~~of more than twenty percent (20%) of the screen length.~~ **that may compromise the quality of the sample.** The **monitoring** well must be redeveloped prior to the next sampling event. **One (1) of the following procedures must be used to determine the need to redevelop the monitoring well:**

(A) Any regularly scheduled total depth measurement indicates that more than twenty percent (20%) of the screen length has been filled with silt. Any schedule of soundings less often than semiannually must be approved by the commissioner and based on geohydrological characteristics of the aquifer or known rate of down-hole siltation.

(B) Semiannual field tests indicate an order-of-magnitude rise in turbidity or suspended solids for sampling points using dedicated submersed equipment.

(C) Any other procedure that has been approved by the commissioner.

(g) If a ground water monitoring well **or a piezometer** is destroyed or otherwise fails to properly function, the owner, operator, or permittee must comply with the following requirements:

(1) The owner, operator, or permittee shall provide the commissioner with a written report within ten (10) days of discovering that the **ground water monitoring** well **or piezometer** is destroyed or not properly functioning. The report must include the following information:

(A) The date of discovery that a **ground water monitoring** well **or piezometer** is destroyed or is not properly functioning.

(B) The probable cause of **ground water monitoring** well **or piezometer** destruction, damage, or malfunction.

(C) A proposed repair or replacement plan, in accordance with subdivision (2) and with section 4 of this rule, that is subject to the commissioner's approval.

(2) Within thirty (30) days after receiving the commissioner's approval of the plan submitted under subdivision (1)(C), the **ground water** monitoring well **or piezometer** must be repaired or replaced in accordance with the following:

(A) If the **ground water monitoring** well **or piezometer** is repaired, the following requirements must be fulfilled:

(i) The owner, operator, or permittee shall submit to the commissioner a description of the repair methods.

(ii) The owner, operator, or permittee shall submit to the commissioner the revised design and construction diagram.

(B) If the ground water monitoring well **or piezometer** is replaced, the following requirements must be fulfilled:

(i) The original ground water monitoring well **or piezometer** must be properly abandoned in accordance with subsection (i).

(ii) A description of installation methods for the replacement of all pertinent ground water monitoring wells **or piezometers,** a **monitoring** well **and piezometer** design and construction diagram, and the borehole drilling log must be submitted to the commissioner.

(iii) Replacement ground water monitoring wells or piezometers must meet the design requirements of section 4 of this rule.

(iv) Replacement ground water monitoring wells or piezometers constructed within fifteen (15) feet of the original monitoring well or piezometers may have earthen material sampling and earthen material sample testing requirements waived if:

(AA) the original ground water monitoring well or piezometer earthen material sampling and earthen material sample testing complies with section 4 of this rule; and

(BB) the waiver is approved by the commissioner.

(3) If discovery of a **ground water monitoring** well **or piezometer** failure coincides with the time of a scheduled sampling event, the failed monitoring well **or piezometer** must be sampled immediately after it has been repaired or replaced.

(h) The owner, operator, or permittee shall abandon and replace a ground water monitoring well if:

(1) the ground water monitoring well has a permeable or semipermeable annular sealant; or

(2) any of the following details of the ground water **monitoring** well construction are not available:

(A) Screened interval.

(B) Annular sealant material.

(C) Borehole and casing diameters.

(D) Casing and screen material.

(E) Ground elevation and the reference mark elevation.

(F) Outside casing diameter and depth.

(G) Filter pack material.

(i) The owner, operator, or permittee shall notify the commissioner in writing and obtain written approval to decommission or abandon any ground water monitoring well **and piezometer.** Abandonment procedures must comply with the following:

(1) Abandonment procedures must be:

(A) in compliance with ~~310 IAC 16-10-2~~ **312 IAC 13-10-2** of the department of natural resources; or

(B) an alternative procedure approved by the commissioner.

(2) Methods of abandonment must ensure that slurry does not bridge or become obstructed and that the borehole is completely sealed.

(3) Attempts must be made to remove the entire casing from the **ground water monitoring** well **or piezometer** to be abandoned, if there is evidence that the integrity of the annulus between the borehole and **monitoring** well **or piezometer** casing has been compromised.

(4) Accurate records of the location and abandonment procedures must be maintained in the operating records.

(j) All ground water monitoring wells that have been approved by the commissioner must be used to obtain ground water to be analyzed for the purpose of this rule.

(k) The commissioner may require additional ground water monitoring wells **and piezometers** during the active life, closure, or post-closure care period of the MSWLF if:

(1) ground water flow data indicate that ground water flow directions are other than anticipated in the ground water monitoring system design;

(2) further evaluation of the hydrogeology of the MSWLF determines that additional **ground water monitoring** wells **or piezometers** are needed; or

(3) additional **ground water monitoring** wells **and piezometers** are necessary to achieve compliance with ground water monitoring standards under 329 IAC 10-15-5.

(l) The ground water monitoring boundary must be located:

(1) within the property line; and

(2) within fifty (50) feet of the solid waste boundary that has been approved by the commissioner for final closure, except where fifty (50) feet is not possible because of physical obstacles or geology. If the owner, operator, or permittee chooses to use intrawell comparison procedures to evaluate the ground water data, the monitoring boundary shall be considered to be at the location of each ground water monitoring well designated for the detection monitoring program.

(m) The number of independent ground water samples collected to establish background ground water quality data must be consistent with the appropriate statistical procedures in accordance with section 6 of this rule.

(n) Background ground water quality may be established at ground water monitoring wells that are not located hydraulically upgradient from the MSWLF solid waste boundary if, as determined by the commissioner:

(1) hydrogeologic conditions do not allow the owner, operator, or permittee to determine which **ground water monitoring** wells are hydraulically upgradient; or

(2) sampling at other **ground water monitoring** wells will provide an indication of background water quality that is as representative or more representative than that provided by the upgradient **monitoring** wells.

(o) If contamination is detected in any ground water monitoring well used to establish background ground water quality, the contamination must be investigated, within the MSWLF's facility boundary, to the extent necessary to determine that the MSWLF is not the cause of contamination. If an investigation reveals that the contamination is caused by one (1) or more MSWLF units within the MSWLF, the owner, operator, or permittee must:

(1) further assess and investigate the contamination, as specified under section 10 of this rule; and

(2) use any **ground water** monitoring well in which the contamination is detected as a downgradient **monitoring** well in all ground water monitoring programs.

(p) Each time ground water samples are collected from ground water monitoring wells at the monitoring boundary, the owner, operator, or permittee shall prepare and submit to the commissioner ground water potentiometric-surface maps, or flow maps, of the aquifer being monitored at the site. Except for subdivisions (5), (11), and ~~(13),~~ **(12),** which may be presented in tabular form accompanying the maps, each map must indicate the following:

(1) A clear identification of the contour interval for the potentiometric-surface or water table surface of each aquifer being monitored at the MSWLF.

(2) The ground water monitoring wells **and piezometers:**

(A) considered to be upgradient **and background;**

(B) considered to be downgradient; and

(C) for which there has been no determination due to the hydrogeologic complexities.

(3) Each ground water monitoring well's identification and location.

(4) Each piezometer's identification and location.

(5) The static water elevations at each ground water monitoring well, referenced to mean sea level and measured to the nearest one-hundredth (0.01) foot.

(6) Real property boundaries, facility boundaries, and the solid waste boundaries.

(7) The identification of each aquifer through either its title or its elevation.

(8) The MSWLF's name and county.

(9) The map scale and a north arrow.

(10) Ground water flow arrows.

(11) The date and time of the measurements for each of the **ground water monitoring** wells **and piezometers.**

(12) The elevation of the ground surface and the top of the casing at each **ground water monitoring** well and piezometer. The elevation of the referenced mark located on top of the casing of each ground water monitoring well and piezometer must be surveyed to the nearest plus or minus one-hundredth (± 0.01) foot. The referenced mark must be used to measure static water levels.

(13) The following information, upon request by the commissioner:

(A) An updated site surface topography and surface water drainage patterns as described under 329 IAC 10-15-4(b)(12) if the potentiometric surface being evaluated is influenced by surface topography.

(B) All water wells and surface water bodies used as a drinking water source within one-fourth (¼) mile of the solid waste boundary.

(C) Any other information the commissioner determines to be necessary, **including ground water flow gradient and velocity,** to evaluate the map information.

(14) Unless the commissioner deems necessary,

potentiometric surface maps are not required to be submitted for the following reasons:

(A) When very few ground water monitoring wells are required to be sampled to establish background for the constituents listed in Table 1A under section 15(a) of this rule.

(B) When very few ground water monitoring wells need to be sampled to verify a preliminary exceedance.

(C) When very few ground water monitoring wells are required to be sampled under section 10(b)(1) or 10(e) of this rule.

(D) When very few ground water monitoring wells need to be sampled to establish background under section 10(b)(4) of this rule.

(q) Ground water must be monitored as required in sections 7, 10, and 13 of this rule. The sampling frequency must be as specified under:

(1) section 7 of this rule for detection monitoring;

(2) section 10 of this rule for assessment monitoring; and

(3) section 13 of this rule for corrective action.

~~(r) All ground water monitoring wells that are so specified by the commissioner must have ground water samples collected and analyzed for the constituents identified in Table 1A, Table 1B, or Table 2, whichever is applicable. Ground water sampling must be done semiannually or at another frequency specified by the commissioner.~~

~~(s)~~ **(r)** Each time ground water samples are collected from ground water monitoring wells at the monitoring boundary, the following requirements for static water elevations must be:

(1) Obtained from each ground water monitoring well and each piezometer **required to be sampled for the applicable ground water monitoring program.**

(2) Measured to the nearest one-hundredth (0.01) foot, and referenced to mean sea level.

(3) Obtained as close in time as practical from each **ground water monitoring** well or piezometer prior to purging and sampling each **ground water monitoring** well. If such a purging and collection sequence is expected to affect the accuracy of the static water elevation measurements in any **ground water monitoring** well or piezometer in the ground water monitoring system, then water elevation measurements must be obtained prior to purging and sampling any **ground water monitoring** well.

~~(t)~~ **(s)** The owner, operator, or permittee shall submit the following information to the commissioner within sixty (60) days of obtaining the ground water samples in a sampling event unless a verification sampling program, as described in section 8 of this rule, is implemented:

(1) All static water elevations measured to the nearest one-hundredth (0.01) foot.

(2) Ground water potentiometric-surface maps, or flow maps, as specified in subsection (p).

(3) Two (2) unbound laboratory certified reports, including one (1) original copy, that include the following information **unless otherwise specified by the commissioner:**

(A) The detection limit for each chemical constituent.

(B) The date samples were collected.

(C) The date samples were received by the laboratory.

(D) The date samples were analyzed by the laboratory.

(E) The date the laboratory report was prepared.

(F) The method of analysis used for each constituent.

(G) The sample identification number for each sample.

(H) The results of all sample analyses.

(4) Field report sheets as described under section 2(b)(12) of this rule for each ground water monitoring well sampled and the field chain of custody form for each sample as described under section 2(b)(14) of this rule.

(5) A report correlating sample identification numbers with the corresponding **ground water monitoring** well identification number and blank identification numbers.

(6) An explanation of how the **ground water monitoring** well sampling sequence as described under section 2(a)(6) of this rule was established for the sampling event.

(7) **Two (2) copies of** the statistical evaluation report**s** as described under section 6(e) of this rule.

~~(8) When requested by the commissioner, one (1) copy of the results of the laboratory analyses on computer diskette or by other electronic means must be submitted to the commissioner. The electronic format of the submission will be established by the commissioner.~~

~~(9)~~ **(8)** When requested by the commissioner, the following information:

(A) The results of all laboratory quality control sample analyses, including:

(i) blanks;

(ii) spikes;

(iii) duplicates; and

(iv) standards.

(B) Raw data.

(C) Laboratory bench sheets.

(D) Laboratory work sheets.

(E) Chromatograms.

(F) Instrument printouts.

(G) Instrument calibration records.

~~(u)~~ **(t)** Detection monitoring must be conducted throughout the active life, closure, and post-closure periods of the MSWLF.

(Solid Waste Management Board; 329 IAC 10-21-1; filed Mar 14, 1996, 5:00 p.m.: 19 IR 1855; filed Mar 19, 1998, 11:07 a.m.: 21 IR 2791; filed Aug 2, 1999, 11:50 a.m.: 22 IR 3836)

SECTION 74. 329 IAC 10-21-2 IS AMENDED TO READ AS FOLLOWS:

329 IAC 10-21-2 Sampling and analysis plan and program

Authority: IC 13-14-8-7; IC 13-15; IC 13-19-3

Affected: IC 13-20; IC 36-9-30

Sec. 2. (a) The owner, operator, or permittee shall carry out a ground water sampling and analysis program that is specified in an approved sampling and analysis plan, and that complies with the requirements of this rule. The sampling and analysis plan must address all items included in this section, where applicable, and it must satisfy the following requirements:

(1) For all new MSWLFs permitted under this article, the sampling and analysis plan must be approved by the commissioner before the first sampling event occurs.

(2) Existing MSWLFs that have not previously submitted an approved sampling and analysis plan that includes all applicable requirements of this section, must have a plan approved by the commissioner by one (1) of the following times, whichever occurs first:

(A) At the time of the next permit renewal application.

(B) At closure.

(C) At a time determined by the commissioner.

(3) Existing MSWLFs that have, by the effective date of this article, submitted to the commissioner an approved sampling and analysis plan that does not include all applicable requirements of this rule, must submit a revised plan, if deemed necessary by the commissioner, by one (1) of the following times, whichever occurs first:

(A) At the time of the next permit renewal application.

(B) At closure.

(C) At a time determined by the commissioner.

(4) Changes or additions to a previously approved sampling and analysis plan must be approved by the commissioner before the changes or additions are implemented.

(5) The approved sampling and analysis plan must be retained at or near the MSWLF in the operating record or at an alternative location approved by the commissioner.

(6) The sampling and analysis plan must include the following:

(A) A description of the following:

(i) The method that will be used to determine the sequence of sampling of ground water monitoring wells. The sequence determination must:

(AA) compare **ground water monitoring** wells that are not contaminated to those that are contaminated or to those that have the potential to be contaminated; and

(BB) follow the criteria described under subsection (b)(8).

(ii) The method of evacuation, including:

(AA) a description of the equipment and procedures to be used;

(BB) the method for calculating one (1) well volume at each well; and

(CC) the method for measuring the volume of water evacuated.

(iii) The equipment and procedures to be used in sample collection during detection, assessment, and corrective action ground water monitoring programs, including, but not limited to:

(AA) the sizes, number, and material of containers to be used for collection of samples; and

(BB) the manufacturer, make, and model number of field meters for pH, Eh, and specific conductance.

(iv) Copies of the owner's manual for each type of meter used in the sampling procedures.

(B) The qualifications and minimum training that the owner, operator, or permittee will require of the ground water sampler or sampling crew.

(b) The sampling and analysis program and procedures must comply with the following:

(1) The sampling crew shall:

~~(A) comply with requirements of state and federal agencies regarding worker safety;~~

~~(B)~~ **(A)** wear latex gloves, vinyl gloves, or gloves made out of alternative material that has been approved by the commissioner whenever the samplers' hands are in proximity of:

(i) sample water;

(ii) open sample containers;

(iii) sampling equipment; or

(iv) the open **monitoring** well; and

~~(C)~~ **(B)** avoid contact between gloves and samples.

(2) Each time ground water samples are collected from ground water monitoring wells at the monitoring boundary, **regardless of whether a map is produced as exempted in section 1(p)(14) of this rule,** static water elevations must be:

(A) obtained from each **ground water** monitoring well and each piezometer;

(B) measured to the nearest one-hundredth (0.01) foot, and referenced to mean sea level; and

(C) obtained as close in time as practical from each **ground water monitoring** well or piezometer prior to purging and sampling each **ground water monitoring** well.

If such a purging and collection sequence is expected to affect the accuracy of the static water elevation measurements in any other **ground water monitoring** well or piezometer in the ground water monitoring system, then water elevation measurements must be obtained prior to purging and sampling any **ground water monitoring** well.

(3) Samples that are to be analyzed for dissolved metals must be field filtered immediately after the sample is obtained from the **ground water** monitoring well using a forty-five hundredths (0.45) micron high capacity filter. Use of an alternative filter type or filter size must be approved by the commissioner.

(4) Static water in the **ground water** monitoring well must be removed with equipment that does not:

(A) cause the water to cascade over the **ground water monitoring** well screen; or

(B) cause strong gradients or excess volatilization of organic compounds in the ground water.

(5) The method of evacuation must be suited to the recharge of the ground water monitoring well, the well depth, and the well diameter, and must comply with one (1) of the following:

(A) Evacuation may be accomplished with a pump. If a pump is used, the following requirements must be satisfied:

(i) The intake of the pump must be placed within, and ground water must be withdrawn from, the screened interval of the **ground water monitoring** well.

(ii) Purging with a pump must continue until a minimum of three (3) well volumes has been evaluated or the field constituents of pH, specific conductance, and temperature are stabilized within ten percent (10%) of a field determined mean reading for three (3) consecutive field readings to be completed as follows:

(AA) A minimum of six (6) samples must be taken for the required parameters.

(BB) Three (3) consecutive samples must be used to arrive at the field determined mean reading, and each of the next three (3) samples must be within ten percent (10%) of the field determined mean.

(CC) In the event that one (1) or more of the last three (3) samples are not within ten percent (10%) of the mean, the first sample will be deleted and a new field mean will be calculated from the next three (3) consecutive samples.

(DD) Additional samples are taken and the process described under subitem (CC) is continued until three (3) consecutive samples agree within ten percent (10%) of the field mean determined by the three (3) previous consecutive samples.

(EE) Purging a **monitoring** well by more than five (5) well volumes is prohibited.

(iii) When removing water from the **ground water monitoring** well for obtaining a sample, the pump must not be raised or lowered unless the potentiometric surface is as low as or lower than the top of the well screen.

(iv) A **ground water monitoring** well purged by a pump must be sampled by the same pump unless otherwise approved by the commissioner.

(v) If the permittee chooses to use a rotary pump, it must be used in accordance with the following:

(AA) The flow must be maintained at a slow and steady rate.

(BB) If the flow of water is intermixed with air during the use of the rotary pump, the pump must be lowered deeper into the water column or the sample collection must be accomplished with a bottom discharging bailer.

(CC) The interior of the pump must be coated with Teflon® or an inert material equivalent to Teflon® or be composed of stainless steel.

(vi) If the permittee chooses to use a positive gas displacement pump, it must be used in accordance with the following:

(AA) The flow must not be at a rate that forcefully ejects water or gas at the end of the expulsion cycle.

(BB) The generator must be placed downwind at least ten (10) feet from the **ground water monitoring** well being ~~monitored.~~ **sampled.**

(vii) If the permittee chooses to use a peristaltic pump, it must be used in accordance with the following:

(AA) The peristaltic pump must only be used in a **ground water monitoring** well with a depth of thirty-three (33) feet or less.

(BB) Historical data and tubing manufacturer data sheets must be utilized to select the proper tubing for each site.

(CC) Water in the tubes must be evacuated between **ground water monitoring** wells.

(DD) The tubes must be decontaminated between **ground water monitoring** wells.

(B) Evacuation may be accomplished with a bailer. If a bailer is used, the following requirements must be satisfied:

(i) The **ground water monitoring** well must be purged a minimum of three (3) well volumes if the ground water recharge rate is greater than the ground water withdrawal rate.

(ii) The **ground water monitoring** well may be purged dry if the ground water recharge rate is less than the ground water withdrawal rate.

(iii) Purging a **ground water monitoring** well more than five (5) well volumes is prohibited.

(iv) The bailer must be made of Teflon®, PVC, stainless steel, or other material approved by the commissioner.

(v) To assure that volatile organics are not stripped from the water, the bailer must be lowered in a slow and steady manner until the top of the ground water is contacted.

(vi) The bailer must be lowered into the water column until the bailer is full or the base of the **ground water monitoring** well is contacted by the bottom of the bailer.

(vii) Once full of water, the bailer must be lowered no further into the water column.

(viii) The bailer cord must not touch or contact the water column.

(ix) To assure that volatile organics are not stripped from the water, the bailer must be withdrawn at a slow steady rate up the **ground water monitoring** well casing.

(x) When the bailer reaches the top of the **ground water monitoring** well riser, the bailer must be removed carefully to prevent aeration or agitation.

(xi) The bailer cord must be pulled away from the water when pouring from a top discharging bailer.

(C) The MSWLF's sampling and analysis plan must designate methods for disposal of purged water and decontamination solutions.

(D) The commissioner shall consider a **ground water monitoring** well to be dry under the following circumstances:

(i) The **ground water monitoring** well is not mechanically damaged, yet it is unable to deliver water when opened for sampling.

(ii) The **ground water monitoring** well does not have a recovery rate adequate to supply ground water for sampling within a twenty-four (24) hour period after the monitoring well is purged.

(E) A **ground water monitoring** well that is dry on a

consistent basis may be deemed by the commissioner to be an improperly functioning **ground water monitoring** well. The owner, operator, or permittee may be required to replace or relocate any improperly functioning **ground water monitoring** well.

(6) Upon request, the commissioner may approve use of equipment or methods not specified in subdivision (5). The alternative equipment must provide equivalent evacuation efficiency and the request must include:

(A) an exact description of the purging or sampling apparatus;

(B) operational specifics of the apparatus; and

(C) an explanation of why the proposed sampling equipment is equivalent or superior to the equipment specified under subdivision (5) for:

(i) accuracy of readings;

(ii) minimization of cross contamination;

(iii) suitability of the equipment to the site; and

(iv) ease of decontamination, when applicable.

(7) Ground water monitoring sample collection for detection monitoring, verification resampling, assessment, and corrective action ground water monitoring programs must satisfy the following requirements:

(A) Each sample must be numbered and labeled as a separate sample.

(B) One (1) or more independent samples must be collected from every ground water monitoring well on-site or as otherwise specified by the commissioner.

(C) At least one (1) field duplicate sample must be collected as follows:

(i) A field duplicate sample is defined as an additional sample collected from a ground water monitoring well, where:

(AA) the additional sample is analyzed independently of the first sample obtained from that **ground water monitoring** well; and

(BB) the ground water quality results for the additional sample are not used in the statistical evaluation, unless approved by the commissioner.

(ii) The field duplicate sample must be treated in the same manner as the independent sample.

(iii) A field duplicate sample must be collected from one (1) **ground water monitoring** well for every ten (10) **monitoring** wells, or part thereof, sampled.

(iv) The field duplicate sample must not be identified as such to the laboratory performing the sample analysis.

(D) The first sample collected from a given **ground water monitoring** well must be listed on the field record as the independent sample. The additional sample from the given **monitoring** well must be listed on the field record as the field duplicate sample.

(E) The independent sample and the field duplicate sample must be collected consecutively. The equipment for obtaining the samples does not require decontamination between sample collection; however, the independent sample and the field duplicate sample must be analyzed independently of each other.

(F) At least one (1) trip blank sample must be taken and must meet the following requirements:

(i) Be containerized prior to entering the MSWLF.

(ii) Consist of water that is:

(AA) distilled;

(BB) deionized; or

(CC) laboratory grade water.

(iii) Be analyzed for all constituents required for the sampling event unless a justification for limiting the trip blank to specific constituents is submitted to and approved by the commissioner.

(iv) Accompany the independent samples at all times.

(v) The trip blank must be identified as such to the laboratory performing the sample analysis.

(G) At least one (1) equipment blank sample must be collected from each piece of nondedicated equipment used to collect samples at the site, in accordance with the following:

(i) The water used for the equipment blank sample collection must be either distilled water or deionized water.

(ii) The equipment to be sampled must include:

(AA) all nondedicated pumps and bailers;

(BB) intermediate containers;

(CC) probes used for measuring static water levels, if the probe is inserted into the **ground water monitoring** well after the well is purged; and

(DD) reusable sections of the field filtration equipment.

(iii) The equipment blank must be analyzed for all constituents required by the sampling event unless a justification for limiting the equipment blank to specific constituents is submitted to and approved by the commissioner.

(iv) The equipment blank must be obtained after the last **ground water** monitoring well has been sampled.

(v) The equipment blank must be identified as such to the laboratory performing the sample analysis.

(H) At the end of each sampling day, the sampler may collect at least one (1) field blank sample. If a field blank sample is collected, the following criteria must be met:

(i) The water used for the sample must be distilled water or deionized water brought onto the site and poured into the designated sample bottles within fifty (50) feet from any ground water monitoring well sampled the day the field blank is collected.

(ii) Field blank samples must be analyzed for all constituents required for the sampling event unless a justification for limiting the field blank to specific constituents is submitted to and approved by the commissioner.

(iii) The field blank must be identified as such to the laboratory performing the sample analysis.

(8) Ground water samples must be collected in a sequence that satisfies the following:

(A) **Ground water monitoring** wells must be sampled in a sequence that minimizes the potential for cross contamination of samples. Historical ground water quality data must be used in estimating a well's potential for contamination. Samples must be collected in order of increasing likelihood of contamination in the **monitoring** well supplying the sample as follows:

(i) All ~~upgradient~~ **background** ground water monitoring wells must be sampled before downgradient wells.

(ii) If downgradient **ground water monitoring** wells have not been verified to be contaminated, samples must be collected first from those downgradient **monitoring** wells that are furthest from disposed solid waste, followed by **monitoring** wells that are increasingly close to disposed solid waste.

(iii) Downgradient **ground water monitoring** wells that have been verified as contaminated must be sampled in sequence, starting with those downgradient **monitoring** wells that have the lowest level of contaminants, followed by **monitoring** wells that have increasingly higher levels of contaminants.

(B) Samples must be collected in a sequence that minimizes volatilization of compounds. Samples must be collected in order of decreasing volatility as follows:

(i) For the constituents listed in section 15(a) of this rule (Table 1A) and section 15(b) of this rule (Table 1B):

(AA) volatile organic compounds;

(BB) field pH;

(CC) field specific conductance;

(DD) dissolved metals; and

(EE) all other constituents.

(ii) For the constituents listed in section 16 of this rule (Table 2):

(AA) volatile organic compounds;

(BB) field pH;

(CC) field specific conductance;

(DD) semivolatile organics;

(EE) dissolved metals;

(FF) total metals; and

(GG) all other constituents.

(C) A sample collection sequence for the constituents listed in section 15(a) of this rule (Table 1A), section 15(b) of this rule (Table 1B), and section 16 of this rule (Table 2) must be developed for use in the event that a ground water monitoring well cannot supply sufficient water volume to collect a full sample. To establish the sample collection sequence, the owner, operator, or permittee shall consider:

(i) **ground water monitoring** well logs; and

(ii) previous sample data.

(9) All nondedicated equipment must be decontaminated in accordance with the following requirements:

(A) Decontamination procedures must be implemented after sample collection at each **ground water monitoring** well and before reuse of the equipment. Time of decontamination must be indicated on the field report sheet. The commissioner may approve alternate decontamination procedures that provide equally reliable prevention of cross contamination.

(B) If a rotary pump is used, then the following decontamination procedures must be implemented:

(i) The interior, exterior, and tubing must be decontaminated.

(ii) The exterior of the rotary pump must be washed with a nonphosphate detergent and potable water bath. The exterior of the rotary pump must be rinsed in potable water and double rinsed in deionized or distilled water.

(iii) The pump must have a volume of a nonphosphate detergent water mixture pumped through the system equal to one-third (⅓) of the previous **ground water monitoring** well's purge volume or two (2) gallons, whichever is less, to remove all pumped water from the internal parts. This solution must be pumped through the pump head and then continued through the tubing until ejected from the system.

(iv) A gross rinse of potable water must follow the detergent mixture specified in item (iii). The rinse water volume must match the volume specified in item (iii).

(v) If samples are acquired from the pump, a minimum of three (3) gallons of distilled or deionized water rinse must be pumped through the system prior to sampling the next **ground water monitoring** well.

(vi) The commissioner may approve an alternative decontamination procedure provided the alternative procedure yields equally reliable prevention of cross contamination.

(C) If a peristaltic pump is used, then the following decontamination procedures must be implemented:

(i) The tubing must be decontaminated.

(ii) After each water sample passes through the pump, a volume of distilled or deionized water and nonphosphate detergent solution equal to the sample volume must be immediately passed through the pump.

(iii) The detergent solution must be followed by a potable water rinse. The volume of the rinse must be three (3) times the detergent solution volume.

(D) If a bailer is used, then the following decontamination procedures must be implemented:

(i) Proper equipment must be utilized to decontaminate the internal, external, and valve components of the bailer.

(ii) Nondedicated bailers must be decontaminated on-site prior to obtaining samples from the next **ground water monitoring** well. Decontamination must consist of, in the following order:

(AA) Washing the interior and exterior surfaces of the bailer with a nonphosphate detergent solution.

(BB) Rinsing with potable water.

(CC) Final double rinsing with distilled or deionized water.

(iii) Dedicated bailers that are either stored at a site away from the sampling point, or stored in the **ground water**

monitoring well riser and above the maximum ground water level must be double rinsed with distilled or deionized water prior to use. Bailers must not be stored below the ground water level in the **monitoring** well.

(iv) Teflon® coated wire and any water level probe must be:

(AA) submerged in a nonphosphate detergent bath;

(BB) abraded by a clean cloth as the wire is removed from the wash bath;

(CC) deposited into a gross rinse bath of potable water; and

(DD) lifted as a coil and placed in a final distilled or deionized water rinse.

(v) A rope attached to the bailer or lead wire must not be reused.

(E) Meters that measure for specific conductance, temperature, Eh, and pH must be washed with a nonphosphate detergent solution and rinsed with a volume of deionized water equal to a minimum of four (4) times the volume used by the meter for effective readings, unless nonphosphate detergent will inhibit the meter's ability to function properly.

(10) **Ground water** monitoring well samples must be collected in containers that are specified in either the MSWLF's sampling and analysis plan or the quality assurance project plan described in subdivision (13). The commissioner may establish guidance regarding the following:

(A) Recommended preservatives.

(B) Bottle material composition.

(C) Minimum sample volumes.

(D) Refrigeration after sample collection.

(E) The prevention of exposure to direct radiation.

(11) Field meters for pH, Eh, and specific conductance must be as follows:

(A) have accuracy of readings that do not vary more from a standard value than the following:

(i) Three percent (3%) of the reading for a suitable standard for specific conductance.

(ii) Twenty-five (25) millivolts of the indicator solution for Eh.

(iii) One-tenth (0.1) standard unit of the calibration standard value for pH.

(B) be calibrated at the beginning and end of each day of a sampling event, or more frequently if recommended by a manufacturer's specifications, in accordance with the following:

(i) The calibration solutions of high, low, and midrange values must be retained on-site during the sampling event for potential use at every sampling point.

(ii) Calibrations must be conducted as specified by the manufacturer of the equipment.

(12) The sampler shall submit to the commissioner a field report for every sampling event. The report must include the following information pertaining to each ground water monitoring well **and piezometer, when applicable:**

(A) The time and date each **ground water monitoring** well was purged and sampled.

(B) The location of each **ground water monitoring** well that was sampled, including indicating the **monitoring** well as ~~upgradient~~ **background** or downgradient of the solid waste boundary.

(C) The condition of **ground water monitoring** well heads **and piezometers** and **monitoring** well security devices.

(D) The weather conditions during sample collection.

(E) The condition of purged water with regard to odor and turbidity, and the condition of the collected sample.

(F) The in situ temperature, in degrees Celsius, of the ground water as measured in line or immediately after removal of water from the **ground water monitoring** well.

(G) The static water elevations referenced to mean sea level and measured to the nearest one-hundredth (0.01) foot.

(H) The type of equipment used for purging and for collection of samples and, where applicable, the cord's chemical composition.

(I) A copy of the chain of custody for the sample.

(J) The location and elevation of the referenced measuring mark on the **ground water monitoring** well **and piezometer** casing used to measure the static water elevations.

(K) The time equipment was decontaminated at each **ground water monitoring** well location.

(L) The reaction of the ground water to the preserving agent when the sample is containerized.

(M) Additional information as required by the commissioner.

(13) The owner, operator, or permittee of an MSWLF shall develop a quality assurance project plan and submit the following items to the commissioner for approval:

(A) Documentation to verify that all laboratories performing ground water sample analysis intend to comply with the minimum standards set forth in the facility's quality assurance project plan.

(B) One (1) scientifically valid and accurate testing method approved by the commissioner for each constituent required for analysis under this rule.

(14) Each owner, operator, or permittee of an MSWLF shall develop and utilize a chain of custody protocol to account for the possession and security of any sample from the time the sample is taken until the analytical results are received by the commissioner. The chain of custody protocol must conform with the following:

(A) The field chain of custody form must account for the sample from the time the sample is removed from the **ground water monitoring** well until the time the sample is delivered to the laboratory and the sample custodian of the analytical laboratory signs the field chain of custody form.

(B) The laboratory chain of custody form must account for the location and security of the sample from the sample's

arrival at the analytical laboratory until the analysis of the sample is found to be acceptable under the quality assurance plan.

(C) Field and laboratory chain of custody forms must identify each sample with its unique identifying number and include the following information:

(i) The number and types of containers holding the sample.

(ii) The names of all persons having contact with the sample, including those persons collecting or transporting the sample.

(iii) The time and dates of any transfers in possession of a sample.

(iv) The condition of the sample at the time of its arrival at the laboratory, including the condition of the sample's seal and the temperature inside each cooler holding a sample.

(D) In addition to the information required under clause (C), the field chain of custody form must include a task sheet that delineates the analysis to be performed on the sample or samples.

(E) The laboratory must maintain the laboratory chain of custody form and, upon request, release the laboratory chain of custody form to the commissioner. The field chain of custody form must be submitted to the commissioner in accordance with section 1(t) of this rule.

(c) Upon request, the commissioner may approve the use of methods, procedures, or equipment not specified in subsection (b). The alternative methods, procedures, or equipment must provide results or measurements that are equivalent in accuracy and reliability and the request must include the following:

(1) an exact description of the alternative methods, procedures, or equipment; and

(2) an explanation of why the proposed methods, procedures, or equipment are equivalent or superior to those specified under subsection (b).

(Solid Waste Management Board; 329 IAC 10-21-2; filed Mar 14, 1996, 5:00 p.m.: 19 IR 1858; filed Mar 19, 1998, 11:07 a.m.: 21 IR 2794; errata filed Jun 10, 1998, 9:23 a.m.: 21 IR 3939; filed Aug 2, 1999, 11:50 a.m.: 22 IR 3839)

SECTION 75. 329 IAC 10-21-4 IS AMENDED TO READ AS FOLLOWS:

329 IAC 10-21-4 Ground water monitoring well and piezometer construction and design

Authority: IC 13-14-8-7; IC 13-15; IC 13-19-3
Affected: IC 13-20; IC 36-9-30

Sec. 4. (a) Ground water monitoring wells **and piezometers** installed after the effective date of this article must comply with the requirements of this section.

(b) The following drilling techniques must be used to ensure proper ground water monitoring well construction:

(1) The method of drilling a borehole for a **ground water** monitoring well or for exploration must be selected to ensure the following:

(A) Subsurface materials are not adversely affected.

(B) Ground water or aquifers are not contaminated or cross-contaminated.

(C) Quality continuous unconsolidated and consolidated material samples are collected.

(D) Equipment sensitivity allows adequate determination of an appropriate screen location.

(E) The diameter of the borehole is at least four (4) inches larger than the diameter of the **ground water monitoring** well casing and screen, to allow tremie placement of the filter pack and annular sealants.

(F) Drill fluids other than water ~~fluid additives, or lubricants~~ are to be avoided. However, if ~~they~~ **fluid additives or lubricants** are unavoidable, those used must be demonstrated to be inert and an impact statement must be made regarding the potential impact of any liquids introduced into the borehole concerning the physical and chemical characteristics of the subsurface and ground water.

(2) All equipment that will encounter formation materials must be decontaminated prior to drilling each new borehole.

(c) Casing and screen materials must comply with the following:

(1) Casing and screen materials must be chosen to:

(A) be resistant to corrosion and degradation in any natural or contaminated environment;

(B) be resistant to physical damage as a result of installation, usage, and time; and

(C) have minimal effect on ground water chemistry with respect to the analytes of concern.

(2) The casing sections must be physically joined and made watertight by:

(A) heat welding;

(B) threading; or

(C) force fitting.

(3) The use of solvents, glues, or other adhesives to join casing sections is prohibited.

(4) **For:**

(A) ground water monitoring wells, the casing must be two (2) inches in diameter or greater; **or**

(B) piezometers not to be used for sample collection the diameter must be one (1) inch or greater.

(5) Except for open borehole bedrock **ground water monitoring** wells, screens are required for all ground water monitoring wells **and piezometers** and must include the following:

(A) The screens must be continuous slot wire or machine slotted.

(B) Slot size must retain ninety percent (90%) to one hundred percent (100%) of the filter pack material.

(C) Screen lengths must be not less than two (2) feet and not greater than ten (10) feet unless approved by the commissioner.

(6) **Ground water monitoring** well **and piezometer** casing and screens must be cleaned prior to introduction into the borehole to prevent manufacturers' residues and coatings from contaminating the borehole or aquifer.

(7) Screen and casing must be properly centered in the borehole prior to filling the annulus.

(d) Procedures for collecting, analyzing, and storing core samples must comply with the following:

(1) Continuous downhole samples of the unconsolidated and consolidated materials must be collected in all ground water monitoring well **and piezometer** boreholes **unless the ground water monitoring wells or piezometers are replacement monitoring wells or piezometers under section 1(g)(2) of this rule.** For monitoring well clusters **or piezometer clusters,** continuous samples must be collected from the surface to the base of the deepest **monitoring** well **or piezometer;** other **monitoring** wells **or piezometers** within the cluster must be sampled at all significant stratigraphic changes and at the screened interval. Samples must not be combined into composite samples for classification or testing.

(2) All procedures regarding testing and sampling must be described to the commissioner in writing.

(3) The owner, operator, or permittee shall:

(A) retain all borehole samples in labeled containers or labeled core boxes that are securely stored and accessible for a period of:

(i) seven (7) years after the samples are collected; or

(ii) seven (7) years after permit issuance;

whichever occurs later;

(B) notify the commissioner, in writing, of the location of the core sample storage; and

(C) ensure that core samples are available for inspection, by the commissioner or by a representative of the department, at all reasonable times or during normal operating hours.

(4) Each significant stratum encountered in the borehole must have the following analysis performed and testing results must be identified with respect to sample elevations and borehole:

(A) Complete grain size using the following techniques:

(i) Sieve.

(ii) Hydrometer.

(B) Cation exchange capacity.

(C) Hydraulic conductivity if the information for that strata is not available to the satisfaction of the commissioner.

(D) Atterberg limits.

(e) The ground water monitoring well **or piezometer** annulus must be filled as follows when drilling is complete:

(1) The annular space from six (6) inches below the well screen to two (2) feet above the well screen must be filled with a filter pack consisting of inert sand or gravel and shall comply with the following:

(A) A uniform grain size must be chosen to reflect three (3) to five (5) times the average fifty percent (50%) retained size of the formation material unless this filter pack grain size would impede adequate flow of ground water into the **ground water monitoring** well **or piezometer.** Should this happen, a filter pack grain size shall be used that allows ground water flow into the **monitoring** well **or piezometer** and prevents as much silt infiltration as possible.

(B) Natural material may be an acceptable constituent of the filter pack if slump is unavoidable.

(C) The filter pack in a bedrock **monitoring** well **or piezometer** is optional. However, if used, the filter pack must be of a nonreactive coarse sand or gravel.

(D) The upper one (1) to two (2) feet of the filter pack must be of fine, inert sand to prevent infiltration of seal materials.

(E) The filter pack must be emplaced without bridging, preferably by tremie pipe, or other methods as approved by the commissioner **to ensure the integrity of the filter pack.**

(2) A bentonite seal of at least three (3) feet must be emplaced by tremie pipe in the annular space directly above the filter pack.

(3) The annular space from the bentonite seal to one (1) foot below the frost line must be tremied with a grout of bentonite, cement/bentonite, or other shrinkage-compensated, low permeability fill and shall include the following:

(A) All bentonite and cements must be mixed to the manufacturer's specifications.

(B) Full hydration, curing, or setting of the bentonite seal must occur prior to further backfilling as required by this subdivision.

(4) A surface seal of neat cement or concrete must be installed in the remaining borehole annular space above the intermediate fill, including the following:

(A) The apron of the surface seal must be designed to prevent ponding and infiltration by extending at least two and five-tenths (2.5) feet from the **ground water monitoring** well casing.

(B) The apron must slope at least fifteen (15) degrees outward.

(C) A locking protective metal casing must be installed around the **ground water monitoring** well casing and be anchored below the frost line in the surface seal.

(D) A vent hole or vented cap must be placed at the top of the **ground water monitoring** well **or piezometer** casing to allow accurate piezometric variation and to prevent gas build-up.

(E) The annular space between the **ground water monitoring** well casing and the protective metal casing must be neat cement filled to a level at least one (1) inch higher than that of the surrounding apron.

(F) A drainage hole must be drilled in the protective metal casing immediately above the cement fill specified in clause (E).

(G) The remaining annular space between the **ground water monitoring** well casing and the protective metal casing must be filled with a fine gravel.

(H) A weather resistant lock must be dedicated to the ~~unit~~ **ground water monitoring well** and must be serviced twice a year and when the **ground water monitoring** well is sampled.

(I) A permanent unique identification must be affixed to each ground water monitoring well and the identification must be visible.

(J) Three (3) foot bumper guards or other suitable protection may be required by the commissioner to prevent vehicular traffic from damaging the protective metal casing.

(f) The permittee shall provide ten (10) days' advance notification of the date and time of the installation of the monitoring wells **or piezometers.**

(g) Development of ground water monitoring wells must occur as soon as possible after the seal and grout have set and must conform with the following:

(1) All **ground water** monitoring wells must be developed in such a way as to:

(A) allow free entry of formation water;

(B) minimize turbidity of the sample; and

(C) minimize clogging of the **monitoring** wells.

(2) Development methods chosen must be appropriate for the stratigraphic conditions.

(3) An in situ hydraulic conductivity test must be performed after the **ground water monitoring** well has been properly developed.

(h) Diagrammatical borehole drilling logs for all ground water monitoring wells **and piezometers** must be of similar scale and include the following information:

(1) The monitoring well **or piezometer** and borehole identification.

(2) The date of drilling.

(3) The method of drilling.

(4) The borehole diameter.

(5) The method of obtaining consolidated material and unconsolidated material.

(6) The type of any drill fluids, fluid additives, or lubricants other than water that have been used.

(7) Penetration measurements, such as hammer blow counts, penetrometer measurements, or other acceptable penetration measurements.

(8) The sample recovery measured to the nearest one-tenth (0.1) foot.

(9) Consolidated material and unconsolidated material field descriptions, including the following information:

(A) Lithology and sedimentology.

(B) Mineralogy.

(C) Degree of cementation.

(D) Degree of moisture.

(E) Color as referenced from soil color charts such as the Munsell soil charts.

(F) Grain size and textural classification of unconsolidated samples as referenced from the United States Department of Agriculture **(USDA)** textural classification charts. Grain-size divisions shall be based on a modified form of the Wentworth grain-size scale defined under 329 IAC 10-2-206.3. A determination shall be made of the percentage and grades of coarse fragments greater than two (2) millimeters in size based on 329 IAC 10-2-206.3 in addition to the USDA textural classification. Consolidated samples must be described using accepted geological classification systems and nomenclature. A clear description of the classification system used must be included with the logs.

(G) Any other physical characteristics of the consolidated material and unconsolidated material such as scent, staining, fracturing, and solution features.

(H) The percent recovery and rock quality designation.

(I) Other primary or secondary features.

(J) Drilling observations and appropriate details required for unconsolidated drilling logs.

(K) A clear photograph of all consolidated cores, labeled with:

(i) the date the photograph was taken;

(ii) the sample interval;

(iii) the reference scale;

(iv) the reference color scale; and

(v) the identification of the borehole.

(L) Interval of continuous samples and unconsolidated material test data.

(10) Distance to and depth of any water bearing zones, measured to the nearest one-hundredth (0.01) foot.

(11) Static water elevations measured to the nearest one-hundredth (0.01) foot and indicating the dates and times the measurements were taken.

(12) The elevation of permanent **monitoring** wells **or piezometers** at the ground surface to the nearest one-tenth (0.1) foot, with the referenced measuring mark measured to the nearest one-hundredth (0.01) foot relative to the National Geodetic Vertical Datum.

(13) The horizontal location of permanent **monitoring** wells **or piezometers** measured to the nearest thirty (30) cm using Universal Transverse Mercator (UTM) coordinates.

(14) Total borehole depth and elevation measured to the nearest one-hundredth (0.01) foot.

(15) Elevation range of screened interval measured to the nearest one-hundredth (0.01) foot.

(i) ~~Diagrammatical~~ **The** construction **details** and ~~design logs~~ **diagrams** of all pertinent ground water monitoring wells must **be recorded on logs and** include the following information:

(1) The monitoring well identification and UTM coordinates as described under subsection (h)(13).

(2) The composition of **monitoring** well and protective casing materials.

(3) The type of joints and couplings between **monitoring** well casing segments.
(4) The elevations of the ground ~~water~~ surface to the nearest one-tenth (0.1) foot and of the referenced measuring mark at the top of the **monitoring** well casing measured to the nearest one-hundredth (0.01) foot relative to the National Geodetic Vertical Datum.
(5) The diameter of **monitoring** well casing and borehole.
(6) The elevation of the bottom of the borehole and the depth of the borehole measured to the nearest one-hundredth (0.01) foot.
(7) The screen slot size.
(8) The elevation range of the screened interval measured to the nearest one-hundredth (0.01) foot.
(9) The screen length measured to the nearest one-hundredth (0.01) foot.
(10) Methods of installation of the annular fill.
(11) The elevation range and the depth of the filter pack measured to the nearest one-hundredth (0.01) foot.
(12) The length of the filter pack.
(13) The grain size and composition of all filter pack materials and the fifty percent (50%) retained size of the formation material used to determine filter pack materials.
(14) The elevation and depth range of the bentonite seal above the filter pack measured to the nearest one-hundredth (0.01) foot.
(15) The thickness of the bentonite seal above the filter pack.
(16) The composition of annular fill.
(17) The elevation range, depth range, and thickness of annular fill measured to the nearest one-hundredth (0.01) foot.
(18) The composition and design of the surface seal.
(19) The design and composition of materials used for the protection of the **monitoring** well casing.

(j) The construction details and diagrams of each piezometer must be recorded on the logs and include the following:
(1) Piezometer identification number and UTM coordinates.
(2) Elevation of the top of the piezometer casing.
(3) Height of piezometer casing above the ground.
(4) Elevation of the ground surface.
(5) Elevation and depth to the bottom of the borehole.
(6) Diameter of piezometer casing and borehole.
(7) Elevation and depth to the bottom and top of the piezometer screen.
(8) Length of piezometer casing.
(9) Composition of piezometer casing materials and piezometer screen material.
(10) Length of piezometer screen.
(11) Screen slot size.
(12) Type of joints or couplings, or both, between casing segments.
(13) Elevation and depth to the top and bottom of the gravel filter pack surrounding the piezometer screen.
(14) Length of the gravel filter pack.
(15) Elevation and depth of the bottom of the piezometer casing.
(16) Elevation and depth of the top and bottom of the seal above the gravel filter pack.
(17) The grain size and composition of all filter pack materials and the fifty percent (50%) retained size of the formation material used to determine filter pack materials.
(18) Thickness of the seal above the gravel filter pack.
(19) Elevation and depth of the annular seal above the gravel filter pack seal.
(20) Thickness of the annular seal.
(21) Material used for the annular seal.
(22) Method of installation of the annular seal.
(23) The composition and design of the surface seal.

(Solid Waste Management Board; 329 IAC 10-21-4; filed Mar 14, 1996, 5:00 p.m.: 19 IR 1864; errata filed Apr 4, 1996, 4:00 p.m.: 19 IR 2046; filed Mar 19, 1998, 11:07 a.m.: 21 IR 2799; filed Aug 2, 1999, 11:50 a.m.: 22 IR 3845)

SECTION 76. 329 IAC 10-21-6 IS AMENDED TO READ AS FOLLOWS:

329 IAC 10-21-6 Statistical evaluation requirements and procedures

Authority: IC 13-14-8-7; IC 13-15; IC 13-19-3
Affected: IC 13-20; IC 36-9-30

Sec. 6. (a) The owner, operator, or permittee shall determine if there is a statistically significant increase for each constituent analyzed, except for constituents listed in section 15(b) of this rule (Table 1B). This statistical evaluation is required each time ground water is collected and analyzed at the monitoring boundary for all MSWLFs.

(b) To determine a statistically significant increase compared to the background ground water quality, each constituent from each ground water monitoring well sample must be compared to the background ground water quality of that constituent, according to the statistical procedures and performance standards specified in this section.

(c) The owner, operator, or permittee shall submit to the commissioner for approval a written statistical evaluation plan for each ground water monitoring program required under this rule. Submittal of the plan must comply with the following:
(1) For all new MSWLFs and lateral expansions to be permitted under this article, the plan must be submitted before the first sampling event occurs following permit issuance or as otherwise specified by the commissioner.
(2) For existing MSWLFs, the plan must be submitted with the next renewal application, at the time of closure, or as specified by the commissioner, whichever occurs first, unless a statistical evaluation plan that includes all applicable requirements under this section has been previously submitted.
(3) The plan must explain which of the various statistical

methods, described in subsection (f), may be needed to address a continuously expanding ground water data base. All statistical methods must meet the performance standards outlined in subsection (g).

(4) The plan must identify the statistical procedures to be used whenever verification resampling, as specified under section 8 of this rule, is implemented.

(5) The plan must identify any computer data management or statistical evaluation program used by the owner, operator, or permittee and, upon request by the commissioner, include appropriate documentation of the computer program.

(d) Changes to the statistical evaluation plan must not be implemented without approval from the commissioner.

(e) The owner, operator, or permittee shall submit a statistical evaluation report of the ground water sample analysis to the commissioner. The report must be submitted within sixty (60) days after obtaining ground water samples from the ground water monitoring wells, unless a verification resampling program described under section 8 of this rule, is implemented. The statistical evaluation report must include the following:

(1) All input data, output data, and equations used for all calculations and statistical tests utilized.

(2) A detailed discussion of the conclusions from the statistical evaluation. This discussion must include the identification of all constituents found to have a statistically significant increase.

(3) A graphical representation of the MSWLF's ground water data when requested by the commissioner. The commissioner shall provide guidance in preparing graphics.

(f) Any of the following statistical procedures may be chosen for the statistical evaluation, provided the chosen statistical procedure is capable of meeting the performance standards in subsection (g):

(1) A parametric analysis of variance (ANOVA) followed by multiple comparison procedures to identify a statistically significant increase. The method must include estimation and testing of the contrasts between each downgradient ground water monitoring well's mean and the background mean levels for each constituent.

(2) An analysis of variance (ANOVA) based on ranks followed by multiple comparisons procedures to identify statistically significant evidence of contamination. The method must include estimation and testing of the contrasts between each downgradient ground water monitoring well's median and the background ground water quality median levels for each constituent.

(3) A tolerance or prediction interval in which an interval for each constituent is established from the distribution of the background ground water quality data, and the level of each constituent in each downgradient ground water monitoring well for the most recent sampling event is compared to the upper tolerance limit or upper prediction limit.

(4) A control chart, which establishes control limits for each constituent.

(5) A temporal or spatial trend analysis.

(6) Another valid statistical test method that meets the performance standards of subsection (g).

(g) The statistical procedures and methods used must comply with the following performance standards:

(1) The statistical procedure used to evaluate ground water monitoring data must be appropriate for the data distribution of each constituent. If the data distribution of a constituent is shown to be inappropriate for a normal theory test, then either the data must be transformed or a distribution-free statistical test must be used. If data distributions for the constituents differ, more than one (1) statistical method may be needed.

(2) If ground water data from an individual **ground water** monitoring well is compared either to background ground water quality, which may include pooled ~~upgradient ground water~~ **background** monitoring well data from more than one (1) well, or to a ground water protection standard, then the test must be done at a Type I error level that is no less than one-hundredth (0.01) for each testing period. If a multiple comparisons procedure is used, the Type I experiment wise error rate for each testing period must be no less than five-hundredths (0.05); however, the Type I error rate of no less than one-hundredth (0.01) for individual **monitoring** well comparisons must be maintained. This performance standard does not apply to:

(A) tolerance intervals;

(B) prediction intervals; and

(C) control charts.

(3) The validity of the statistical test used must be evaluated prior to applying the method to the ground water data. This evaluation must address:

(A) the error potential for false positives and false negatives; and

(B) any other evaluation deemed necessary by the commissioner.

(4) If a control chart is used to evaluate ground water monitoring data, the specific type of control chart and associated statistical parameter values must be protective of human health ~~and~~ **or** the environment. These values must be determined after considering:

(A) the number of background samples;

(B) the background data distribution; and

(C) the range of background concentrations for each constituent analyzed.

(5) If a tolerance interval or a prediction interval is used to evaluate ground water monitoring data, the levels of confidence and, for tolerance intervals, the percentage of the population that the interval must contain, must be protective of human health ~~and~~ **or** the environment. These statistical parameters must be determined after considering:

(A) the number of background samples;

(B) the background data distribution; and

(C) the range of background concentrations for each constituent analyzed.

(6) The statistical method must account for data below the limit of detection with one (1) or more statistical procedures. Any practical quantitation limit that is used in a statistical procedure must:

(A) be the lowest concentration limit that can be repeatedly and reliably achieved; and

(B) be within specified limits of precision and accuracy during routine laboratory operating conditions.

(7) If necessary, the statistical method must include procedures to control or correct for seasonal and spatial variability.

(Solid Waste Management Board; 329 IAC 10-21-6; filed Mar 14, 1996, 5:00 p.m.: 19 IR 1866; filed Mar 19, 1998, 11:07 a.m.: 21 IR 2802; filed Aug 2, 1999, 11:50 a.m.: 22 IR 3848)

SECTION 77. 329 IAC 10-21-7 IS AMENDED TO READ AS FOLLOWS:

329 IAC 10-21-7 Detection ground water monitoring program

Authority: IC 13-14-8-7; IC 13-15; IC 13-19-3
Affected: IC 13-20; IC 36-9-30

Sec. 7. (a) A detection ground water monitoring program that satisfies the following requirements is required for all MSWLFs:

(1) Within the six (6) months following the scheduled date of compliance that is specified in section 1(a) of this rule, a minimum of four (4) independent background samples from each approved ground water monitoring well must be collected and analyzed for the constituents listed in section 15(a) of this rule (Table 1A). If a background data base, comprising data from every monitoring well approved by the commissioner and every constituent listed in section 15(a) of this rule (Table 1A), has been previously established, then additional independent samples are not required for the purpose of establishing background.

(2) Any **ground water monitoring** well installed after the scheduled date of compliance specified in section 1(a) of this rule and designated for detection monitoring must have minimum number of independent samples collected and analyzed for the constituents listed in section 15(a) of this rule (Table 1A). The minimum number of independent samples must satisfy the chosen statistical procedures and performance standards under section 6 of this rule.

(3) Subsequent sampling events during the active life, closure, and post-closure periods of the MSWLF must include the collection and analysis of at least one (1) independent sample from each approved **ground water** monitoring well. These samples must be analyzed for all constituents in section 15 of this rule (Table 1A and Table 1B). The detection monitoring frequency must be at least semiannual during the active life, closure, and post-closure periods.

(4) The commissioner may specify an alternative frequency for detection monitoring that must comply with the following:

(A) The alternative frequency must be no less than annual.

(B) The alternative frequency must be based on consideration of the following factors:

(i) Sedimentology of the aquifer and unsaturated zone.

(ii) Hydraulic conductivity of the aquifer and unsaturated zone.

(iii) Ground water flow rates.

(iv) Minimum distance between the upgradient permitted solid waste boundary and the downgradient ground water monitoring well screen.

(v) Resource value of the aquifer.

(vi) The fate and mode of transport of any constituents detected in response to detection monitoring.

(vii) Constituent concentrations recorded at the date of alternative frequency selection.

(5) The owner, operator, or permittee must determine, based on the results of sample collection and analysis performed in accordance with this subsection, whether any statistically significant increase in concentration has occurred for any constituent listed in section 15(a) of this rule (Table 1A). In order to make this determination, the owner, operator, or permittee must compare the samples to:

(A) background ground water quality;

(B) a ground water protection standard that has been established from a previous assessment ground water monitoring program conducted under section 10 of this rule; or

(C) a ground water protection standard that was established under 329 IAC 2-16-10, which was repealed in 1996.

(b) If a ~~statistically significant increase~~ **preliminary exceedance** in a constituent concentration has been determined, through ground water detection monitoring performed in accordance with subsection (a), the owner, operator, or permittee must accomplish the following:

(1) Notify the commissioner within fourteen (14) days of the determination. The notification must include the following:

(A) Those constituents listed in section 15(a) of this rule (Table 1A) for which a ~~statistically significant increase~~ **preliminary exceedance** in concentration has been observed and the last recorded concentration for each of those constituents.

(B) The identification of each ground water monitoring well where a ~~statistically significant increase~~ **preliminary exceedance** was observed.

(C) Whether verification procedures and sampling as described under section 8 of this rule will be pursued.

(2) Establish, within ninety (90) days of determination of a statistically significant increase, an assessment ground water monitoring program that meets the requirements of section 10 of this rule unless the owner, operator, or permittee chooses:

(A) to institute a verification program, pursuant to section 8 of this rule; or

(B) to demonstrate, pursuant to section 9 of this rule.

(c) A corrective action program may be required during a

detection monitoring program if a ~~verified statistically significant increase~~ **preliminary exceedance** is **verified and is** attributable to the MSWLF and is an increase over either of the following:

(1) A ground water protection standard that has been established from a previous assessment ground water monitoring program conducted under section 10 of this rule.

(2) A ground water protection standard that was established under 329 IAC 2-16-10, which was repealed in 1996, for any constituent listed in section 15(a) of this rule (Table 1A).

(d) If, pursuant to subsection (c), the commissioner determines that a corrective action program is necessary, the owner, operator, or permittee must notify all pertinent local government officials of this determination.

(e) If the field pH for any ground water sample obtained at the monitoring boundary is determined to be above ten (10) or below five (5) standard pH units, the owner, operator, or permittee shall:

(1) within fourteen (14) days of the determination, notify the commissioner, in writing, of the identity of the **ground water monitoring** well or wells whose samples indicated an anomalous pH level, and of the corresponding pH values of those samples; and

(2) within sixty (60) days of the determination, submit a written report explaining the anomalous pH values to the commissioner. After reviewing the report, the commissioner may determine that an assessment ground water monitoring program, described under section 10 of this rule, is necessary.

(f) During detection monitoring, if arsenic (dissolved) is determined to exceed the MCL for arsenic for any ground water sample obtained at the monitoring boundary, the owner, operator, or permittee shall do the following:

(1) Within fourteen (14) days of the determination, notify the commissioner, in writing, of the identity of the ground water monitoring well or wells whose samples indicated concentration greater than the MCL.

(2) Within sixty (60) days of the determination, submit a written report to the commissioner explaining the high arsenic values. After reviewing the report, the commissioner may determine that an assessment ground water monitoring program or a corrective action program, described under section 10 or 13 of this rule, respectively, is necessary.

(Solid Waste Management Board; 329 IAC 10-21-7; filed Mar 14, 1996, 5:00 p.m.: 19 IR 1868; errata filed Apr 4, 1996, 4:00 p.m.: 19 IR 2046; filed Mar 19, 1998, 11:07 a.m.: 21 IR 2803; filed Aug 2, 1999, 11:50 a.m.: 22 IR 3849)

SECTION 78. 329 IAC 10-21-8 IS AMENDED TO READ AS FOLLOWS:

329 IAC 10-21-8 Verification of a statistically significant increase in constituent concentration

Authority: IC 13-14-8-7; IC 13-15; IC 13-19-3
Affected: IC 13-20; IC 36-9-30

Sec. 8. (a) The owner, operator, or permittee shall develop a verification resampling and analysis plan that will provide verification that a ~~statistically significant increase~~ **preliminary exceedance** has occurred in the concentration of one or more constituents during detection or assessment monitoring programs. This plan must:

(1) use the statistical procedures and performance standards described in section 6 of this rule to determine:

(A) the number of resamples that must be collected for verification of a ~~statistically significant increase~~ **preliminary exceedance** in constituent concentration; and

(B) the number of resamples that must fail in order to verify the ~~statistically significant increase;~~ **preliminary exceedance;**

(2) identify the MSWLF-wide false positive rate and the per-comparison false positive rate;

(3) demonstrate that there is an acceptable balance between the false positive rate and the false negative rate;

(4) be approved by the commissioner prior to implementation; and

(5) after approval by the commissioner, be incorporated into the statistical evaluation plan.

(b) Until the owner, operator, or permittee obtains approval for a proposed verification resampling and analysis plan, a minimum of two (2) independent samples must be collected when verification of a statistically significant increase is attempted.

(c) Until the owner, operator, or permittee obtains approval for a verification resampling plan, the commissioner shall consider ~~an observed statistically significant increase~~ **a preliminary exceedance** to be verified if:

(1) any of the verification resamples confirm a statistically significant increase over background ground water quality; or

(2) the owner, operator, or permittee chooses not to institute a verification resampling program.

(d) Within fourteen (14) days following the verification resampling determination, the owner, operator, or permittee shall notify the commissioner, in verbal or written format, of the following:

(1) The results of the verification resampling and analysis program.

(2) An intention, on the part of the owner, operator, or permittee to submit a demonstration pursuant to section 9 of this rule.

(e) The detection ground water monitoring program or the

assessment ground water monitoring program shall continue throughout the verification resampling program. Progression to an assessment or corrective action ground water monitoring program shall be based on the verification resampling results, regardless of subsequent detection monitoring results if the verification resampling program extends into the next scheduled sampling event.

(f) Following the completion of a verification resampling program, a report must be submitted to the commissioner no later than sixty (60) days following the last verification resampling event or thirty (30) days prior to the next scheduled semiannual sampling event, whichever occurs first. This report must be written and include the following:

(1) All information required under section 1(t) of this rule.

(2) The date the commissioner was notified as required in subsection (d).

(3) Whether the ground water monitoring program will:

(A) remain in detection monitoring or assessment monitoring;

(B) initiate an assessment monitoring program; or

(C) initiate a corrective action program.

(4) Whether the owner, operator, or permittee intends to make a demonstration pursuant to section 9 of this rule.

(5) Results of the verification resampling, including information required by section 1(t)(3) through 1(t)(5) of this rule.

(g) If the verification sampling program determines that a statistically significant increase did occur, the owner, operator, or permittee:

(1) must initiate an assessment ground water monitoring program that meets the requirements of section 10 of this rule or a corrective action program that meets the requirements of section 13 of this rule, whichever program is applicable; or

(2) may choose to make a demonstration pursuant to section 9 of this rule, while maintaining a detection monitoring program.

(h) The commissioner may approve an extension of the submittal deadlines required by subsection (f) if the owner, operator, or permittee:

(1) requests an extension; and

(2) provides an **adequate** explanation for the need of an extension.

(Solid Waste Management Board; 329 IAC 10-21-8; filed Mar 14, 1996, 5:00 p.m.: 19 IR 1869; filed Mar 19, 1998, 11:07 a.m.: 21 IR 2805; filed Aug 2, 1999, 11:50 a.m.: 22 IR 3850)

SECTION 79. 329 IAC 10-21-9 IS AMENDED TO READ AS FOLLOWS:

329 IAC 10-21-9 Demonstration that a statistically significant increase or contamination is not attributable to a municipal solid waste land disposal facility unit

Authority: IC 13-14-8-7; IC 13-15; IC 13-19-3
Affected: IC 13-20; IC 36-9-30

Sec. 9. (a) If a **verified** statistically significant increase in a constituent concentration has been determined, the owner, operator, or permittee may demonstrate that the **verified** statistically significant increase was caused by:

(1) a source other than the MSWLF unit;

(2) an error in sampling technique, laboratory analysis, or statistical evaluation; or

(3) natural variation in ground water quality.

(b) If the owner, operator, or permittee intends to make a demonstration under this section, the owner, operator, or permittee shall submit, within fourteen (14) days of verifying a statistically significant increase, a plan that describes:

(1) the general approach that will demonstrate that the MSWLF unit did not cause the verified statistical increase; and

(2) a schedule to complete the demonstration. Based on previous ground water data and the thoroughness of the plan submitted under subdivision (1), the commissioner may modify the proposed schedule.

(c) If a demonstration is approved by the commissioner, the owner, operator, or permittee may continue detection ground water monitoring or assessment ground water monitoring, whichever is applicable.

(d) If ~~the owner, operator, or permittee is unable to submit a successful~~ **a** demonstration **is not approved based on items listed in subsection (a), or the demonstration is not submitted** within the time frame specified in subsection (b)(2), **then** the owner, operator, or permittee shall initiate either an assessment ground water monitoring program or a corrective action program, whichever program is applicable. **The owner, operator, or permittee may continue the demonstration process while implementing an assessment ground water monitoring program or a corrective action program, whichever is applicable. If, subsequently, the extended demonstration process proves that the MSWLF unit is not the source of the verified statistically significant increase, the MSWLF unit may return to detection monitoring or assessment monitoring provided there have been no other verified statistically significant increases.**

~~(c) If a successful demonstration is not submitted within the time frame identified in subsection (b)(2), the owner, operator, or permittee may extend the demonstration process while implementing an assessment ground water monitoring program or a corrective action program, whichever is applicable. If, subsequently, the extended demonstration process proves successful, the MSWLF unit may return to detection monitoring or assessment monitoring, pursuant to section 7 of this rule, provided there have been no other verified statistically significant increases.~~

~~(f)~~ **(e)** The detection monitoring program or the assessment monitoring program, whichever is applicable, must be continued

throughout the demonstration period identified in subsection (b)(2).

~~(g)~~ **(f)** The commissioner shall consider that a statistically significant increase is attributable to the MSWLF unit if the owner, operator, or permittee chooses not to demonstrate pursuant to this section. *(Solid Waste Management Board; 329 IAC 10-21-9; filed Mar 14, 1996, 5:00 p.m.: 19 IR 1870; filed Mar 19, 1998, 11:07 a.m.: 21 IR 2805; filed Aug 2, 1999, 11:50 a.m.: 22 IR 3851)*

SECTION 80. 329 IAC 10-21-10 IS AMENDED TO READ AS FOLLOWS:

329 IAC 10-21-10 Assessment ground water monitoring program

Authority: IC 13-14-8-7; IC 13-15; IC 13-19-3
Affected: IC 13-20; IC 36-9-30

Sec. 10. (a) Establishment of an assessment ground water monitoring program is required upon any of the following circumstances:

(1) When the owner, operator, or permittee has verified that a statistically significant increase over background levels has occurred for any constituent listed in section 15(a) of this rule (Table 1A) at any ground water monitoring well at the monitoring boundary of the MSWLF unit, and a demonstration pursuant to section 9 of this rule has not been approved by the commissioner.

(2) When the owner, operator, or permittee is engaged in a corrective action program specified under section 13 of this rule.

(3) When the owner, operator or permittee of an existing MSWLF is conducting, as of the effective date of this article, a Phase II ground water monitoring program as specified under 329 IAC 2-16, which was repealed in 1996.

(b) The owner, operator, or permittee shall conduct an assessment ground water monitoring program in accordance with the following requirements:

(1) Within ninety (90) days after determining that the owner, operator, or permittee of an MSWLF must conduct assessment ground water monitoring, all **ground water monitoring** wells containing constituents with statistically significant elevated concentrations, and all ~~their adjacent~~ **ground water monitoring** wells **within six hundred (600) feet of the well with the statistically significant elevated concentrations and monitoring the same hydrogeologic unit of the well with the elevated concentrations** must be sampled and analyzed for all constituents listed in section 16 of this rule (Table 2). If deemed necessary, the commissioner may require samples to be collected and analyzed from additional **monitoring** wells.

(2) Within fourteen (14) days after receiving certified laboratory results from the final sampling conducted under subdivision (1), the owner, operator, or permittee shall submit to the commissioner written notification of the following information for any constituent listed in section 16 of this rule (Table 2) that is detected:

(A) The identity and recorded concentration of the constituent.

(B) The identity of each ground water monitoring well where the constituent was detected.

(3) A copy of the notification required under subdivision (2) and a copy of the certified laboratory results must be placed in the operating record within thirty (30) days of receiving the original certified laboratory results.

(4) The owner, operator, or permittee shall collect and analyze a minimum of four (4) independent samples from each ground water monitoring well identified in subdivision (2) in order to establish background ground water quality. Certified laboratory analyses of the independent ground water samples must be submitted to the commissioner no later than thirty (30) days prior to the next scheduled semiannual sampling event.

(5) The owner, operator, or permittee shall establish a ground water protection standard as described in section 11 of this rule for any constituent that has been detected in ground water samples collected under subdivision (1).

(6) The owner, operator, or permittee shall, during subsequent sampling events, collect at least one (1) independent sample from each **ground water monitoring** well designated to be in an assessment monitoring program as identified in subdivision (2)(B). Each independent sample must be analyzed for all constituents detected and identified in subdivision (2)(A).

(c) For sampling events during assessment ground water monitoring, the commissioner may do the following:

(1) Specify an appropriate subset of ground water monitoring wells to sample and analyze for constituents in section 16 of this rule (Table 2).

(2) Specify a constituent or constituents from section 16 of this rule (Table 2) that may be deleted from the constituent monitoring list upon demonstration by the owner, operator, or permittee that the constituent to be deleted is:

(A) not reasonably expected to be in the solid waste;

(B) not derived from the solid waste;

(C) naturally occurring in the soil that underlies the site and would be soluble in ground water at the detected levels, even in the absence of the MSWLF unit; ~~or~~ **and**

(D) not a constituent of concern based on historical ground water quality.

(3) Specify a constituent or constituents that may be added to the ~~constituent~~ **assessment** monitoring **constituent** list, based on historical, ground water quality, **analysis of leachate derived from the MSWLF,** or wastes placed in the MSWLF unit.

(4) Specify an alternate frequency for repeated sampling and analysis of the ground water for the full set of constituents in section 16 of this rule (Table 2). The sampling frequency for constituents in section 15 (Table 1A and Table 1B) may be

altered, provided it is at least an annual frequency. The alternate frequency must continue throughout the active life, closure, and post-closure care periods of the MSWLF. The alternate frequency must be based on consideration of the following factors:

(A) Sedimentology of the aquifer and unsaturated zone.

(B) Hydraulic conductivity of the aquifer and unsaturated zone.

(C) Ground water flow rates.

(D) Minimum distance between upgradient solid waste boundary of the MSWLF unit and downgradient monitoring well screen.

(E) Resource value of the aquifer.

(F) The fate of any constituents detected.

(G) The mode of transport of any detected constituents.

(H) Ground water quality data.

(I) Other information as required by the commissioner for the demonstration.

(d) After establishing background ground water quality described in subsection (b)(4), subsequent semiannual sampling events must include the following:

(1) At least one (1) independent sample from all the ground water monitoring wells that are included in both detection and assessment ground water monitoring programs and any other **monitoring** wells specified by the commissioner.

(2) Analysis for all constituents included in both detection and assessment ground water monitoring programs.

(3) Determination if there is a verified statistically significant increase for all constituents identified in subdivision (2). The determination shall be in accordance with section 6 of this rule and subsection (f).

~~(3)~~ **(4)** Submittal of the information required in section 1(t) of this rule.

(e) Starting from the date that an assessment ground water monitoring program is required, ground water samples must be collected and analyzed for all constituents in section 16 of this rule (Table 2) on an annual basis, or at an alternate frequency specified by the commissioner. Samples for assessment monitoring must be collected from each **ground water monitoring** well identified in subsection (b)(2)(B). For these sampling events, the owner, operator, or permittee shall:

(1) for this sampling event, submit written notification as described in subsection (b)(2);

(2) establish background ground water quality as described in subsection (b)(4) for any constituent that has been detected in ground water samples collected during this sampling event;

(3) establish a ground water protection standard as described in section 11 of this rule for any constituent that has been detected in ground water samples collected during the sampling event;

(4) for subsequent sampling events following the sampling event required under this section, include sampling for all constituents listed in subdivision (1); and

(5) include the sampling event in the assessment monitoring sample event schedule.

(f) During assessment ground water monitoring, the owner, operator, or permittee shall proceed according to the following:

(1) If the concentration of ~~any~~ **a** constituent listed in section 16 of this rule (Table 2) is determined to be less than or equal to background ground water quality, for two (2) consecutive semiannual sampling events, then the owner, operator, or permittee may request from the commissioner permission to **remove the constituent from the assessment monitoring list. When the concentrations of all constituents listed in section 16 of this rule (Table 2) is determined to be less than or equal to background ground water quality, for two (2) consecutive semiannual sampling events, then the owner, operator, or permittee may request from the commissioner permission to** return to **a** detection monitoring **program.**

(2) If the concentration of any constituent listed in section 16 of this rule (Table 2) is determined to be a statistically significant increase over background ground water quality, but below the ground water protection standard established in section 11 of this rule, then assessment ground water monitoring must continue in accordance with this section.

(3) If a statistically significant increase above the ground water protection standard is determined for any constituent listed in section 16 of this rule (Table 2), the owner, operator, or permittee shall perform the following:

(A) Notify the commissioner within fourteen (14) days of this determination. The notification to the commissioner must include the following information:

(i) A list of all constituents in section 16 of this rule (Table 2) that have a statistically significant increase above the ground water protection standard established under section 11 of this rule.

(ii) The identification of each ground water monitoring well from which samples indicated a statistically significant increase.

(iii) Whether or not the owner, operator, or permittee intends to institute verification procedures and resampling as described under section 8 of this rule.

(B) In the event that a corrective action program is to be implemented, notify all pertinent local officials, including the county commissioner, and officials of the solid waste management district and the county health department.

(C) Within ninety (90) days of a determination under this subdivision, submit to the commissioner an initial proposal for a corrective action program that is designed to meet the requirements of section 13(b) of this rule unless the owner, operator, or permittee chooses to:

(i) institute a verification resampling program described in section 8 of this rule; or

(ii) submit a demonstration pursuant to section 9 of this rule.

(D) Remain in an assessment ground water monitoring program, which the commissioner may modify.

(g) During assessment ground water monitoring, whenever

the concentration of a secondary constituent identified in section 11(c) of this rule is found to exceed levels that are twice the ground water protection standard, as established in section 11 of this rule, the owner, operator, or permittee shall perform the following:

(1) Notify the commissioner within fourteen (14) days of the finding. This notification must include the following information:

(A) The identity and most recent concentration of any secondary constituent found to have the excessive levels.

(B) The identification of each ground water monitoring well found to have excessive levels of a secondary constituent.

(C) Whether verification resampling, as described under section 8 of this rule, will be initiated.

(2) Submit, if so directed by the commissioner, a proposal for a corrective action program. The proposal must be submitted within ninety (90) days after receiving notification from the commissioner that the proposal is required and must be in accordance with the requirements of section 13(b) of this rule, provided the owner, operator, or permittee:

(A) does not institute a verification resampling program pursuant to section 8 of this rule; and

(B) does not choose to submit a demonstration pursuant to section 9 of this rule.

(3) Remain in an assessment ground water monitoring program, which the commissioner may modify.

(h) If it is determined that the MSWLF is the cause of concentrations exceeding the secondary maximum contaminant levels established for chloride, sulfate, and total dissolved solids at the property boundary of the MSWLF, then the owner, operator, or permittee may be required to establish a corrective action program under section 13 of this rule to ensure the elevated concentrations do not go beyond the property boundary. *(Solid Waste Management Board; 329 IAC 10-21-10; filed Mar 14, 1996, 5:00 p.m.: 19 IR 1870; errata filed Apr 4, 1996, 4:00 p.m.: 19 IR 2047; filed Mar 19, 1998, 11:07 a.m.: 21 IR 2806; errata filed Jun 10, 1998, 9:23 a.m.: 21 IR 3939; filed Aug 2, 1999, 11:50 a.m.: 22 IR 3852; errata filed Sep 8, 1999, 11:38 a.m.: 23 IR 27)*

SECTION 81. 329 IAC 10-21-13 IS AMENDED TO READ AS FOLLOWS:

329 IAC 10-21-13 Corrective action program

Authority: IC 13-14-8-7; IC 13-15; IC 13-19-3
Affected: IC 13-20; IC 36-9-30

Sec. 13. (a) The owner, operator, or permittee must submit a proposal for a plume and site characterization plan, as described in subsection (b), and initiate an assessment of various corrective measures, as described in subsection (d), within ninety (90) days of determining any of the following:

(1) A statistically significant increase above any ground water protection standard, as identified in section 11(a) or 11(b) of this rule, has occurred during an assessment ground water monitoring program for any constituent that is listed in section 16 of this rule (Table 2).

(2) At the request of the commissioner, and during assessment monitoring, a secondary constituent listed under section 11(c) of this rule has exceeded levels that are twice the ground water protection standard for that constituent.

(3) At the request of the commissioner, and during detection monitoring, a constituent listed in section 15(a) of this rule (Table 1A) has shown a concentration that is a statistically significant increase over a ground water protection standard established during a previous assessment monitoring program. Previous monitoring programs include those programs conducted under section 10 of this rule, or Phase II programs conducted under 329 IAC 2-16, which was repealed in 1996.

(b) The proposal for a plume and site characterization plan must include the following:

(1) Characterization of the chemical and physical nature of the contaminants, including vertical and horizontal extent of the release by:

(A) proposing location and installation procedures for additional assessment ground water monitoring wells, as necessary; and

(B) identification of all constituents to be analyzed during subsequent ground water sampling events.

(2) Characterization of the contaminated aquifer, limited to the area of the contamination plume. Aquifer characterization may include all of the items described in this subsection.

(3) Proposed location and installation procedures of at least one (1) additional ground water monitoring well at the facility boundary in the direction of contaminant migration.

(4) The process by which all persons who own or reside on land that directly overlies any part of the contaminated ground water plume will be notified.

(5) The process for sampling and analyzing ground water at any private or public intake, as specified by the commissioner, unless permission to sample cannot be obtained from the owner of the intake.

(6) The process by which drinking water will be supplied to all public and private ground water intakes affected by the contamination.

(7) Procedures that will be implemented to stop further migration of contaminants.

(c) Implementation of the plume and site characterization plan must include the following:

(1) Within thirty (30) days of receiving written approval of the initial corrective action proposal, the owner, operator, or permittee shall implement subsection (b)(1) through (b)(7).

(2) The owner, operator, or permittee shall submit a corrective action progress report, including any sampling and analysis results, on a semiannual basis, until the contamination has been determined to be cleaned up as defined in subsection (j).

(3) The ground water monitoring well identified in subsection

(b)(3) must be sampled in accordance with section 10(b) and 10(d) of this rule.

(4) If any additional constituent is detected in the **ground water** monitoring well identified in subsection (b)(3) and that constituent exceeds its ground water protection standard at a statistically significant concentration, then the owner, operator, or permittee shall include that constituent in the sampling of the ground water monitoring wells identified in subsection (b)(1).

(5) The owner, operator, or permittee shall gather sufficient information from the plume and site characterization plan to be presented at the public meeting required in section 12 of this rule and incorporated in the final decision on an corrective action remedy as described in subsection (e).

(d) The assessment of various corrective measures must be initiated within ninety (90) days of determining that a corrective action program is necessary. The owner, operator, or permittee shall complete the assessment of various corrective measures in a reasonable time, with the approval of the commissioner, and in accordance with the following:

(1) The assessment of various corrective measures must include an analysis of the effectiveness of potential corrective measures in meeting all of the remedy requirements and objectives as described in subsection (e).

(2) The analysis must include the following:

(A) The performance, reliability, ease of implementation, and potential impacts of appropriate potential remedies. This shall include safety impacts, cross-media impacts, and control of exposure to any residual contamination.

(B) The time required to begin and complete the remedy.

(C) Implementation costs of the proposed remedy.

(D) The institutional requirements, such as state or local permit requirements, or other environmental or public health requirements that may substantially affect remedy implementation.

(E) A discussion by the owner, operator, or permittee of the corrective measures assessment, prior to the selection of a remedy, in a public meeting as required in section 12 of this rule.

(3) The owner, operator, or permittee shall continue to monitor in accordance with the assessment ground water monitoring program as required in section 10 of this rule.

(e) The selection of the corrective action remedy must be based on the assessment of various corrective measures conducted under subsection (d), including the following:

(1) The owner, operator, or permittee shall:

(A) select a remedy that, at a minimum, meets the standards listed in subdivision (2); and

(B) submit to the commissioner, within sixty (60) days after the public meeting required in section 12 of this rule, a report describing the selected remedy and how the remedy meets the standards of subdivision (2).

(2) The owner, operator, or permittee shall select a remedy that:

(A) will be protective of human health ~~and~~ **or** the environment;

(B) will attain the ground water protection standard as required in section 11 of this rule;

(C) will reduce or eliminate, to the maximum extent practicable, further releases of those constituents in sections 15 and 16 of this rule (Table 1A, Table 1B, and Table 2), and in section 11(c) of this rule that may pose a threat to human health or the environment;

(D) will comply with standards for waste management as required in subsection (i); and

(E) is chosen after considering input from the public hearing required under section 12 of this rule.

(3) In selecting a remedy that meets the standards of subdivision (2), a report must be submitted that includes the following factors:

(A) The long and short term effectiveness and protection that is offered by the potential remedy, along with an assessment of the remedy's probable outcome, based on the following considerations:

(i) The magnitude of reduction in the existing risks.

(ii) The magnitude of residual risks in terms of likelihood of further releases, due to waste remaining after implementing a remedy.

(iii) The type and degree of long term management required, including monitoring, operation, and maintenance.

(iv) The short term risks that might be posed to the community, workers, or the environment during the implementation of such a remedy. Short term risk assessment shall include potential threats to human health ~~and~~ **or** the environment associated with excavation, transportation, redisposal, or containment of waste or contaminated materials.

(v) The estimated time until corrective measures are completed.

(vi) The potential for exposure of humans and environmental receptors to remaining waste, including the potential threat associated with excavation, transportation, redisposal, or containment of waste or contaminated materials.

(vii) The long term reliability of the engineering and institutional controls.

(viii) The potential need for additional or alternative remedies.

(B) The effectiveness of the remedy in controlling the source and in reducing further releases based on the following considerations:

(i) The extent to which containment practices will reduce further releases.

(ii) The extent to which treatment technologies may be used to reduce further releases.

(C) The ease or difficulty of implementing a potential remedy based on the following considerations:

(i) The technical difficulty of constructing the proposed remedy.

(ii) The expected operational reliability of the proposed remedial technologies.

(iii) The need to coordinate with and obtain necessary approvals and permits from other local or state agencies.

(iv) The availability of necessary equipment and specialists.

(v) The available capacity and location of needed treatment, storage, and disposal facilities.

(D) The capability of the owner, operator, or permittee to manage the technical and economic aspects of the corrective measures.

(E) The degree to which community concerns are addressed by a potential remedy.

(4) The selected remedy report, as described in subdivision (1)(B), must include a schedule for initiating and completing remedial activities. This schedule must be based on the following considerations:

(A) Vertical and horizontal extent, and physical or chemical characteristics of contamination.

(B) Direction of contaminant movement.

(C) Capacity of remedial technologies to achieve compliance with ground water protection standards, as established under section 11 of this rule, and any other remedial objectives.

(D) Availability of treatment or disposal capacity for waste volumes managed during implementation of remedial measures.

(E) Practical considerations of proposing to use currently unavailable technology that may offer significant advantages over readily available technology, in terms of effectiveness, reliability, safety, or ability to achieve remedial objectives.

(F) Potential risks to human health ~~and~~ **or** the environment from exposure to contamination prior to completing remedial measures.

(G) Resource value of the zone of saturation or aquifer, including the following:

(i) Current and future uses.

(ii) Proximity and withdrawal rate of users.

(iii) Ground water quantity and quality.

(iv) The potential damage to wildlife, crops, vegetation, and physical structures caused by exposure to waste constituents.

(v) The hydrogeologic characteristics of the MSWLF and surrounding land.

(vi) Ground water removal and treatment costs.

(vii) The cost and availability of alternative water supplies.

(H) Practical capability of the owner, operator, or permittee to achieve the remedy.

(I) Other relevant factors that may be determined by the commissioner.

(5) Selection of a remedy and implementation schedule must be submitted to the commissioner for review and approval.

(6) The commissioner may determine that remediation of a released constituent, listed in either section 16 of this rule (Table 2) or in section 11(c) of this rule, is not necessary if either of the following are demonstrated to the satisfaction of the commissioner:

(A) Remediation is technically impracticable.

(B) Remediation would result in unacceptable cross-media impacts.

(7) If the commissioner determines that an aquifer cannot be remediated, the owner, operator, or permittee shall contain the aquifer to prevent the migration of contaminants.

(8) A determination made by the commissioner under subdivision (6) will not affect the authority of the state to require source control measures or other necessary measures to:

(A) eliminate or minimize further releases to the ground water;

(B) prevent exposure to the ground water; or

(C) remediate ground water quality to technically achievable concentrations and significantly reduce threats to human health or the environment.

(f) Based on the schedule established under subsection (e)(4) and approved by the commissioner under subsection (e)(5), the owner, operator, or permittee shall do the following:

(1) Establish and implement a corrective action ground water monitoring program that:

(A) at a minimum, meets the requirements of an assessment monitoring program under section 10 of this rule;

(B) indicates the effectiveness of the corrective action remedy; and

(C) demonstrates compliance with the ground water protection standard under subsection (j).

(2) Implement the corrective action remedy selected under subsection (e).

(3) Take any interim measures necessary to ensure the protection of human health ~~and~~ **or** the environment. Interim measures must, to the greatest extent practicable, be consistent with remedial objectives and, if possible, contribute to the performance of remedial measures. The following factors must be considered in determining whether interim measures are necessary:

(A) Time required to develop and implement a final remedy.

(B) Actual and potential exposure of nearby populations or environmental receptors to regulated constituents.

(C) Actual and potential contamination of potentially useable water supplies or sensitive ecosystems.

(D) Further degradation of the ground water that may occur if remedial action is not initiated expeditiously.

(E) Weather conditions that may cause regulated constituents to migrate or be released.

(F) Potential for:

(i) fire or explosion; or

(ii) exposure to regulated constituents as a result of an accident, a container failure, or a handling system failure.

(G) Other situations that may pose threats to human health ~~and~~ **or** the environment.

(4) Submit a report to the commissioner detailing the progress and performance of the selected remedy. The report must be submitted on a semiannual basis or as determined by the commissioner.

(g) An owner, operator, or permittee or the commissioner may determine, based on information developed after implementation of the remedy has begun or on other information, that compliance under subsection (e)(2) is not being achieved through the remedy selected. In such cases, after approval by the commissioner, the owner, operator, or permittee shall implement other methods or techniques that could practicably achieve compliance with the requirements unless the owner, operator, or permittee makes a determination under subsection (h).

(h) If the owner, operator, or permittee determines that compliance with requirements under subsection (e)(2) cannot be technically achieved with any currently available methods, the owner, operator, or permittee shall:

(1) apply for a commissioner's certification that compliance with requirements under subsection (e)(2) cannot be achieved with any currently available methods;

(2) implement alternate measures to contain contamination, as necessary, to protect human health, the environment and water resources;

(3) implement alternate measures that are technically practicable and consistent with the overall remedial objective to:

(A) control contamination sources; and

(B) remove or decontaminate equipment, units, devices, or structure; and

(4) within fourteen (14) days of determining that compliance cannot be achieved under subsection (g), submit a report to the commissioner that justifies the alternative measures. The report must be approved by the commissioner prior to implementation of any alternative measures.

(i) During a corrective action program, all solid waste managed under a remedy that is required under subsection (e), or under an interim measure that is required under subsection (f)(3), must be managed in a manner that:

(1) is protective of human health ~~and~~ **or** the environment; and

(2) complies with the applicable requirements of the Resource Conservation and Recovery Act (RCRA), 42 U.S.C. §§ 6901 et seq., as amended by the Hazardous and Solid Waste Amendments of 1984.

(j) Remedies selected under subsection (e) are considered complete when the owner, operator, or permittee has demonstrated to the satisfaction of the commissioner the following:

(1) Ground water protection standards have been met at all points within the plume of contamination.

(2) For a period of three (3) consecutive years, using statistical procedures and performance standards outlined in section 6 of this rule, the following ground water protection standard, whichever is applicable, has not been exceeded:

(A) The ground water protection standards for the constituents listed in section 16 of this rule (Table 2).

(B) Levels that are twice the concentration of any secondary constituent identified in section 11(c) of this rule.

(3) All corrective actions required to complete the remedy have been satisfied.

(k) The commissioner may, after considering the factors indicated in subsection (l), specify an alternate period during which the following demonstration, whichever is applicable, must be made:

(1) The concentrations of the constituents listed in section 16 of this rule (Table 2) have not exceeded ground water protection standards.

(2) The concentrations of constituents listed in section 11(c) of this rule have not exceeded levels that are twice the ground water protection standard.

(l) The following factors will be considered by the commissioner in specifying an alternative time period:

(1) Vertical and horizontal extent and concentration of the release.

(2) Physical and chemical characteristics of the regulated constituents within the ground water.

(3) Accuracy of the ground water monitoring or modeling techniques, including any seasonal, meteorological, or other environmental variabilities that may affect the accuracy.

(4) Physical and chemical characteristics of the affected ground water.

(5) Physical and chemical characteristics of the affected or potentially affected aquifer system.

(m) Within fourteen (14) days after the completion of all remedial measures, a certification report, signed by the owner, operator, or permittee and a qualified ground water scientist, shall be submitted to the commissioner for written approval. The report must certify that the remedy has been completed in compliance with the requirements of subsection (j).

(n) Upon receipt of the commissioner's written approval of the certification report specified in subsection (m), the owner, operator, or permittee shall be released from the requirements for financial assurance for corrective action specified in 329 IAC 10-39-10.

(o) Corrective action programs that have been initiated under 329 IAC 1.5, which was repealed in 1989, or under 329 IAC 2, which was repealed in 1996, must continue as approved by the commissioner, and the commissioner may incorporate requirements **found** under this rule. *(Solid Waste Management Board; 329 IAC 10-21-13; filed Mar 14, 1996, 5:00 p.m.: 19 IR 1874; errata filed Apr 4, 1996, 4:00 p.m.: 19 IR 2047; filed Mar 19, 1998, 11:07 a.m.: 21 IR 2808; errata filed Jun 10, 1998, 9:23 a.m.: 21 IR 3939; filed Aug 2, 1999, 11:50 a.m.: 22 IR 3855; errata filed Sep 8, 1999, 11:38 a.m.: 23 IR 27)*

SECTION 82. 329 IAC 10-21-15 IS AMENDED TO READ AS FOLLOWS:

329 IAC 10-21-15 Constituents for detection monitoring

Authority: IC 13-14-8-7; IC 13-15; IC 13-19-3
Affected: IC 13-20; IC 36-9-30

Sec. 15. (a) The following constituents shall be measured during detection monitoring and be subject to statistical evaluation procedures under section 6 of this rule:

TABLE 1A
Constituents for Detection Monitoring Subject to Statistical Evaluation Procedures

Common Name[1]	CAS RN[2]
~~(1) Ammonia (as N)~~	
~~(2) Benzene~~	~~71-43-2~~
~~(3) Cadmium~~	~~(Dissolved)~~
~~(4) Carbon tetrachloride~~	~~56-23-5~~
~~(5) Chloride~~	
~~(6) Chlorobenzene~~	~~108-90-7~~
~~(7) Chloroethane; Ethyl chloride~~	~~75-00-3~~
~~(8) Chloroform; Trichloromethane~~	~~67-66-3~~
~~(9) Chromium~~	~~(Dissolved)~~
~~(10) Copper~~	~~(Dissolved)~~
~~(11) o-Dichlorobenzene; 1,2-Dichlorobenzene~~	~~95-50-1~~
~~(12) p-Dichlorobenzene; 1,4-Dichlorobenzene~~	~~106-46-7~~
~~(13) 1,1-Dichloroethane; Ethylidene chloride~~	~~75-34-3~~
~~(14) 1,2-Dichloroethane; Ethylene dichloride~~	~~107-06-2~~
~~(15) 1,1-Dichloroethylene; 1,1-Dichloroethene; Vinylidene chloride~~	~~75-35-4~~
~~(16) cis-1,2-Dichloroethylene; cis-1,2-Dichloroethene~~	~~156-59-2~~
~~(17) trans-1,2-Dichloroethylene; trans-1,2-Dichloroethene~~	~~156-60-5~~
~~(18) 1,2-Dichloropropane; Propylene dichloride~~	~~78-87-5~~
~~(19) cis-1,3-Dichloropropene~~	~~10061-01-5~~
~~(20) trans-1,3-Dichloropropene~~	~~10061-02-6~~
~~(21) Ethylbenzene~~	~~100-41-4~~
~~(22) Methyl bromide; Bromomethane~~	~~74-83-9~~
~~(23) Methyl chloride; Chloromethane~~	~~74-87-3~~
~~(24) Methylene chloride; Dichloromethane~~	~~75-09-2~~
~~(25) Styrene~~	~~100-42-5~~
~~(26) Sodium~~	~~(Dissolved)~~
~~(27) Sulfate~~	
~~(28) 1,1,1,2-Tetrachloroethane~~	~~630-20-6~~
~~(29) 1,1,2,2-Tetrachloroethane~~	~~79-34-5~~
~~(30) Tetrachloroethylene; Tetrachloroethene; Perchloroethylene~~	~~127-18-4~~
~~(31) Toluene~~	~~108-88-3~~
~~(32) 1,1,1-Trichloroethane; Methylchloroform~~	~~71-55-6~~
~~(33) 1,1,2-Trichloroethane~~	~~79-00-5~~
~~(34) Trichloroethylene; Trichloroethene~~	~~79-01-6~~
~~(35) Trichlorofluoromethane; CFC-11~~	~~75-69-4~~
~~(36) Vinyl chloride; Chloroethene~~	~~75-01-4~~
~~(37) Xylene (Total)~~	~~See note 3~~
~~(38) Zinc~~	~~(Dissolved)~~
Inorganics:	
(1) Ammonia (as N)	
(2) Cadmium	**(Dissolved)**
(3) Chloride	
(4) Chromium	**(Dissolved)**
(5) Copper	**(Dissolved)**
(6) Sodium	**(Dissolved)**
(7) Sulfate	
Volatile organic compounds:	
(9) Benzene	**71-43-2**
(10) Carbon tetrachloride	**56-23-5**
(11) Chlorobenzene	**108-90-7**
(12) Chloroethane; Ethyl chloride	**75-00-3**
(13) Chloroform; Trichloromethane	**67-66-3**
(14) o-Dichlorobenzene; 1,2-Dichlorobenzene	**95-50-1**
(15) p-Dichlorobenzene; 1,4-Dichlorobenzene	**106-46-7**
(16) 1,1-Dichloroethane; Ethylidene chloride	**75-34-3**
(17) 1,2-Dichloroethane; Ethylene dichloride	**107-06-2**
(18) 1,1-Dichloroethylene; 1,1-Dichloroethene; Vinylidene chloride	**75-35-4**
(19) cis-1,2-Dichloroethylene; cis-1,2-Dichloroethene	**156-59-2**
(20) trans-1,2-Dichloroethylene; trans-1,2-Dichloroethene	**156-60-5**
(21) 1,2-Dichloropropane; Propylene dichloride	**78-87-5**
(22) cis-1,3-Dichloropropene	**10061-01-5**
(23) trans-1,3-Dichloropropene	**10061-02-6**
(24) Ethylbenzene	**100-41-4**
(25) Methyl bromide; Bromomethane	**74-83-9**
(26) Methyl chloride; Chloromethane	**74-87-3**
(27) Methylene chloride; Dichloromethane	**75-09-2**
(28) Styrene	**100-42-5**
(29) 1,1,1,2-Tetrachloroethane	**630-20-6**
(30) 1,1,2,2-Tetrachloroethane	**79-34-5**
(31) Tetrachloroethylene; Tetrachloroethene; Perchloroethylene	**127-18-4**
(32) Toluene	**108-88-3**
(33) 1,1,1-Trichloroethane; Methylchloroform	**71-55-6**
(34) 1,1,2-Trichloroethane	**79-00-5**
(35) Trichloroethylene; Trichloroethene	**79-01-6**
(36) Trichlorofluoromethane; CFC-11	**75-69-4**
(37) Vinyl chloride; Chloroethene	**75-01-4**
(38) Xylene (Total)	**See note 3**

(b) The following constituents shall be measured during detection monitoring but are exempt from statistical evaluation procedures under section 6 of this rule:

TABLE 1B
Constituents for Detection Monitoring Not Subject to Statistical Evaluation Procedures

(1) Field pH	
(2) Field specific conductance	
(3) Field Eh (Oxidation-Reduction Potential)	
(4) Field dissolved oxygen	
(5) Total solids	
(6) Total dissolved solids	
(7) Alkalinity	
(8) Arsenic	**(Dissolved)**
~~(8)~~ **(9)** Bicarbonate	
~~(9)~~ **(10)** Calcium	(Dissolved)
~~(10)~~ **(11)** Carbonate	
~~(11)~~ **(12)** Iron	(Dissolved)
~~(12)~~ **(13)** Magnesium	(Dissolved)
~~(13)~~ **(14)** Manganese	(Dissolved)
~~(14)~~ **(15)** Potassium	(Dissolved)

Notes:
[1]Common names are those widely used in government regulations, scientific publications, and commerce; synonyms exist for many chemicals.
[2]Chemical Abstracts Service registry number. Where "(Dissolved)" is entered, all species in a filtered sample of the ground water that contain this element are included.
[3]Xylene (total). This entry includes o-xylene (CAS RN 96-47-6), m-xylene (CAS RN 108-38-3), p-xylene (CAS RN 106-42-3), and unspecified xylenes (dimethylbenzenes) (CAS RN 1130-20-7).

(Solid Waste Management Board; 329 IAC 10-21-15; filed Mar 14, 1996, 5:00 p.m.: 19 IR 1879; filed Mar 19, 1998, 11:07 a.m.: 21 IR 2812)

SECTION 83. 329 IAC 10-21-16 IS AMENDED TO READ AS FOLLOWS:

329 IAC 10-21-16 Constituents for assessment monitoring

Authority: IC 13-14-8-7; IC 13-15-2-1; IC 13-19-3-1
Affected: IC 13-30-2; IC 36-9-30

Sec. 16. **(a)** The ~~following~~ constituents **in this section** shall be subject to assessment monitoring procedures under section 10 of this rule.

~~TABLE 2~~

~~Constituents for Assessment Monitoring~~

~~Common Name~~[1]	~~CAS RN~~[2]
~~Acenaphthylene~~	~~208-96-8~~
~~Acenaphthene~~	~~83-32-9~~
~~Acetone~~	~~67-64-1~~
~~Acetonitrile; Methyl cyanide~~	~~75-05-8~~
~~Acetophenone~~	~~98-86-2~~
~~2-Acetylaminofluorene; 2-AAF~~	~~53-96-3~~
~~Acrolein~~	~~107-02-8~~
~~Acrylonitrile~~	~~107-13-1~~
~~Aldrin~~	~~309-00-2~~
~~Allyl chloride~~	~~107-05-1~~
~~4-Aminobiphenyl~~	~~92-67-1~~
~~Anthracene~~	~~120-12-7~~
~~Antimony~~	~~(Total)~~
~~Antimony~~	~~(Dissolved)~~
~~Arsenic~~	~~(Total)~~
~~Arsenic~~	~~(Dissolved)~~
~~Barium~~	~~(Total)~~
~~Barium~~	~~(Dissolved)~~
~~Benzene~~	~~71-43-2~~
~~Benzo[a]anthracene;Benzanthracene~~	~~56-55-3~~
~~Benzo[b]fluoranthene~~	~~205-99-2~~
~~Benzo[k]fluoranthene~~	~~207-08-9~~
~~Benzo[ghi]perylene~~	~~191-24-2~~
~~Benzo[a]pyrene~~	~~50-32-8~~
~~Benzyl alcohol~~	~~100-51-6~~
~~Beryllium~~	~~(Total)~~
~~Beryllium~~	~~(Dissolved)~~
~~alpha-BHC~~	~~319-84-6~~
~~beta-BHC~~	~~319-85-7~~
~~delta-BHC~~	~~319-86-8~~
~~gamma-BHC; Lindane~~	~~58-89-9~~
~~Bis(2-chloroethoxy) methane~~	~~111-91-1~~
~~Bis(2-chloroethyl) ether; Dichloroethyl ether~~	~~111-44-4~~
~~Bis(2-chloro-1-methylethyl) ether; 2,2-Dichlorodiisopropyl ether; DCIP (See note 3)~~	~~108-60-1~~
~~Bis(2-ethylhexyl) phthalate~~	~~117-81-7~~
~~Bromochloromethane; Chlorobromomethane~~	~~74-97-5~~
~~Bromodichloromethane; Dichlorobromomethane~~	~~75-27-4~~
~~Bromoform; Tribromomethane~~	~~75-25-2~~
~~4-Bromophenyl phenyl ether~~	~~101-55-3~~
~~Butyl benzyl phthalate; Benzyl butyl phthalate~~	~~85-68-7~~
~~Cadmium~~	~~(Total)~~
~~Cadmium~~	~~(Dissolved)~~
~~Carbon disulfide~~	~~75-15-0~~
~~Carbon tetrachloride~~	~~56-23-5~~
~~Chlordane~~	~~See note 4~~
~~p-Chloroaniline~~	~~106-47-8~~
~~Chlorobenzene~~	~~108-90-7~~
~~Chlorobenzilate~~	~~510-15-6~~
~~p-Chloro-m-cresol; 4-Chloro-3-methylphenol~~	~~59-50-7~~
~~Chloroethane; Ethyl chloride~~	~~75-00-3~~
~~Chloroform; Trichloromethane~~	~~67-66-3~~
~~2-Chloronaphthalene~~	~~91-58-7~~
~~2-Chlorophenol~~	~~95-57-8~~
~~4-Chlorophenyl phenyl ether~~	~~7005-72-3~~
~~Chloroprene~~	~~126-99-8~~
~~Chromium~~	~~(Total)~~
~~Chromium~~	~~(Dissolved)~~
~~Chrysene~~	~~218-01-9~~
~~Cobalt~~	~~(Total)~~
~~Cobalt~~	~~(Dissolved)~~
~~Copper~~	~~(Total)~~
~~Copper~~	~~(Dissolved)~~
~~m-Cresol; 3-Methylphenol~~	~~108-39-4~~
~~o-Cresol; 2-Methylphenol~~	~~95-48-7~~
~~p-Cresol; 4-Methylphenol~~	~~106-44-5~~
~~Cyanide~~	~~57-12-5~~
~~2,4-D; 2,4-Dichlorophenoxyacetic acid~~	~~94-75-7~~
~~4,4'-DDD~~	~~72-54-8~~
~~4,4'-DDE~~	~~72-55-9~~
~~4,4'-DDT~~	~~50-29-3~~
~~Diallate~~	~~2303-16-4~~
~~Dibenz[a,h]anthracene~~	~~53-70-3~~
~~Dibenzofuran~~	~~132-64-9~~
~~Dibromochloromethane; Chlorodibromomethane~~	~~124-48-1~~
~~1,2-Dibromo-3-chloropropane; DBCP~~	~~96-12-8~~
~~1,2-Dibromoethane; Ethylene dibromide; EDB~~	~~106-93-4~~
~~Di-n-butyl phthalate~~	~~84-74-2~~
~~o-Dichlorobenzene; 1,2-Dichlorobenzene~~	~~95-50-1~~
~~m-Dichlorobenzene; 1,3-Dichlorobenzene~~	~~541-73-1~~
~~p-Dichlorobenzene; 1,4-Dichlorobenzene~~	~~106-46-7~~
~~3,3'-Dichlorobenzidine~~	~~91-94-1~~
~~trans-1,4-Dichloro-2-butene~~	~~110-57-6~~
~~Dichlorodifluoromethane; CFC 12~~	~~75-71-8~~
~~1,1-Dichloroethane; Ethylidene chloride~~	~~75-34-3~~
~~1,2-Dichloroethane; Ethylene dichloride~~	~~107-06-2~~
~~1,1-Dichloroethylene; 1,1-Dichloroethene; Vinylidene chloride~~	~~75-35-4~~
~~cis-1,2-Dichloroethylene; cis-1,2-Dichloroethene~~	~~156-59-2~~
~~trans-1,2-Dichloroethylene; trans-1,2-Dichloroethene~~	~~156-60-5~~
~~2,4-Dichlorophenol~~	~~120-83-2~~
~~2,6-Dichlorophenol~~	~~87-65-0~~
~~1,2-Dichloropropane; Propylene dichloride~~	~~78-87-5~~
~~1,3-Dichloropropane; Trimethylene dichloride~~	~~142-28-9~~
~~2,2-Dichloropropane; Isopropylidene chloride~~	~~594-20-7~~
~~1,1-Dichloropropene~~	~~563-58-6~~
~~cis-1,3-Dichloropropene~~	~~10061-01-5~~
~~trans-1,3-Dichloropropene~~	~~10061-02-6~~
~~Dieldrin~~	~~60-57-1~~
~~Diethyl phthalate~~	~~84-66-2~~
~~0,0-Diethyl 0-2-pyrazinyl phosphorothioate; Thionazin~~	~~297-97-2~~
~~Dimethoate~~	~~60-51-5~~
~~p-(Dimethylamino)azobenzene~~	~~60-11-7~~
~~7,12-Dimethylbenz[a]anthracene~~	~~57-97-6~~
~~3,3'-Dimethylbenzidine~~	~~119-93-7~~
~~2,4-Dimethylphenol; m-Xylenol~~	~~105-67-9~~
~~Dimethyl phthalate~~	~~131-11-3~~
~~m-Dinitrobenzene~~	~~99-65-0~~
~~4,6-Dinitro-o-cresol; 4,6-Dinitro-2-methylphenol~~	~~534-52-1~~
~~2,4-Dinitrophenol~~	~~51-28-5~~
~~2,4-Dinitrotoluene~~	~~121-14-2~~
~~2,6-Dinitrotoluene~~	~~606-20-2~~
~~Dinoseb; DNBP; 2-sec-Butyl-4,6-dinitrophenol~~	~~88-85-7~~
~~Di-n-octyl phthalate~~	~~117-84-0~~
~~Diphenylamine~~	~~122-39-4~~
~~Disulfoton~~	~~298-04-4~~
~~Endosulfan I~~	~~959-98-8~~
~~Endosulfan II~~	~~33213-65-9~~
~~Endosulfan sulfate~~	~~1031-07-8~~
~~Endrin~~	~~72-20-8~~
~~Endrin aldehyde~~	~~7421-93-4~~
~~Ethylbenzene~~	~~100-41-4~~
~~Ethyl methacrylate~~	~~97-63-2~~
~~Ethyl methanesulfonate~~	~~62-50-0~~
~~Famphur~~	~~52-85-7~~
~~Fluoranthene~~	~~206-44-0~~
~~Fluorene~~	~~86-73-7~~
~~Fluoride~~	
~~Heptachlor~~	~~76-44-8~~
~~Heptachlor epoxide~~	~~1024-57-3~~
~~Hexachlorobenzene~~	~~118-74-1~~
~~Hexachlorobutadiene~~	~~87-68-3~~

~~Hexachlorocyclopentadiene~~ ~~77-47-4~~
~~Hexachloroethane~~ ~~67-72-1~~
~~Hexachloropropene~~ ~~1888-71-7~~
~~2-Hexanone; methyl butyl ketone~~ ~~591-78-6~~
~~Indeno(1,2,3-cd)pyrene~~ ~~193-39-5~~
~~Isobutyl alcohol~~ ~~78-83-1~~
~~Isodrin~~ ~~465-73-6~~
~~Isophorone~~ ~~78-59-1~~
~~Isosafrole~~ ~~120-58-1~~
~~Kepone~~ ~~143-50-0~~
~~Lead~~ ~~(Total)~~
~~Lead~~ ~~(Dissolved)~~
~~Lithium~~ ~~(Total)~~
~~Lithium~~ ~~(Dissolved)~~
~~Mercury~~ ~~(Total)~~
~~Mercury~~ ~~(Dissolved)~~
~~Methacrylonitrile~~ ~~126-98-7~~
~~Methapyrilene~~ ~~91-80-5~~
~~Methoxychlor~~ ~~72-43-5~~
~~Methyl bromide; Bromomethane~~ ~~74-83-9~~
~~Methyl chloride; Chloromethane~~ ~~74-87-3~~
~~3-Methylcholanthrene~~ ~~56-49-5~~
~~Methyl ethyl ketone; MEK; 2-Butanone~~ ~~78-93-3~~
~~Methyl iodide; Iodomethane~~ ~~74-88-4~~
~~Methyl methacrylate~~ ~~80-62-6~~
~~Methyl methanesulfonate~~ ~~66-27-3~~
~~2-Methylnaphthalene~~ ~~91-57-6~~
~~Methyl parathion; Parathion methyl~~ ~~298-00-0~~
~~4-Methyl-2-pentanone; Methyl isobutyl ketone~~ ~~108-10-1~~
~~Methylene bromide; Dibromomethane~~ ~~74-95-3~~
~~Methylene chloride; Dichloromethane~~ ~~75-09-2~~
~~Naphthalene~~ ~~91-20-3~~
~~1,4-Naphthoquinone~~ ~~130-15-4~~
~~1-Naphthylamine~~ ~~134-32-7~~
~~2-Naphthylamine~~ ~~91-59-8~~
~~Nickel~~ ~~(Total)~~
~~Nickel~~ ~~(Dissolved)~~
~~Nitrate (as N)~~
~~o-Nitroaniline; 2-Nitroaniline~~ ~~88-74-4~~
~~m-Nitroaniline; 3-Nitroaniline~~ ~~99-09-2~~
~~p-Nitroaniline; 4-Nitroaniline~~ ~~100-01-6~~
~~Nitrobenzene~~ ~~98-95-3~~
~~o-Nitrophenol; 2-Nitrophenol~~ ~~88-75-5~~
~~p-Nitrophenol; 4-Nitrophenol~~ ~~100-02-7~~
~~N-Nitroso-di-n-butylamine~~ ~~924-16-3~~
~~N-Nitrosodiethylamine~~ ~~55-18-5~~
~~N-Nitrosodimethylamine~~ ~~62-75-9~~
~~N-Nitrosodiphenylamine~~ ~~86-30-6~~
~~N-Nitrosodipropylamine; N-Nitroso-N-dipropylamine; Di-n-propylnitrosamine~~ ~~621-64-7~~
~~N-Nitrosomethylethylamine~~ ~~10595-95-6~~
~~N-Nitrosopiperidine~~ ~~100-75-4~~
~~N-Nitrosopyrrolidine~~ ~~930-55-2~~
~~5-Nitro-o-toluidine~~ ~~99-55-8~~
~~Parathion~~ ~~56-38-2~~
~~Pentachlorobenzene~~ ~~608-93-5~~
~~Pentachloronitrobenzene~~ ~~82-68-8~~
~~Pentachlorophenol~~ ~~87-86-5~~
~~Phenacetin~~ ~~62-44-2~~
~~Phenanthrene~~ ~~85-01-8~~
~~Phenol~~ ~~108-95-2~~
~~p-Phenylenediamine~~ ~~106-50-3~~
~~Phorate~~ ~~298-02-2~~
~~Polychlorinated biphenyls; PCBs; Aroclors~~ ~~See note 5~~
~~Pronamide~~ ~~23950-58-5~~
~~Propionitrile; Ethyl cyanide~~ ~~107-12-0~~
~~Pyrene~~ ~~129-00-0~~
~~Safrole~~ ~~94-59-7~~
~~Selenium~~ ~~(Total)~~
~~Selenium~~ ~~(Dissolved)~~
~~Silver~~ ~~(Total)~~
~~Silver~~ ~~(Dissolved)~~
~~Silvex; 2,4,5-TP~~ ~~93-72-1~~
~~Styrene~~ ~~100-42-5~~
~~Sulfide~~ ~~18496-25-8~~
~~2,4,5-T; 2,4,5-Trichlorophenoxyacetic acid~~ ~~93-76-5~~
~~1,2,4,5-Tetrachlorobenzene~~ ~~95-94-3~~
~~1,1,1,2-Tetrachloroethane~~ ~~630-20-6~~
~~1,1,2,2-Tetrachloroethane~~ ~~79-34-5~~
~~Tetrachloroethylene; Tetrachloroethene; Perchloroethylene~~ ~~127-18-4~~
~~2,3,4,6-Tetrachlorophenol~~ ~~58-90-2~~
~~Thallium~~ ~~(Total)~~
~~Thallium~~ ~~(Dissolved)~~
~~Tin~~ ~~(Total)~~
~~Tin~~ ~~(Dissolved)~~
~~Toluene~~ ~~108-88-3~~
~~o-Toluidine~~ ~~95-53-4~~
~~Toxaphene~~ ~~See note 6~~
~~1,2,4-Trichlorobenzene~~ ~~120-82-1~~
~~1,1,1-Trichloroethane; Methylchloroform~~ ~~71-55-6~~
~~1,1,2-Trichloroethane~~ ~~79-00-5~~
~~Trichloroethylene; Trichloroethene~~ ~~79-01-6~~
~~Trichlorofluoromethane; CFC-11~~ ~~75-69-4~~
~~2,4,5-Trichlorophenol~~ ~~95-95-4~~
~~2,4,6-Trichlorophenol~~ ~~88-06-2~~
~~1,2,3-Trichloropropane~~ ~~96-18-4~~
~~0,0,0-Triethyl phosphorothioate~~ ~~126-68-1~~
~~sym-Trinitrobenzene~~ ~~99-35-4~~
~~Vanadium~~ ~~(Total)~~
~~Vanadium~~ ~~(Dissolved)~~
~~Vinyl acetate~~ ~~108-05-4~~
~~Vinyl chloride; Chloroethene~~ ~~75-01-4~~
~~Xylene (Total)~~ ~~See note 7~~
~~Zinc~~ ~~(Total)~~
~~Zinc~~ ~~(Dissolved)~~

(b) The following metals (dissolved and total):

TABLE 2
Constituents for Assessment Monitoring

Common Name[1]	CAS RN[2]
(1) Antimony	(Total)
(2) Antimony	(Dissolved)
(3) Arsenic	(Total)
(4) Arsenic	(Dissolved)
(5) Barium	(Total)
(6) Barium	(Dissolved)
(7) Beryllium	(Total)
(8) Beryllium	(Dissolved)
(9) Cadmium	(Total)
(10) Cadmium	(Dissolved)
(11) Chromium	(Total)
(12) Chromium	(Dissolved)
(13) Cobalt	(Total)
(14) Cobalt	(Dissolved)
(15) Copper	(Total)
(16) Copper	(Dissolved)
(17) Lead	(Total)
(18) Lead	(Dissolved)
(19) Lithium	(Total)
(20) Lithium	(Dissolved)
(21) Mercury	(Total)
(22) Mercury	(Dissolved)
(23) Nickel	(Total)
(24) Nickel	(Dissolved)
(25) Selenium	(Total)
(26) Selenium	(Dissolved)
(27) Silver	(Total)
(28) Silver	(Dissolved)

(29) Thallium ..... (Total)
(30) Thallium ..... (Dissolved)
(31) Tin ..... (Total)
(32) Tin ..... (Dissolved)
(33) Vanadium ..... (Total)
(34) Vanadium ..... (Dissolved)
(35) Zinc ..... (Total)
(36) Zinc ..... (Dissolved)

(c) The following inorganics:

TABLE 2
Constituents for Assessment Monitoring

Common Name[1]	CAS RN[2]
(1) Cyanide	57-12-5
(2) Fluoride	
(3) Nitrate (as N)	
(4) Sulfide	18496-25-8

(d) The following volatile organic compounds:

TABLE 2
Constituents for Assessment Monitoring

Common Name[1]	CAS RN[2]
(1) Acetone	67-64-1
(2) Acetonitrile; Methyl cyanide	75-05-8
(3) Acrolein	107-02-8
(4) Acrylonitrile	107-13-1
(5) Allyl chloride	107-05-1
(6) Benzene	71-43-2
(7) Bromochloromethane; Chlorobromomethane	74-97-5
(8) Bromodichloromethane; Dichlorobromomethane	75-27-4
(9) Bromoform; Tribromomethane	75-25-2
(10) Carbon disulfide	75-15-0
(11) Carbon tetrachloride	56-23-5
(12) Chlorobenzene	108-90-7
(13) Chloroethane; Ethyl chloride	75-00-3
(14) Chloroform; Trichloromethane	67-66-3
(15) Chloroprene	126-99-8
(16) Dibromochloromethane; Chlorodibromomethane	124-48-1
(17) 1,2-Dibromo-3-chloropropane; DBCP	96-12-8
(18) 1,2-Dibromoethane; Ethylene dibromide; EDB	106-93-4
(19) o-Dichlorobenzene; 1,2-Dichlorobenzene	95-50-1
(20) m-Dichlorobenzene; 1,3-Dichlorobenzene	541-73-1
(21) p-Dichlorobenzene; 1,4-Dichlorobenzene	106-46-7
(22) trans-1,4-Dichloro-2-butene	110-57-6
(23) Dichlorodifluoromethane; CFC 12	75-71-8
(24) 1,1-Dichloroethane; Ethylidene chloride	75-34-3
(25) 1,2-Dichloroethane; Ethylene dichloride	107-06-2
(26) 1,1-Dichloroethylene; 1,1-Dichloroethene; Vinylidene chloride	75-35-4
(27) cis-1,2-Dichloroethylene; cis-1,2-Dichloroethene	156-59-2
(28) trans-1,2-Dichloroethylene; trans-1,2-Dichloroethene	156-60-5
(29) 1,2-Dichloropropane; Propylene dichloride	78-87-5
(30) 1,3-Dichloropropane; Trimethylene dichloride	142-28-9
(31) 2,2-Dichloropropane; Isopropylidene chloride	594-20-7
(32) 1,1-Dichloropropene	563-58-6
(33) cis-1,3-Dichloropropene	10061-01-5
(34) trans-1,3-Dichloropropene	10061-02-6
(35) Ethylbenzene	100-41-4
(36) 2-Hexanone; methyl butyl ketone	591-78-6
(37) Isobutyl alcohol	78-83-1
(38) Methacrylonitrile	126-98-7
(39) Methyl bromide; Bromomethane	74-83-9
(40) Methyl chloride; Chloromethane	74-87-3
(41) Methyl ethyl ketone; MEK; 2-Butanone	78-93-3
(42) Methyl iodide; Iodomethane	74-88-4
(43) Methyl methacrylate	80-62-6
(44) Methyl parathion; Parathion methyl	298-00-0
(45) 4-Methyl-2-pentanone; Methyl isobutyl ketone	108-10-1
(46) Methylene bromide; Dibromomethane	74-95-3
(47) Methylene chloride; Dichloromethane	75-09-2
(48) Styrene	100-42-5
(49) 1,1,1,2-Tetrachloroethane	630-20-6
(50) 1,1,2,2-Tetrachloroethane	79-34-5
(51) Tetrachloroethylene; Tetrachloroethene; Perchloroethylene	127-18-4
(52) Toluene	108-88-3
(53) 1,1,1-Trichloroethane; Methylchloroform	71-55-6
(54) 1,1,2-Trichloroethane	79-00-5
(55) Trichloroethylene; Trichloroethene	79-01-6
(56) Trichlorofluoromethane; CFC-11	75-69-4
(57) 1,2,3-Trichloropropane	96-18-4
(58) Vinyl acetate	108-05-4
(59) Vinyl chloride; Chloroethene	75-01-4
(60) Xylene (Total)	See note 3

(e) The following semivolatile organic compounds:

TABLE 2
Constituents for Assessment Monitoring

Common Name[1]	CAS RN[2]
(1) Acenaphthylene	208-96-8
(2) Acenaphthene	83-32-9
(3) Acetophenone	98-86-2
(4) 2-Acetylaminofluorene; 2-AAF	53-96-3
(5) 4-Aminobiphenyl	92-67-1
(6) Anthracene	120-12-7
(7) Benzo[a]anthracene;Benzanthracene	56-55-3
(8) Benzo[b]fluoranthene	205-99-2
(9) Benzo[k]fluoranthene	207-08-9
(10) Benzo[ghi]perylene	191-24-2
(11) Benzo[a]pyrene	50-32-8
(12) Benzyl alcohol	100-51-6
(13) Bis(2-chloroethoxy) methane	111-91-1
(14) Bis(2-chloroethyl) ether; Dichloroethyl ether	111-44-4
(15) Bis(2-chloro-1-methylethyl) ether; 2,2-Dichlorodiisopropyl ether; DCIP (See note 4)	108-60-1
(16) Bis(2-ethylhexyl) phthalate	117-81-7
(17) 4-Bromophenyl phenyl ether	101-55-3
(18) Butyl benzyl phthalate; Benzyl butyl phthalate	85-68-7
(19) p-Chloroaniline	106-47-8
(20) Chlorobenzilate	510-15-6
(21) p-Chloro-m-cresol; 4-Chloro-3-methylphenol	59-50-7
(22) 2-Chloronaphthalene	91-58-7
(23) 2-Chlorophenol	95-57-8
(24) 4-Chlorophenyl phenyl ether	7005-72-3
(25) Chrysene	218-01-9
(26) m-Cresol; 3-Methylphenol	108-39-4
(27) o-Cresol; 2-Methylphenol	95-48-7
(28) p-Cresol; 4-Methylphenol	106-44-5
(29) Diallate	2303-16-4
(30) Dibenz[a,h]anthracene	53-70-3
(31) Dibenzofuran	132-64-9
(32) Di-n-butyl phthalate	84-74-2
(33) 3,3'-Dichlorobenzidine	91-94-1
(34) 2,4-Dichlorophenol	120-83-2
(35) 2,6-Dichlorophenol	87-65-0
(36) Di(2-ethylhexyl)adipate; DOA	103-23-1
(37) Diethyl phthalate	84-66-2
(38) p-(Dimethylamino)azobenzene	60-11-7
(39) 7,12-Dimethylbenz[a]anthracene	57-97-6
(40) 3,3'-Dimethylbenzidine	119-93-7
(41) 2,4-Dimethylphenol; m-Xylenol	105-67-9
(42) Dimethyl phthalate	131-11-3
(43) m-Dinitrobenzene	99-65-0
(44) 4,6-Dinitro-o-cresol; 4,6-Dinitro-2-methylphenol	534-52-1
(45) 2,4-Dinitrophenol	51-28-5
(46) 2,4-Dinitrotoluene	121-14-2
(47) 2,6-Dinitrotoluene	606-20-2
(48) Di-n-octyl phthalate	117-84-0

(49) Diphenylamine 122-39-4
(50) Ethyl methacrylate 97-63-2
(51) Famphur 52-85-7
(52) Fluoranthene 206-44-0
(53) Fluorene 86-73-7
(54) Hexachlorobenzene 118-74-1
(55) Hexachlorobutadiene 87-68-3
(56) Hexachlorocyclopentadiene 77-47-4
(57) Hexachloroethane 67-72-1
(58) Hexachloropropene 1888-71-7
(59) Indeno(1,2,3-cd)pyrene 193-39-5
(60) Isodrin 465-73-6
(61) Isophorone 78-59-1
(62) Isosafrole 120-58-1
(63) Kepone 143-50-0
(64) Methapyrilene 91-80-5
(65) 3-Methylcholanthrene 56-49-5
(66) Methyl methanesulfonate 66-27-3
(67) 2-Methylnaphthalene 91-57-6
(68) Naphthalene 91-20-3
(69) 1,4-Naphthoquinone 130-15-4
(70) 1-Naphthylamine 134-32-7
(71) 2-Naphthylamine 91-59-8
(72) o-Nitroaniline; 2-Nitroaniline 88-74-4
(73) m-Nitroaniline; 3-Nitroaniline 99-09-2
(74) p-Nitroaniline; 4-Nitroaniline 100-01-6
(75) Nitrobenzene 98-95-3
(76) o-Nitrophenol; 2-Nitrophenol 88-75-5
(77) p-Nitrophenol; 4-Nitrophenol 100-02-7
(78) N-Nitroso-di-n-butylamine 924-16-3
(79) N-Nitrosodiethylamine 55-18-5
(80) N-Nitrosodimethylamine 62-75-9
(81) N-Nitrosodiphenylamine 86-30-6
(82) N-Nitrosodipropylamine; N-Nitroso-N-dipropylamine; Di-n-propylnitrosamine 621-64-7
(83) N-Nitrosomethylethylamine 10595-95-6
(84) N-Nitrosopiperidine 100-75-4
(85) N-Nitrosopyrrolidine 930-55-2
(86) 5-Nitro-o-toluidine 99-55-8
(87) Pentachlorobenzene 608-93-5
(88) Pentachloronitrobenzene 82-68-8
(89) Pentachlorophenol 87-86-5
(90) Phenacetin 62-44-2
(91) Phenanthrene 85-01-8
(92) Phenol 108-95-2
(93) p-Phenylenediamine 106-50-3
(94) Pronamide 23950-58-5
(95) Propionitrile; Ethyl cyanide 107-12-0
(96) Pyrene 129-00-0
(97) Safrole 94-59-7
(98) 1,2,4,5-Tetrachlorobenzene 95-94-3
(99) 2,3,4,6-Tetrachlorophenol 58-90-2
(100) o-Toluidine 95-53-4
(101) 1,2,4-Trichlorobenzene 120-82-1
(102) 2,4,5-Trichlorophenol 95-95-4
(103) 2,4,6-Trichlorophenol 88-06-2
(104) 0,0,0-Triethyl phosphorothioate 126-68-1
(105) sym-Trinitrobenzene 99-35-4

(f) The following pesticides, herbicides, and PCBs:

TABLE 2
Constituents for Assessment Monitoring

Common Name[1]	CAS RN[2]
(1) Alachlor	15972-60-8
(2) Aldrin	309-00-2
(3) Atrazine	1912-24-9
(4) alpha-BHC	319-84-6
(5) beta-BHC	319-85-7
(6) delta-BHC	319-86-8
(7) gamma-BHC; Lindane	58-89-9
(8) Carbofuran	1563-66-2
(9) Chlordane	See note 5
(10) Dalapon	75-99-0
(11) 2,4-D; 2,4-Dichlorophenoxyacetic acid	94-75-7
(12) 4,4'-DDD	72-54-8
(13) 4,4'-DDE	72-55-9
(14) 4,4'-DDT	50-29-3
(15) Dieldrin	60-57-1
(16) 0,0-Diethyl 0-2-pyrazinyl phosphorothioate; Thionazin	297-97-2
(17) Dimethoate	60-51-5
(18) Dinoseb; DNBP; 2-sec-Butyl-4,6-dinitrophenol	88-85-7
(19) Diquat	85-00-7
(20) Disulfoton	298-04-4
(21) Endosulfan I	959-98-8
(22) Endosulfan II	33213-65-9
(23) Endosulfan sulfate	1031-07-8
(24) Endothall	145-73-3
(25) Endrin	72-20-8
(26) Endrin aldehyde	7421-93-4
(27) Ethyl methanesulfonate	62-50-0
(28) Glyphosate	1071-83-6
(29) Heptachlor	76-44-8
(30) Heptachlor epoxide	1024-57-3
(31) Methoxychlor	72-43-5
(32) Oxamyl	23135-22-0
(33) Parathion	56-38-2
(34) Phorate	298-02-2
(35) Picloram	1918-02-1
(36) Polychlorinated biphenyls; PCBs; Aroclors	See note 6
(37) Silvex; 2,4,5-TP	93-72-1
(38) Simazine	122-34-9
(39) 2,4,5-T; 2,4,5-Trichlorophenoxyacetic acid	93-76-5
(40) Toxaphene	See note 7

(g) The following miscellaneous constituents:

TABLE 2
Constituents for Assessment Monitoring

Common Name[1]	CAS RN[2]
(1) Asbestos	132207-33-1
(2) Combined beta/photon emitters	
(3) Gross alpha particle activity (including radium 226, but excluding radon and uranium)	
(4) Radium 226 and 228 (combined)	
(5) 2,3,7,8 -TCDD (Dioxin)	1746-01-6

(h) The following notes **apply to subsections (b) through (g):**

[1]Common names are those widely used in government regulations, scientific publications, and commerce; synonyms exist for many chemicals.

[2]Chemical Abstracts Service registry number. Where "Total" is entered, all species in the ground water that contain this element are included. Where "Dissolved" is entered, all species in a filtered sample of the ground water that contain this element are included.

[3]Xylene (total). This entry includes o-xylene (CAS RN 96-47-6), m-xylene (CAS RN 108-38-3), p-xylene (CAS RN 106-42-3), and unspecified xylenes (dimethylbenzenes) (CAS RN 1330-20-7).

~~3~~ [4]This substance is often called Bis(2-chloroisopropyl) ether, the name Chemical Abstracts Service applies to its noncom-

mercial isomer, Propane, 2,2'-oxybis[2-chloro- (CAS RN 39638-32-9).

[4] [5]Chlordane. This entry includes alpha-chlordane (CAS RN 5103-71-9), beta-chlordane (CAS RN 5103-74-2), gamma-chlordane (CAS RN 5566-34-7), and constituents of chlordane (CAS RN 57-74-9 and CAS RN 12789-03-6).

[5] [6]Polychlorinated biphenyls (CAS RN 1336-36-3). This category contains congener chemicals, including constituents of Aroclor 1016 (CAS RN 12674-11-2), Aroclor 1221 (CAS RN 11104-28-2), Aroclor 1232 (CAS RN 11141-16-5), Aroclor 1242 (CAS RN 53469-21-9), Aroclor 1248 (CAS RN 12672-29-6), Aroclor 1254 (CAS RN 11097-69-1), and Aroclor 1260 (CAS RN 11096-82-5).

[6] [7]Toxaphene. This entry includes congener chemicals contained in technical toxaphene (CAS RN 8001-35-2), that is, chlorinated camphene.

~~[7]Xylene (total). This entry includes o-xylene (CAS RN 96-47-6), m-xylene (CAS RN 108-38-3), p-xylene (CAS RN 106-42-3), and unspecified xylenes (dimethylbenzenes) (CAS RN 1330-20-7).~~

(Solid Waste Management Board; 329 IAC 10-21-16; filed Mar 14, 1996, 5:00 p.m.: 19 IR 1880)

SECTION 84. 329 IAC 10-22-2 IS AMENDED TO READ AS FOLLOWS:

329 IAC 10-22-2 Closure plan

Authority: IC 13-14-8-7; IC 13-15-2-1; IC 13-19-3-1
Affected: IC 13-30-2; IC 36-9-30

Sec. 2. (a) The owner, operator, or permittee of an MSWLF shall prepare a written closure plan. The plan must be submitted with the permit application in accordance with 329 IAC 10-11 and be approved by the commissioner as part of the permit. The approved closure plan becomes a condition of the permit upon approval.

(b) The owner, operator, or permittee of ~~MSWLFs~~ **an MSWLF** permitted under 329 IAC 1.5, which was repealed in 1989, or 329 IAC 2, which was repealed in 1996, that:

(1) closed on or before January 1, 1998, must close under the MSWLF's existing approved closure plans; or

(2) intend to close after January 1, 1998, must:

(A) revise closure plans to meet the requirements of subsection (c); and

(B) submit the revised plans to the commissioner for approval within six (6) months after the effective date of this article or the anniversary date of the approved closure plans, whichever is earlier.

(c) The closure plan must identify the steps necessary to completely close the MSWLF at any point during its active life in accordance with section 1 of this rule. The plan must be certified by a registered professional engineer. The closure plan must include the following:

(1) A description of the steps that will be used to partially close, if applicable, and finally close the MSWLF in accordance with section 1 of this rule.

(2) A listing of labor, materials, and testing necessary to close the MSWLF.

(3) An estimate of the expected year of closure and a schedule for final closure. The schedule must include the following:

(A) The total time required to close the MSWLF.

(B) The time required for completion of intervening closure activities.

(4) An estimate of the maximum inventory of wastes that will be on-site over the active life of the MSWLF.

(5) An estimate of the cost per acre of providing final cover and vegetation. Such cost must reflect cost necessary to close the MSWLF by the third party as required by the approved plan, but must not be less than:

(A) ~~twenty~~ **twenty-one** thousand dollars ~~($20,000)~~ **($21,000)** per acre to close MSWLF units that are constructed with only a soil liner; and

(B) ~~seventy-five~~ **seventy-eight** thousand **seven hundred fifty** dollars ~~($75,000)~~ **($78,750)** per acre for MSWLF units that are constructed with a composite bottom liner system.

Existing closure plan cost estimates approved before the latest effective date of this section are not required to be revised by the owner, operator, or permittee to meet the minimum cost estimates given in clauses (A) and (B). The minimum cost estimates given in clauses (A) and (B) are valid for one (1) year after the latest effective date of this section. If an application is submitted for a new MSWLF or a major modification one (1) year after the latest effective date of this section, the owner, operator, or permittee must adjust these cost estimates for inflation as described in 329 IAC 10-39-2(c)(1).

(6) **For major modifications,** the closure cost estimate must include a ten percent (10%) contingency cost on the total closure cost of the MSWLF.

(7) If the owner, operator, or permittee of an MSWLF utilizes the **incremental** closure ~~trust fund option or funds the letter of credit on an annual basis,~~ **standard,** as contained in ~~329 IAC 10-39,~~ **329 IAC 10-39-2(b)(3)(B),** then for each yearly period following the beginning of operation of the MSWLF, the closure plan must specify the maximum area of the MSWLF into which municipal solid waste will have been deposited through that year of the MSWLF's life and must delineate such areas on the copy of the facility's final contour map. The closure plan must list closure cost estimates for each year of the anticipated life of the facility equal to the costs specified by subdivisions (5) and (6).

(8) An estimate of the yearly maintenance costs for a dike or dikes required under 329 IAC 10-16-2.

(9) A construction quality assurance and construction quality control plan for the construction and installation of the final cover system as required by this rule.

(10) A description of the final cover, designed in accordance with this rule, and the methods and procedures to be used to install the cover.

(11) An estimate of the largest area of the MSWLF ever requiring a final cover as required under this rule at any time during the active life.

(12) If property is used to fulfill or reduce the cost of closure funding, the property must not be sold, relinquished, or used for any other purpose. If the property is proposed to be sold, relinquished, or used for any other purpose, the owner, operator, or permittee shall complete the following requirements:

(A) The closure plan must be updated under this section and submitted to the commissioner.

(B) The closure financial responsibility must be updated under 329 IAC 10-39 and submitted to the commissioner.

(C) The owner, operator, or permittee shall receive approval from the commissioner for the requirements under clauses (A) and (B) prior to selling, relinquishing, or using the property for any other purpose.

(Solid Waste Management Board; 329 IAC 10-22-2; filed Mar 14, 1996, 5:00 p.m.: 19 IR 1882; errata filed Apr 4, 1996, 4:00 p.m.: 19 IR 2047; filed Aug 2, 1999, 11:50 a.m.: 22 IR 3859)

SECTION 85. 329 IAC 10-22-3 IS AMENDED TO READ AS FOLLOWS:

329 IAC 10-22-3 Partial closure certification

Authority: IC 13-14-8-7; IC 13-15; IC 13-19-3
Affected: IC 13-20; IC 36-9-30

Sec. 3. (a) The owner, operator, or permittee of an MSWLF may submit partial closure certification for portions of the MSWLF that have received final cover and are graded and have established vegetation in accordance with the applicable provisions of this rule, 329 IAC 10-20, and the approved closure plan prior to closure of the MSWLF.

(b) The owner, operator, or permittee of an MSWLF shall submit to the commissioner a certification signed by the owner, operator, or permittee and an independent registered professional engineer that specifically identifies the closed areas and that specifies that the partial closure has been accomplished in accordance with the approved closure plan and this article. Certification of partial closure must not be made for an area until the final cover has been completely provided for that area and vegetation has been established.

(c) The partial closure certification will be deemed adequate unless, within ~~one hundred fifty (150)~~ **ninety (90)** days of receipt of the partial closure certification, the commissioner issues a notice of deficiency of closure, including action necessary to correct the deficiency.

(d) A partial closure for leachate generation rate, as required by 329 IAC 10-23-3(c)(5)(B), may be granted if the owner, operator, or permittee of an MSWLF provides actual leachate generation rate data of an area for at least a two (2) year duration after final cover is installed and certified.

(e) Fifteen (15) days prior to initiation of partial closure of a certain area, the owner, operator, or permittee of an MSWLF shall notify the commissioner in writing that they will be constructing a final cover. *(Solid Waste Management Board; 329 IAC 10-22-3; filed Mar 14, 1996, 5:00 p.m.: 19 IR 1883; filed Mar 19, 1998, 11:07 a.m.: 21 IR 2813; filed Aug 2, 1999, 11:50 a.m.: 22 IR 3860)*

SECTION 86. 329 IAC 10-22-5 IS AMENDED TO READ AS FOLLOWS:

329 IAC 10-22-5 Completion of closure and final cover

Authority: IC 13-14-8-7; IC 13-15; IC 13-19-3
Affected: IC 13-20; IC 36-9-30

Sec. 5. (a) The owner, operator, or permittee of an MSWLF shall complete closure activities and complete application of final cover within one hundred eighty (180) days on ~~an~~ **any** area in the MSWLF **as approved in the closure plan** that:

(1) has received the area's final waste volume; or

(2) is filled to the area's final approved waste elevation.

(b) Upon application for an extension by the owner, operator, or permittee, a one (1) time extension of the closure period may be granted by the commissioner if the owner, operator, or permittee demonstrates that closure will, by necessity, take longer than one hundred eighty (180) days and the owner, operator, or permittee has taken and will continue to take all steps to prevent threats to human health ~~and~~ **or** the environment. The extension of the closure period must not be longer than three hundred sixty-five (365) days immediately following the one hundred eighty (180) days of the original closure period. *(Solid Waste Management Board; 329 IAC 10-22-5; filed Mar 14, 1996, 5:00 p.m.: 19 IR 1883; filed Mar 19, 1998, 11:07 a.m.: 21 IR 2813; filed Aug 2, 1999, 11:50 a.m.: 22 IR 3860)*

SECTION 87. 329 IAC 10-22-6 IS AMENDED TO READ AS FOLLOWS:

329 IAC 10-22-6 Final cover requirements for new MSWLF units or existing MSWLF units that have a composite bottom liner and a leachate collection system

Authority: IC 13-14-8-7; IC 13-15-2-1; IC 13-19-3-1
Affected: IC 13-30-2; IC 36-9-30

Sec. 6. (a) The owner, operator, or permittee of an MSWLF containing new MSWLF units or existing MSWLF units that have a composite bottom liner system and a leachate collection system shall install a final cover system as defined in subsection (b) within one hundred eighty (180) days on any area in the MSWLF units **as approved in the closure plan** that:

(1) has received the final waste volume; or

(2) is filled to the approved final waste elevation;

or as approved under section 5(b) of this rule.

(b) Final cover systems for new MSWLF units or existing

MSWLF units that have a composite bottom liner system must consist of the following, starting from the top of the municipal solid waste mass (waste placement) to the top of the final cover system:

(1) A methane gas venting layer must be installed directly over the waste. This layer must consist of twelve (12) inches of drainage layer material that has a hydraulic conductivity of 1×10^{-3} centimeters per second or more. Geosynthetic material (geotextile, geonet, both, or other material as approved by the commissioner) may be substituted for drainage layer material in the gas venting layer if equivalent or better performance is demonstrated. The owner, operator, or permittee must demonstrate that transmissivity and permitivity provide for the anticipated gas discharge quantity.

(2) A soil barrier layer must be installed over the methane gas venting layer. The soil barrier must consist of a lower component of twelve (12) inches of structural fill and an upper component of twelve (12) inches of compacted earthen material with a hydraulic conductivity of 1×10^{-6} centimeters per second or less. The upper component must be soil of Unified Soil Classification ML, CL, MH, CH, or OH. Other suitable material approved by the commissioner may be used if it provides an adequate level of protection to human health ~~and~~ **or** the environment. Grain size, Atterberg limits, and hydraulic conductivity tests as approved by the commissioner must be performed to confirm the quality of the final cover.

(3) A minimum thirty (30) mil geomembrane top liner must be installed directly in contact with the upper portion of the soil barrier layer. If the geomembrane is composed of high density polyethylene (HDPE), then it must be at least sixty (60) mil thick. The commissioner may require an increase in the thickness of the geomembrane if it is determined that increased thickness is necessary to prevent failure under stresses caused by construction equipment and waste settlement during the post-closure care period.

(4) A drainage layer must be installed over the geomembrane liner. The drainage layer must consist of twelve (12) inches of material that has a hydraulic conductivity of 1×10^{-3} centimeters per second or more. If geosynthetic materials are used as a drainage layer, the effective transmissivity must be equivalent to twelve (12) inches of drainage layer with a hydraulic conductivity of 1×10^{-3} centimeters per second or more.

(5) A top protective soil layer must overlay the drainage layer. This layer must consist of at least eighteen (18) inches of earthen material. If geosynthetic materials are used as a drainage layer, at a minimum, thirty (30) inches of earthen material must be placed on top of the geosynthetic materials. The protective soil layer material must be designed to not clog the drainage layer.

(6) A vegetative layer must overlay the top protective layer. This layer must consist of at least six (6) inches of earthen material capable of sustaining vegetation. In any case, a total thickness of earthen material over the geomembrane top liner must not be less than thirty-six (36) inches.

(7) The maximum projected erosion rate of the final cover must be no more than five (5) tons per acre per year.

(8) The final cover must have a slope no less than four percent (4%) or two and twenty-nine hundredths (2.29) degrees and no greater than thirty-three percent (33%) or eighteen and twenty-six hundredths (18.26) degrees.

(c) The requirement in subsection (b)(1) may be waived by the commissioner if the following apply:

(1) The MSWLF has a permitted active gas recovery and extraction system in place.

(2) The permitted active gas extraction system at the MSWLF extracts or recovers at least sixty percent (60%) of the total volume of landfill gas produced or generated by the MSWLF.

(Solid Waste Management Board; 329 IAC 10-22-6; filed Mar 14, 1996, 5:00 p.m.: 19 IR 1883; filed Aug 2, 1999, 11:50 a.m.: 22 IR 3861)

SECTION 88. 329 IAC 10-22-7 IS AMENDED TO READ AS FOLLOWS:

329 IAC 10-22-7 Final cover requirements for existing MSWLF units constructed without a composite bottom liner

Authority: IC 13-14-8-7; IC 13-15; IC 13-19-3
Affected: IC 13-20; IC 36-9-30

Sec. 7. (a) The owner, operator, or permittee of an MSWLF containing existing MSWLF units constructed without a composite bottom liner shall install a final cover system as appropriate to subsection (b) or (c) within one hundred eighty (180) days on any area in the MSWLF units **as approved in the closure plan** that:

(1) has received the final waste volume; or

(2) is filled to the approved final waste elevation;

unless otherwise approved by the commissioner or as approved under section 5(b) of this rule.

(b) Unless otherwise approved by the commissioner, final cover systems for existing MSWLF units constructed with a soil bottom liner and a leachate collection system that were permitted under 329 IAC 2, which was repealed in 1996, and closing after January 1, 1998, must consist of the following:

(1) On slopes equal to or less than fifteen percent (15%) or eight and fifty-three hundredths (8.53) degrees, the final cover must be constructed as follows:

(A) A twenty-four (24) inch barrier layer of soil of the Unified Soil Classification ML, CL, MH, CH, or OH directly over the waste. Other suitable material approved by the commissioner may be used if it provides an adequate level of protection to human health ~~and~~ **or** the environment. The soil must be compacted to achieve a hydraulic conductivity equal to 1×10^{-7} centimeters per second or less. Grain size, Atterberg limits, and hydraulic conductivity tests as approved by the commissioner or as required by this article must be performed to confirm the quality of the final cover.

(B) A vegetative layer must overlay the top protective layer.

This layer must consist of at least six (6) inches of earthen material capable of sustaining vegetation.

(2) On slopes greater than fifteen percent (15%) or eight and fifty-three hundredths (8.53) degrees, the final cover must be constructed as follows:

(A) A twenty-four (24) inch barrier layer of soil of the Unified Soil Classification ML, CL, MH, CH, or OH directly over the waste. Other suitable material approved by the commissioner may be used if it provides an adequate level of protection to human health ~~and~~ **or** the environment. The soil must be compacted to achieve a hydraulic conductivity equal to 1×10^{-6} centimeters per second or less. Grain size, Atterberg limits, and hydraulic conductivity tests as approved by the commissioner or as required by this article must be performed to confirm the quality of the final cover.

(B) A vegetative layer consisting of at least six (6) inches of earthen material capable of sustaining vegetation must overlay the barrier layer.

(C) An increase in the thickness of the layers required in this subdivision may be required by the facility permit or the commissioner.

(3) The maximum projected erosion rate of the final cover must be no more than five (5) tons per acre per year.

(4) The final cover must have a slope:

(A) no less than four percent (4%) or two and twenty-nine hundredths (2.29) degrees; and

(B) no greater than thirty-three percent (33%) or eighteen and twenty-six hundredths (18.26) degrees.

(c) Unless otherwise approved by the commissioner, final cover systems for existing MSWLF units constructed without a soil bottom liner or a leachate collection system that were permitted under 329 IAC 1.5, which was repealed in 1989, or 329 IAC 2, which was repealed in 1996, and closing after January 1, 1998, must consist of the following:

(1) On slopes equal to or less than fifteen percent (15%) or eight and fifty-three hundredths (8.53) degrees, the final cover not including benches, swales, and drainage features, must be constructed as specified in section 6(b)(1) through 6(b)(7) of this rule.

(2) On slopes greater than fifteen percent (15%) or eight and fifty-three hundredths (8.53) degrees, the final cover must be constructed as specified in subsection (b)(2).

(3) The maximum projected erosion rate of the final cover must be no more than five (5) tons per acre per year.

(4) The final cover must have a slope:

(A) not less than four percent (4%) or two and twenty-nine hundredths (2.29) degrees; and

(B) not greater than thirty-three percent (33%) or eighteen and twenty-six hundredths (18.26) degrees.

(Solid Waste Management Board; 329 IAC 10-22-7; filed Mar 14, 1996, 5:00 p.m.: 19 IR 1884; errata filed Apr 4, 1996, 4:00 p.m.: 19 IR 2047; filed Mar 19, 1998, 11:07 a.m.: 21 IR 2813; filed Aug 2, 1999, 11:50 a.m.: 22 IR 3861)

SECTION 89. 329 IAC 10-22-8 IS AMENDED TO READ AS FOLLOWS:

329 IAC 10-22-8 Final closure certification

Authority: IC 13-14-8-7; IC 13-15; IC 13-19-3
Affected: IC 13-20; IC 36-9-30

Sec. 8. (a) Following closure of an MSWLF unit at an MSWLF, the owner, operator, or permittee shall submit to the commissioner a certification signed by the owner, operator, or permittee and an independent registered professional engineer that the partial closure involving an MSWLF unit or final closure of the entire MSWLF has been completed in accordance with the approved closure plan. Certification of closure must not be made for an area until the final cover has been completed and vegetation has been established.

(b) Following final closure of all MSWLF units at an MSWLF, the owner, operator, or permittee shall record with the county land recording authority, a notation on the deed to the MSWLF property, or some other instrument normally examined during title search, and notify the commissioner in writing that the notation has been recorded. The notation on the deed must in perpetuity notify any potential purchaser of the property that the land has been used as a MSWLF. At a minimum, the recording must contain the following:

(1) The general types and location of waste.

(2) The depth of fill.

(3) A plot plan, with surface contours at intervals of two (2) feet, which must indicate:

(A) surface water run-off directions;

(B) surface water diversion structures after completion of the operation; and

(C) final grade contours.

(4) A statement that no construction, installation of **ground water monitoring** wells, pipes, conduits, or septic systems, or any other excavation will be done on the property without approval of the commissioner.

(c) The final closure certification will be deemed adequate unless within ~~one hundred fifty (150)~~ **ninety (90)** days of receipt of the final closure certification the commissioner issues a notice of deficiency of closure, including action necessary to correct the deficiency. *(Solid Waste Management Board; 329 IAC 10-22-8; filed Mar 14, 1996, 5:00 p.m.: 19 IR 1885; filed Mar 19, 1998, 11:07 a.m.: 21 IR 2814; filed Aug 2, 1999, 11:50 a.m.: 22 IR 3862)*

SECTION 90. 329 IAC 10-23-2 IS AMENDED TO READ AS FOLLOWS:

329 IAC 10-23-2 Post-closure duties

Authority: IC 13-14-8-7; IC 13-15; IC 13-19-3
Affected: IC 13-20; IC 36-9-30

Sec. 2. (a) The owner, operator, or permittee of an MSWLF has the following duties after closure:

(1) Post-closure activities must be performed in accordance with the approved post-closure plan as specified in section 3 of this rule.
(2) Inspection of the MSWLF at least twice per year with a written report on the condition of the MSWLF to be submitted to the commissioner.
(3) Maintenance of the integrity of the geomembrane cap, if applicable, and the minimum thickness of final cover and vegetation as required by 329 IAC 10-20 and 329 IAC 10-22 or as approved by the commissioner.
(4) Maintenance of the final contours of the MSWLF in accordance with the applicable standards of 329 IAC 10-20 and 329 IAC 10-22 and, at a minimum, to provide that no ponding of water occurs on filled areas.
(5) Control of any vegetation on vehicular access ways to monitoring wells as required by 329 IAC 10-20-2(d).
(6) Control of vegetation at the MSWLF as necessary to enable determination of the need for slope and cover maintenance and leachate outbreak abatement.
(7) Maintenance of access control and benchmarks at the MSWLF.
(8) Maintenance and monitoring of the dike or dikes required under 329 IAC 10-16-2.
(9) If ownership of the land or MSWLF changes at any time during the post-closure period, the new owner must have a written agreement with the past owner which states the new owner will monitor and maintain the dike or dikes required by 329 IAC 10-16-2 during the subsequent post-closure period.
(10) Maintenance and monitoring of leachate collection and treatment systems and methane control systems.
(11) Control of any leachate or gas generated at the MSWLF as required by 329 IAC 10-20.
(12) Erosion and sediment control measures must be instituted to comply with 329 IAC 10-20-12.
(13) An MSWLF that closes:
(A) prior to the effective date required by 40 CFR 258 for the MSWLF units' ground water monitoring, must continue to monitor ground water as required by the rules in force at the time the facility entered into post-closure;
(B) on or after the effective date required by 40 CFR 258 for the MSWLF units' ground water monitoring, must monitor ground water after the effective date of this article as required by 329 IAC 10-21; or
(C) under any other article is required to follow the:
(i) post-closure plan as required by the rules in force at the time the MSWLF entered into post-closure; or
(ii) rules in force at the time the MSWLF entered into post-closure if the rules in force do not require a post-closure plan.
(14) In addition to the corrective action program required by the rules under which the facility closed, the commissioner may require performance of corrective action measures within 329 IAC 10-21-13 if the MSWLF:
(A) closed prior to the effective date of this article;
(B) is monitoring ground water in accordance with the rules in force at the time the MSWLF entered into post-closure; and
(C) finds a corrective action program is applicable under the rules in force at the time the MSWLF entered post-closure.

(b) Post-closure requirements imposed by this section must be followed for a period of thirty (30) years after the following applicable date:
(1) If the final closure certification is deemed adequate, the date the final closure certification is received by the commissioner in accordance with 329 IAC 10-22-8(a).
(2) If the final closure certification is deemed inadequate, the date the commissioner approves any actions necessary to correct items listed in a notice of deficiency of closure certification under 329 IAC 10-22-8(c).

(c) The length of the post-closure care period may be increased by the commissioner if the commissioner determines that the lengthened period is necessary to protect human health ~~and~~ **or** the environment. The standards to determine an increased post-closure care period include, but are not limited to:
(1) stability of final cover;
(2) maintenance problems with an MSWLF certified as closed;
(3) evidence of ground water contamination;
(4) quantity of gas produced and managed; or
(5) reliability of ground water monitoring well system.

(Solid Waste Management Board; 329 IAC 10-23-2; filed Mar 14, 1996, 5:00 p.m.: 19 IR 1886; errata filed Apr 4, 1996, 4:00 p.m.: 19 IR 2047; filed Mar 19, 1998, 11:07 a.m.: 21 IR 2815; filed Aug 2, 1999, 11:50 a.m.: 22 IR 3863; errata filed Sep 8, 1999, 11:38 a.m.: 23 IR 27)

SECTION 91. 329 IAC 10-23-3 IS AMENDED TO READ AS FOLLOWS:

329 IAC 10-23-3 Post-closure plan
Authority: IC 13-14-8-7; IC 13-15; IC 13-19-3
Affected: IC 13-20; IC 36-9-30

Sec. 3. (a) The owner, operator, or permittee of an MSWLF shall have a written post-closure plan. The post-closure plan must be submitted with the permit application in accordance with 329 IAC 10-11 and be approved by the commissioner. The approved post-closure plan must become a condition of the permit. If the permit expires or is revoked, the post-closure plan remains effective and enforceable during the post-closure period. If the plan is determined to be unacceptable, the commissioner shall identify the items needed to make it complete.

(b) The owner, operator, or permittee of existing MSWLFs shall revise and submit post-closure plans meeting the requirements of this rule within six (6) months after the effective date of this article or the anniversary date of the approved post-closure plan, whichever is earlier.

(c) The post-closure plan must identify the activities that will

be carried on after closure under section 2 of this rule and must include at least the following:

(1) A description of the planned ground water monitoring activities and the frequency at which they will be performed.

(2) A description of the planned maintenance activities and the frequency at which they will be performed.

(3) A description of the planned uses of the property during the post-closure period. Post-closure use of the property must not disturb the integrity of the final cover, liner, or any other component of the containment system, or the function of the monitoring system, unless necessary to comply with this article. The commissioner may approve other disturbances if the owner, operator, or permittee demonstrates that disturbance of the final cover, liner, or other component of the containment system, including any removal of waste, will not increase the potential threat to human health or the environment.

(4) The name, address, and telephone number of the owner, operator, or permittee with responsibility for maintaining the site after closure whom the commissioner may contact about the MSWLF during the post-closure period.

(5) A post-closure cost estimate in accordance with 329 IAC 10-39. Post-closure costs must be calculated based on the cost necessary for the work to be performed by a third party for thirty (30) years of the post-closure period and must include the following:

(A) For post-closure maintenance of final cover and vegetation, the amount per acre must be ten percent (10%) of the cost calculated under 329 IAC 10-22-2(c)(5) multiplied by the total acreage of the site permitted for filling.

(B) At a minimum, the amount of funds necessary for leachate treatment and disposal must be based on the following gallons per acre per day over the thirty (30) year post-closure period:

Year	Gallons Per Acre Per Day (GPAD)
1–5	150
6–10	80
11–15	50
16–20	30
21–25	20
26–30	10

The commissioner may increase or decrease this amount of funding if it is determined that, based on a site-specific basis, more or less funds are necessary. **A partial closure for leachate generation rate, as required by 329 IAC 10-22-3(d), may be granted, if the owner, operator, or permittee of an MSWLF provides actual leachate generation rate data of an area for at least a two (2) year duration after final cover is installed and certified.**

(C) At a minimum, the amount of funds necessary to provide for post-closure activities must include funds for the following:

(i) Ground water monitoring and well maintenance, **including piezometers when applicable.**

(ii) Methane monitoring and maintenance.

(iii) Maintenance of drainage and erosion control system.

(iv) Maintenance of leachate collection system.

(v) Maintenance of access control.

(vi) Control of vegetation.

(vii) Maintenance of the dike or dikes if required under 329 IAC 10-16-2.

(6) The post-closure cost estimate must include a twenty-five percent (25%) contingency cost based on total post-closure cost.

(7) If the property is used to fulfill or reduce the cost of post-closure funding, the property must not be sold, relinquished, or used for any other purpose. If the property is proposed to be sold, relinquished, or used for any other purpose, the owner, operator, or permittee shall complete the following requirements:

(A) The post-closure plan must be updated under this section and submitted to the commissioner.

(B) The post-closure financial responsibility must be updated under 329 IAC 10-39 and submitted to the commissioner.

(C) The owner, operator, or permittee shall receive approval from the commissioner for the requirements under clauses (A) and (B) prior to selling, relinquishing, or using the property for any other purpose.

(d) Proposed changes to the approved post-closure plans may be submitted to the commissioner during the post-closure period. The commissioner shall provide notification that the modification is not acceptable within sixty (60) days of receiving the modification request. If the owner or operator does not receive notification from the commissioner within sixty (60) days, the post-closure plan modifications may be installed in accordance with documentation provided to the commissioner. *(Solid Waste Management Board; 329 IAC 10-23-3; filed Mar 14, 1996, 5:00 p.m.: 19 IR 1887; filed Mar 19, 1998, 11:07 a.m.: 21 IR 2816; filed Aug 2, 1999, 11:50 a.m.: 22 IR 3864)*

SECTION 92. 329 IAC 10-23-4 IS AMENDED TO READ AS FOLLOWS:

329 IAC 10-23-4 Post-closure certification

Authority: IC 13-14-8-7; IC 13-15-2-1; IC 13-19-3-1
Affected: IC 13-30-2; IC 36-9-30

Sec. 4. When the post-closure care requirements of this rule have been completed, the owner, operator, or permittee shall submit a certification statement signed by the owner, operator, or permittee and an independent registered professional engineer that the post-closure care requirements have been met and the MSWLF has stabilized. The post-closure certification will be deemed adequate, unless within ~~one hundred fifty (150)~~ **ninety (90)** days of receipt of the post-closure certification and subsequent review, the commissioner issues notice of the deficiency of post-closure, including actions necessary to correct the deficiency. *(Solid Waste Management Board; 329*

IAC 10-23-4; filed Mar 14, 1996, 5:00 p.m.: 19 IR 1887; filed Aug 2, 1999, 11:50 a.m.: 22 IR 3865)

SECTION 93. 329 IAC 10-24-4 IS AMENDED TO READ AS FOLLOWS:

329 IAC 10-24-4 Hydrogeologic study

Authority: IC 13-14-8-7; IC 13-15-2-1; IC 13-19-3-1
Affected: IC 13-30-2; IC 36-9-30

Sec. 4. (a) An application for restricted waste site Type I or Type II or nonmunicipal solid waste landfill must be accompanied by a proposal for the installation of monitoring devices, upgradient and downgradient from the landfill with respect to ground water flow direction. The proposal must consist of a hydrogeologic study that provides the information specified in subsection (b). The commissioner may modify the requirements for the proposal dependent on site characteristics. The proposal must be certified by a registered professional engineer or ~~certified~~ **licensed** professional geologist, either of whom shall have education or professional experience in hydrogeology or hydrology.

(b) The proposal must provide the following information by means of maps, diagrams, and narrative:

(1) Summary of regional and site-specific geologic information obtained from recent or previous soil borings, coal borings, area **ground water monitoring** well logs, and published reports.

(2) Water table and potentiometric surface maps of the proposed site, including ground water flow directions as follows:

(A) Such maps must be prepared from data from cased holes or piezometers capable of measuring hydraulic head at a maximum screen interval of five (5) feet. This limitation on the maximum length of the screened interval must not apply to those piezometers used to determine a water table surface. At least:

(i) three (3) such devices must be necessary for fill areas less than twenty (20) acres;

(ii) four (4) such devices for fill areas between twenty (20) and fifty (50) acres;

(iii) five (5) such devices for fill areas between fifty (50) and ninety (90) acres; and

(iv) six (6) such devices for fill areas greater than ninety (90) acres.

The required devices must be evenly distributed over the site. In addition, vertical hydraulic gradients must be measured, at a minimum, of two (2) separate points at the site. Additional nested piezometers or **ground water monitoring** wells may be required by the commissioner to adequately determine vertical components. When more than one (1) aquifer is present within the specified boring depths required in section 3(1)(C) of this rule, individual water table and potentiometric maps may be required.

(B) Monthly water level measurements over a period of at least six (6) months, along with water table and potentiometric surface maps constructed from each measurement event, must be submitted to the commissioner prior to operation of the facility.

(C) The proposal must discuss the evidence and potential of significant components of vertical ground water flow. If there are significant components of vertical flow, cross-sectional representations of equipotential lines and ground water flow direction must be provided that adequately represent the flow beneath the site.

(3) Identification of aquifers below the proposed site to the depth required by section 3(1)(C) of this rule, including the following information:

(A) Aquifer thickness or thicknesses.

(B) Lithology.

(C) Estimated hydraulic conductivity and effective porosity.

(D) Presence of low permeability units above or below.

(E) Whether the aquifers are confined or unconfined.

In addition, a general identification and description must be provided for aquifers known to exist from the geologic literature and area **ground water monitoring** well logs.

(4) Known or projected information on hydraulic connections of ground water to surface water and hydraulic connections between different aquifers at site.

(5) Information on the current and proposed use of ground water in the area, including any available information on existing quality of ground water in the aquifer or aquifers.

(6) Diagrammatic representation of proposed **ground water** monitoring well design and construction, including any available information on existing quality of ground water in the aquifer or aquifers.

(7) Proposed **ground water monitoring** well locations, including length and elevation of screened intervals.

(c) The commissioner may require that pumping tests or similar hydraulic tests be performed to provide a more accurate determination of aquifer characteristics where necessary to determine the adequacy of site or monitoring system design. *(Solid Waste Management Board; 329 IAC 10-24-4; filed Mar 14, 1996, 5:00 p.m.: 19 IR 1890; readopted filed Jan 10, 2001, 3:25 p.m.: 24 IR 1535)*

SECTION 94. 329 IAC 10-29-1 IS AMENDED TO READ AS FOLLOWS:

329 IAC 10-29-1 Monitoring devices

Authority: IC 13-14-8-7; IC 13-15-2-1; IC 13-19-3-1
Affected: IC 13-30-2; IC 36-9-30

Sec. 1. (a) All new restricted waste sites Type I and Type II and nonmunicipal solid waste landfills must have ground water monitoring devices. All existing nonmunicipal solid waste landfills in operation on the effective date of 329 IAC 2, which was repealed in 1996, that do not have ground water monitoring devices must install such devices on or before September 1, 1989.

(b) The number and location of monitoring devices are as follows:

(1) The following for new facilities:

(A) The ground water monitoring system must consist of a sufficient number of monitoring devices, installed at appropriate locations and depths, to yield ground water samples from the aquifer or aquifers that represent the quality of both background water that has not been affected by leachate from a facility and the quality of ground water passing the monitoring boundary of the facility. If the aquifer to be monitored exceeds the depth specified in 329 IAC 10-24-3(1)(C), the commissioner may allow alternative placement of monitoring devices.

(B) The number, spacing, and depths of monitoring devices must be proposed by the applicant in the site-specific geological study required under 329 IAC 10-24.

(C) A minimum of four (4) ground water monitoring devices, one (1) upgradient and three (3) downgradient, must be installed.

(2) For existing facilities under subsection (a), as follows:

(A) A minimum of four (4) ground water monitoring devices, one (1) upgradient and three (3) downgradient, must be installed at facilities that do not have an existing ground water monitoring system that meets the requirements of the commissioner.

(B) Locations and installation of monitoring devices must be in accordance with a plan submitted to and approved by the commissioner.

(c) The commissioner may request notification in advance of the date and time of the installation of the monitoring devices.

(d) The owner or operator of a restricted waste site Type I or Type II or nonmunicipal solid waste landfill shall prepare and submit to the commissioner at least annually a ground water flow map or maps as necessary to indicate seasonal ground water. If data acquired during operation of the facility indicates that ground water flow directions are other than as anticipated in the ground water monitoring system design, the commissioner may require additional **ground water** monitoring wells at the facility.

(e) If for any reason a **ground water** monitoring well or other monitoring device is destroyed or otherwise fails to properly function, the owner or operator of a restricted waste site Type I or Type II or nonmunicipal solid waste landfill shall notify the commissioner within ten (10) days of discovery. The device must be repaired if possible. If the device cannot be repaired, it must be properly abandoned and replaced within sixty (60) days of the notification unless the owner or operator is notified otherwise in writing by the commissioner.

(f) As used in this rule, "monitoring devices" includes the following:

(1) Ground water monitoring wells.

(2) Suction lysimeters.

(3) Moisture probes.

(4) Similar monitoring devices.

(g) As used in this rule, "monitoring boundary of the facility" means the vertical plane provided by the monitoring devices hydraulically downgradient from the facility. The downgradient monitoring devices that constitute the monitoring boundary of the facility must be located within fifty (50) feet of the solid waste boundary or the property line, whichever is closer to the solid waste boundary, except where fifty (50) feet is not possible because of site topography or geology. In the case of existing facilities that have ground water monitoring devices approved by the commissioner prior to the effective date of this article, those approved devices must define the monitoring boundary of the facility. *(Solid Waste Management Board; 329 IAC 10-29-1; filed Mar 14, 1996, 5:00 p.m.: 19 IR 1900; errata filed Apr 4, 1996, 4:00 p.m.: 19 IR 2047*; *readopted filed Jan 10, 2001, 3:25 p.m.: 24 IR 1535)*

SECTION 95. 329 IAC 10-30-4 IS AMENDED TO READ AS FOLLOWS:

329 IAC 10-30-4 Closure plan

Authority: IC 13-14-8-7; IC 13-15-2-1; IC 13-19-3-1
Affected: IC 13-30-2; IC 36-9-30

Sec. 4. (a) Owners or operators of restricted waste sites Type I and Type II and nonmunicipal solid waste landfills shall have a written closure plan. The closure plan must be submitted with the permit application in accordance with 329 IAC 10-11 and be approved by the commissioner as part of the permit. The approved closure plan will become a condition of the permit.

(b) The closure plan must identify the steps necessary to completely close the restricted waste site Type I or Type II or nonmunicipal solid waste landfill at any point during its intended life in accordance with section 1 of this rule. The plan must be certified by a registered professional engineer. The closure plan must include the following:

(1) A description of the steps that will be used to partially close, if applicable, and finally close the facility in accordance with section 1 of this rule.

(2) A listing of labor, materials, and testing necessary to close the facility.

(3) An estimate of the expected year of closure and a schedule for final closure. The schedule must include:

(A) the total time required to close the facility; and

(B) the time required for completion of intervening closure activities.

(4) An estimate of the cost per acre of providing final cover and vegetation. Such cost must be that which is necessary for providing the following, but must not be less than five thousand dollars ($5,000) per acre:

(A) Two (2) feet of compacted clay soil.

(B) Six (6) inches of topsoil.

(C) Vegetation.

(D) Certification of closure, including any testing necessary for such certification.

(5) The closure plan must separately identify any closure costs for items other than providing final cover and vegetation.

(6) The closure plan must list a closure cost estimate equal to the costs specified by subdivision (5) plus the product of the total area of the site permitted for filling and the cost per unit area specified by subdivision (4). Closure costs must be calculated based on the cost necessary for the work to be performed by a third party.

(7) The estimate of the cost per acre of providing final cover and vegetation must be that necessary for providing the activities as specified in the closure plan; however, the sum of the closure cost estimate and post-closure cost estimate must not be less than fifteen thousand dollars ($15,000) per acre or fraction of an acre covered by the permitted facility.

(8) If the restricted waste site Type I or Type II or nonmunicipal solid waste landfill utilizes the **incremental** closure ~~trust fund option or funds the letter of credit on an annual basis;~~ **standard,** as contained in ~~329 IAC 10-39-2;~~ **329 IAC 10-39-2(b)(3)(B),** then for each yearly period following the beginning of operation of the facility, the plan must specify the maximum area of the facility into which solid waste will have been deposited through that year of the facility's life and must delineate such areas on the copy of the facility's final contour map. The closure plan must list closure cost estimates for each year of the anticipated life of the facility equal to the costs specified by subdivision (5), plus the product of the noted maximum areas of the site and the cost per unit area specified by subdivision (4).

(Solid Waste Management Board; 329 IAC 10-30-4; filed Mar 14, 1996, 5:00 p.m.: 19 IR 1906; readopted filed Jan 10, 2001, 3:25 p.m.: 24 IR 1535)

SECTION 96. 329 IAC 10-37-4 IS AMENDED TO READ AS FOLLOWS:

329 IAC 10-37-4 Closure plan

Authority: IC 13-14-8-7; IC 13-15-2-1; IC 13-19-3-1
Affected: IC 13-30-2; IC 36-9-30

Sec. 4. (a) Owners or operators of a restricted waste site Type III and a construction/demolition site shall have a written closure plan. The closure plan must be submitted with the permit application in accordance with 329 IAC 10-11 and be approved by the commissioner as part of the permit. The approved closure plan will become a condition of the permit.

(b) The closure plan, certified by a registered professional engineer, must identify the steps necessary to completely close the restricted waste site Type III or construction/demolition site at any point during its intended life in accordance with section 1 of this rule. The closure plan must include the following:

(1) A description of the steps that will be used to partially close, if applicable, and finally close the facility in accordance with section 1 of this rule.

(2) A listing of labor, materials, and testing necessary to close the facility.

(3) An estimate of the expected year of closure and a schedule for final closure. The schedule must include:

(A) the total time required to close the facility; and

(B) the time required for completion of intervening closure activities.

(4) An estimate of the cost per acre of providing final cover and vegetation. Such cost must be that which is necessary for providing the following, but must not be less than five thousand dollars ($5,000) per acre:

(A) Two (2) feet of compacted clay soil.

(B) Six (6) inches of topsoil.

(C) Vegetation.

(D) Certification of closure, including any testing necessary for such certification.

(5) The closure plan must separately identify any closure costs for items other than providing final cover and vegetation.

(6) The closure plan must list a closure cost estimate equal to the costs specified by subdivision (5) plus the product of the total area of the site permitted for filling and the cost per unit area specified by subdivision (4). Closure costs must be calculated based on the cost necessary for the work to be performed by a third party.

(7) The estimate of the cost per acre of providing final cover and vegetation must be that necessary for providing the activities as specified in the closure plan; however, the sum of the closure cost estimate and post-closure cost estimate must not be less than fifteen thousand dollars ($15,000) per acre or fraction of an acre covered by the permitted facility.

(8) If the restricted waste site Type III or the construction/demolition site utilizes the **incremental** closure ~~trust fund option or funds the letter of credit on an annual basis;~~ **standard,** as contained in ~~329 IAC 10-39;~~ **329 IAC 10-39-2(b)(3)(B),** then for each yearly period following the beginning of operation of the facility, the plan must specify the maximum area of the facility into which solid waste will have been deposited through that year of the facility's life and must delineate such areas on the copy of the facility's final contour map. The closure plan must list closure cost estimates for each year of the anticipated life of the facility equal to the costs specified by subdivision (5), plus the product of the noted maximum areas of the site and the cost per unit area specified by subdivision (4).

(Solid Waste Management Board; 329 IAC 10-37-4; filed Mar 14, 1996, 5:00 p.m.: 19 IR 1916; readopted filed Jan 10, 2001, 3:25 p.m.: 24 IR 1535)

SECTION 97. 329 IAC 10-39-1 IS AMENDED TO READ AS FOLLOWS:

329 IAC 10-39-1 Applicability

Authority: IC 13-14-8-7; IC 13-15-2-1; IC 13-19-3-1
Affected: IC 13-30-2; IC 36-9-30

Sec. 1. (a) This rule applies to all solid waste land disposal facilities that:

(1) are required to have a permit by 329 IAC 10-11-1; and

(2) apply for a permit after the promulgation of this rule or have an operating permit in effect on the effective date of this article.

(b) The permittee for solid waste land disposal facilities regulated by this rule shall provide financial responsibility for closure and post-closure in accordance with the following:

(1) Closure and post-closure rules, including:

(A) 329 IAC 10-22 and 329 IAC 10-23;

(B) 329 IAC 10-30 and 329 IAC 10-31; or

(C) 329 IAC 10-37 and 329 IAC 10-38.

(2) Sections 2 through 5 of this rule.

(c) Solid waste land disposal facilities that have operating permits in effect must not continue to operate unless they have established financial responsibility for post-closure by choosing a financial assurance mechanism under section 3(a) of this rule and by funding the same under section 3(b) of this rule.

(d) Solid waste land disposal facilities that have operating permits in effect must not continue to operate unless they have established financial responsibility for closure by choosing a financial assurance mechanism under section 2(a) of this rule and by funding the same under section 2(b) of this rule.

(e) Solid waste land disposal facilities that apply for permits after the promulgation of this rule must provide financial responsibility as required by ~~329 IAC 10-11-2(b)(12).~~ **329 IAC 10-11-2.5(a)(4).** The documents establishing both the closure and post-closure financial responsibility must be executed by and approved by the commissioner prior to operation of the facility. In addition, the financial assurance mechanism must be funded under sections 2(b) and 3(b) of this rule prior to operation. *(Solid Waste Management Board; 329 IAC 10-39-1; filed Mar 14, 1996, 5:00 p.m.: 19 IR 1918)*

SECTION 98. 329 IAC 10-39-2 IS AMENDED TO READ AS FOLLOWS:

329 IAC 10-39-2 Closure; financial responsibility

Authority: IC 13-14-8-7; IC 13-15; IC 13-19-3
Affected: IC 13-20; IC 36-9-30

Sec. 2. (a) The permittee shall establish financial responsibility for closure of the solid waste land disposal facility. The permittee shall choose from the following options:

(1) The trust fund option, including the following:

(A) The permittee may satisfy the requirements of this section by establishing a trust agreement on forms provided by the commissioner or on such other form as approved by the commissioner.

(B) All trust agreements must contain the following:

(i) Identification of solid waste land disposal facilities and corresponding closure cost estimates covered by the trust agreement.

(ii) The establishment of a trust fund in the amount determined by subsection (b) and guarantee payments from that fund either reimbursing the permittee for commissioner-approved closure work done or making payments to the commissioner for accomplishing required closure work.

(iii) The requirement of annual evaluations of the trust to be submitted to the commissioner.

(iv) The requirement of successor trustees to notify the commissioner, in writing, of their appointment at least ten (10) days prior to the appointment becoming effective.

(v) The requirement of the trustee to notify the commissioner, in writing, of the failure of the permittee to make a required payment into the fund.

(vi) The establishment that the trust is irrevocable unless terminated, in writing, with the approval of the permittee, the trustee, and the commissioner.

(vii) A certification that the signatory of the trust agreement for the permittee was duly authorized to bind the permittee.

(viii) A notarization of all signatures by a notary public commissioned to be a notary public in the state of Indiana at the time of notarization.

(ix) The establishment that the trustee is authorized to act as a trustee and is an entity whose operations are regulated and examined by a federal and state of Indiana agency.

(x) The requirement of initial payment into the fund be made within thirty (30) days of the commissioner's approval of the trust agreement, and any subsequent payments be made within thirty (30) days of each anniversary of the initial payment.

(2) The surety bond option, including the following:

(A) The permittee may satisfy the requirements of this section by establishing a surety bond on forms provided by the commissioner or on such other forms as approved by the commissioner.

(B) All surety bonds must contain the following:

(i) The establishment of penal sums in the amount determined by subsection (b).

(ii) Provision that the surety will be liable to fulfill the permittee's closure obligations upon notice from the commissioner that the permittee has failed to do so.

(iii) Provision that the surety may not cancel the bond without first sending notice of cancellation by certified mail to the permittee and the commissioner at least one hundred twenty (120) days prior to the effective date of the cancellation.

(iv) Provision that the permittee may not terminate the bond without prior written authorization by the commissioner.

(C) The permittee shall establish a standby trust fund to be utilized in the event the permittee fails to fulfill closure

obligations and the bond guarantee is exercised. Such trust fund must be established in accordance with the requirements of subdivision (1).

(D) The surety company issuing the bond must be among those listed as acceptable sureties for federal bonds in Circular 570 of the United States Department of the Treasury **and must be authorized to do business in Indiana.**

(E) The surety will not be liable for deficiencies in the performance of closure by the permittee after the commissioner releases the permittee in accordance with section 6 of this rule.

(3) The letter of credit option, including the following:

(A) The permittee may satisfy the requirements of this section by establishing a letter of credit on forms provided by the commissioner or on such other forms as approved by the commissioner.

(B) All letters of credit must contain the following:

(i) The establishment of credit in the amount determined by subsection (b).

(ii) Irrevocability.

(iii) An effective period of at least one (1) year and automatic extensions for periods of at least one (1) year unless the issuing institution provides written notification of cancellation by certified mail to both the permittee and the commissioner at least one hundred twenty (120) days prior to the effective date of cancellation.

(iv) Provision that, upon written notice from the commissioner, the institution issuing the letter of credit will state that the permittee's obligations have not been fulfilled, and the institution will deposit funds equal to the amount of the letter of credit into a trust fund to be used to ensure the permittee's closure obligations are fulfilled.

(C) The permittee shall establish a standby trust fund to be utilized in the event the permittee fails to fulfill its closure obligations and the letter of credit is utilized. Such trust funds must be established in accordance with the requirements of subdivision (1).

(D) The issuing institution must be an entity that has the authority to issue letters of credit and whose letters of credit operations are regulated and examined by a federal or Indiana agency.

(4) The insurance option, including the following:

(A) The permittee may satisfy the requirements of this section by providing evidence of insurance on forms provided by the commissioner or on such other forms as approved by the commissioner.

(B) All insurance must include the following requirements:

(i) Be in the amount determined by subsection (b).

(ii) Provide that, upon written notification to the insurer by the commissioner that the permittee has failed to perform final closure, the insurer shall make payments in any amount, not to exceed the amount insured, and to any person authorized by the commissioner.

(iii) Provide that the permittee shall maintain the policy in full force and effect unless the commissioner consents in writing to termination of the policy.

(iv) Provide for assignment of the policy to a transferee permittee.

(v) Provide that the insurer may not cancel, terminate, or fail to renew the policy except for failure of the permittee to pay the premium. No policy may be canceled, be terminated, or fail to be renewed unless at least one hundred twenty (120) days prior to such event the commissioner and the permittee are notified by the insurer in writing.

(C) The insurer shall either be licensed to transact the business of insurance or be eligible to provide insurance as an excess or surplus lines insurer in one (1) or more states.

(5) The financial test for restricted waste sites option, including the following:

(A) This financial test is only available for restricted waste sites.

(B) If a permittee meets the criteria set forth in item (i) and either item (ii) or (iii), the permittee shall be deemed to have established financial responsibility as follows:

(i) Less than fifty percent (50%) of the company's gross revenues are derived from waste management.

(ii) The permittee meets the following four (4) tests:

(AA) Two (2) of the following three (3) ratios are met:

(aa) A ratio of total liabilities to net worth less than two (2.0).

(bb) A ratio of the sum of net income plus depreciation, depletion, and amortization to total liabilities greater than one-tenth (0.1).

(cc) A ratio of current assets to current liabilities greater than one and one-half (1.5).

(BB) Net working capital and tangible net worth each at least six (6) times the sum of the current closure and current post-closure cost estimates.

(CC) Tangible net worth of at least ten million dollars ($10,000,000).

(DD) Assets in the United States amounting to at least ninety percent (90%) of the permittee's total assets or at least six (6) times the sum of the current closure and current post-closure costs estimates.

(iii) The permittee meets the following four (4) tests:

(AA) A current rating for the permittee's most recent bond issuance of AAA, AA, A, or BBB as issued by Standard and Poor's or Aaa, Aa, A, or Baa as issued by Moody's.

(BB) Tangible net worth of at least six (6) times the sum of the current closure and current post-closure cost estimates.

(CC) Tangible net worth of at least ten million dollars ($10,000,000).

(DD) Assets located in the United States amounting to at least ninety percent (90%) of the permittee's total assets or at least six (6) times the sum of the current closure and current post-closure estimates.

(C) To demonstrate the financial test has been met, the permittee shall submit the following documents to the commissioner:

(i) A form provided by the commissioner, or such other form as approved by the commissioner, signed by the permittee's chief financial officer, demonstrating the applicable criteria have been met.

(ii) A copy of an independent certified public accountant's report examining the permittee's financial statements for the latest completed fiscal year.

(iii) A special report from the permittee's independent certified public accountant to the permittee stating:

(AA) the certified public accountant has compared the data that the letter from the chief financial officer specifies as having been derived from the independently audited, year-end financial statements for the latest fiscal year with the amounts in such financial statements; and

(BB) in connection with that procedure, no matters come to the attention of the certified public accountant that caused the certified public accountant to believe that the specified data should be adjusted.

(D) The permittee shall submit updated clause (C) documents to the commissioner within ninety (90) days after the close of each fiscal year.

(E) If at any time the permittee fails to meet the financial test, the permittee shall establish an alternate financial responsibility mechanism within one hundred twenty (120) days after the end of the fiscal year for which the year-end financial data shows that the permittee no longer meets the requirements.

(F) The commissioner may disallow use of this test on the basis of qualifications in the opinion expressed in the independent certified public accountant's report examining the permittee's financial statements. An adverse opinion or a disclaimer of opinion will be cause for disallowance. Other qualifications may be cause for disallowance if, in the opinion of the commissioner, they indicate the permittee does not meet the requirements of this subdivision. The permittee shall choose an alternate financial responsibility mechanism within thirty (30) days after notification of the disallowance.

(6) The local government financial test option, including the following:

(A) This financial test is only available for permittees that are local governments. As used in this subdivision, "local government" means a county, municipality, township, or solid waste management district.

(B) A local government permittee that satisfies the following requirements may demonstrate financial assurance up to the amount specified in clause (C):

(i) The local government permittee shall meet the following financial component requirements:

(AA) The local government permittee shall satisfy either of the following as applicable:

(aa) If the local government permittee has outstanding, rated general obligation bonds that are not secured by insurance, a letter of credit, or other collateral or guarantee, the local government permittee shall have a current rating of:

(1) Aaa, Aa, A, or Baa as issued by Moody's; or

(2) AAA, AA, A, or BBB as issued by Standard and Poor's;

on all such general obligation bonds.

(bb) The local government permittee shall satisfy the following financial ratios based on the local government permittee's most recent audited annual financial statement:

(1) A ratio of cash plus marketable securities to total expenditures greater than or equal to five-hundredths (0.05).

(2) A ratio of annual debt service to total expenditures less than or equal to two-tenths (0.20).

(BB) The local government permittee shall prepare the local government permittee's financial statements in conformity with generally accepted accounting principles (GAAP) for governments and have the financial statements audited by an independent certified public accountant or the state board of accounts.

(CC) A local government permittee is not eligible to assure the local government permittee's obligations under this subdivision if any of the following applies to the local government permittee:

(aa) The local government permittee is currently in default on any outstanding general obligation bonds.

(bb) The local government permittee has any outstanding general obligation bonds rated lower than Baa as issued by Moody's or BBB as issued by Standard and Poor's.

(cc) The local government permittee has operated at a deficit equal to five percent (5%) or more of total annual revenue in each of the past two (2) fiscal years.

(dd) The local government permittee receives an adverse opinion, disclaimer of opinion, or other qualified opinion from the independent certified public accountant or the state board of accounts auditing its financial statement as required under subitem (BB). The commissioner may evaluate qualified opinions on a case-by-case basis and allow use of the financial test in cases where the commissioner deems the qualification insufficient to warrant disallowance of use of the test.

(DD) As used in this subdivision, the following terms apply:

(aa) "Cash plus marketable securities" means all the cash plus marketable securities held by the local government permittee on the last day of a fiscal year, excluding cash and marketable securities designated to satisfy past obligations, such as pensions.

(bb) "Debt service" means the amount of principal and interest due on a loan in a given time period, typically the current year.

(cc) "Deficit" means total annual revenues minus total annual expenditures.

(dd) "Total expenditures" means all expenditures, excluding capital outlays and debt repayment.

(ee) "Total revenues" means revenues from all taxes and fees but does not include the proceeds from borrowing or asset sales, excluding revenues from funds managed by the local government permittee on behalf of a specific third party.

(ii) The local government permittee shall meet the following public notice component requirements:

(AA) The local government permittee shall place a reference to the closure and post-closure care costs assured through the financial test into the local government permittee's next comprehensive annual financial report (CAFR) at the time of the next required local government financial test annual submittal or prior to the initial receipt of waste at the facility, whichever is later. Disclosure must include the following:

(aa) Nature and source of closure and post-closure care requirements.

(bb) Reported liability at the balance sheet date.

(cc) Estimated total closure and post-closure care cost remaining to be recognized.

(dd) Percentage of landfill capacity used to date.

(ee) Estimated landfill life in years.

(BB) A reference to corrective action costs must be placed in the CAFR not later than one hundred twenty (120) days after the corrective action remedy has been selected in accordance with the requirements of 329 IAC 10-21-13.

(CC) For the first year the financial test is used to assure costs at a particular facility, the reference may instead be placed in the facility's operating record until issuance of the next available CAFR if timing does not permit the reference to be incorporated into the most recently issued CAFR or budget.

(DD) For closure and post-closure costs, conformance with Government Accounting Standards Board Statement 18 assures compliance with this public notice component.

(iii) The local government permittee shall meet the following record keeping and reporting requirements:

(AA) The local government permittee shall place the following items in the facility's operating record:

(aa) A letter signed by the local government permittee's chief financial officer that completes the following:

(1) Lists all of the current cost estimates covered by a financial test as described in clause (C).

(2) Provides evidence and certifies that the local government permittee meets the conditions of item (i)(AA), (i)(BB), and (i)(CC).

(3) Certifies that the local government permittee meets the conditions of item (ii) and clause (C).

(bb) The local government permittee's independently audited year-end financial statements for the latest fiscal year (except for local government permittees where audits are required every two (2) years when unaudited statements may be used in years when audits are not required), including the unqualified opinion of the auditor, who shall be an independent certified public accountant, or the state board of accounts that conducts equivalent comprehensive audits.

(cc) A report to the local government permittee from the local government permittee's independent certified public accountant or the state board of accounts based on performing an agreed upon procedures engagement relative to the:

(1) financial ratios required by item (i)(AA)(bb), if applicable; and

(2) requirements of item (i)(BB), (i)(CC)(cc), and (i)(CC)(dd).

The independent certified public accountant's or state board of accounts' report must state the procedures performed and the findings.

(dd) A copy of the CAFR used to comply with item (ii) or certification that the requirements of General Accounting Standards Board Statement 18 have been met.

(BB) The items required in subitem (AA) must be placed in the facility operating record as follows:

(aa) In the case of closure and post-closure care, either at the time of the next required local government financial test annual submittal or prior to the initial receipt of waste at the facility, whichever is later.

(bb) In the case of corrective action, not later than one hundred twenty (120) days after the corrective action remedy is selected in accordance with the requirements of 329 IAC 10-21-13.

(CC) After the initial placement of the items in the facility's operating record, the local government permittee shall update the information and place the updated information in the operating record within one hundred eighty (180) days following the close of the local government permittee's fiscal year.

(DD) The local government permittee is no longer required to meet the requirements of this item when either of the following occur:

(aa) The local government permittee substitutes alternate financial assurance as specified in this rule.

(bb) The local government permittee is released from the requirements of this rule in accordance with section 6 or 11 of this rule.

(EE) A local government permittee shall satisfy the requirements of the financial test at the close of each

fiscal year. If the local government permittee no longer meets the requirements of the local government financial test, the local government permittee shall, within one hundred twenty (120) days following the close of the local government permittee's fiscal year, complete the following:

(aa) Obtain alternative financial assurance that meets the requirements of this rule.

(bb) Place the required submissions for that assurance in the facility's operating record.

(cc) Notify the commissioner that the local government permittee no longer meets the criteria of the financial test and that alternate assurance has been obtained.

(FF) The commissioner, based on a reasonable belief that the local government permittee may no longer meet the requirements of the local government financial test, may require additional reports of financial condition from the local government permittee at any time. If the commissioner finds, on the basis of such reports or other information, that the local government permittee no longer meets the requirements of the local government financial test, the local government permittee shall provide alternate financial assurance in accordance with this rule.

(GG) The commissioner may disallow use of this test on the basis of qualifications in the opinion expressed in the state board of accounts' annual financial audit of the local government permittee. An adverse opinion or a disclaimer of opinion is cause for disallowance. Other qualifications may be cause for disallowance if, in the opinion of the commissioner, the qualifications indicate the local government permittee does not meet the requirements of this subdivision. The local government permittee shall choose an alternate financial responsibility mechanism within ninety (90) days after notification of the disallowance.

(C) The local government permittee shall complete the calculation of costs to be assured. The portion of the closure, post-closure, and corrective action costs for which a local government permittee can assure under this subdivision is determined as follows:

(i) If the local government permittee does not assure other environmental obligations through a financial test, the local government permittee may assure closure, post-closure, and corrective action costs that equal up to forty-three percent (43%) of the local government permittee's total annual revenue.

(ii) If the local government permittee assures other environmental obligations through a financial test, including those associated with:

(AA) underground injection control (UIC) facilities under 40 CFR 144.62;

(BB) petroleum underground storage tank facilities under 329 IAC 9-8;

(CC) polychlorinated biphenyls (PCB) storage facilities under 40 CFR 761; and

(DD) hazardous waste treatment, storage, and disposal facilities under 329 IAC 3.1-14 or 329 IAC 3.1-15;

the local government permittee shall add those costs to the closure, post-closure, and corrective action costs the local government permittee seeks to assure under this subdivision. The total that may be assured must not exceed forty-three percent (43%) of the local government permittee's total annual revenue.

(iii) The local government permittee shall obtain an alternate financial assurance instrument for those costs that exceed the limits set in this clause.

(7) The local government guarantee option, including the following:

(A) A permittee may demonstrate financial assurance for closure, post-closure, and corrective action, as required by sections 2, 3, and 10 of this rule, by obtaining a written guarantee provided by a local government.

(B) The guarantor shall meet the requirements of the local government financial test in subdivision (6) and shall comply with the terms of a written guarantee as follows:

(i) The guarantee must be effective:

(AA) before the initial receipt of waste or at the time of the next required local government financial test annual submittal, whichever is later, in the case of closure and post-closure care; or

(BB) no later than one hundred twenty (120) days after the corrective action remedy has been selected in accordance with the requirements of 329 IAC 10-21-13.

(ii) The guarantee must provide the following:

(AA) If the permittee fails to perform any combination of closure, post-closure care, or corrective action of a facility covered by the guarantee, the guarantor shall:

(aa) perform or pay a third party to perform any combination of closure, post-closure care, or corrective action as required under this subitem; or

(bb) establish a fully funded trust fund as specified in subdivision (1) in the name of the permittee.

(BB) The guarantee will remain in force unless the guarantor sends notice of cancellation by certified mail to the permittee and to the commissioner. Cancellation must not occur during the one hundred twenty (120) days beginning on the date of receipt of the notice of cancellation by both the permittee and the commissioner as evidenced by the return receipts.

(CC) If a guarantee is canceled under subitem (BB), the permittee shall, within ninety (90) days following receipt of the cancellation notice by the permittee and the commissioner, complete the following:

(aa) Obtain alternate financial assurance under this rule.

(bb) Place evidence of that alternate financial assurance in the facility operating record.

(cc) Notify the commissioner.

(DD) If the permittee fails to provide alternate financial assurance within the ninety (90) day period under subitem (CC), the guarantor shall complete the following:

(aa) Provide alternate assurance within one hundred twenty (120) days following the guarantor's notice of cancellation.

(bb) Place evidence of the alternate assurance in the facility operating record.

(cc) Notify the commissioner.

(C) The permittee shall complete the following record keeping and reporting requirements:

(i) The permittee shall place a certified copy of the guarantee along with the items required under subdivision (6)(B)(iii) into the facility's operating record:

(AA) before the initial receipt of waste or at the time of the next required local government financial test annual submittal, whichever is later, in the case of closure and post-closure care; or

(BB) no later than one hundred twenty (120) days after the corrective action remedy has been selected in accordance with 329 IAC 10-21-13.

(ii) The permittee is no longer required to maintain the items specified in this clause when:

(AA) the permittee substitutes alternate financial assurance as specified in this rule; or

(BB) the permittee is released from the requirements of this rule in accordance with section 6 or 11 of this rule.

(iii) If a local government guarantor no longer meets the requirements of subdivision (6), the permittee shall, within ninety (90) days, complete the following:

(AA) Obtain alternative assurance.

(BB) Place evidence of the alternate assurance in the facility operating record.

(CC) Notify the commissioner.

If the permittee fails to obtain alternate financial assurance within the ninety (90) day period, the guarantor shall provide that alternate assurance within the next thirty (30) days.

(b) Financial responsibility closure cost estimate requirements must be as follows:

(1) For purposes of establishing financial responsibility, the permittee shall have a detailed written estimate of the cost of closing the facility based on the following:

(A) The closure costs derived under:

(i) 329 IAC 10-22-2(c);

(ii) 329 IAC 10-30-4(b); or

(iii) 329 IAC 10-37-4(b).

(B) One (1) of the closure cost estimating standards under subdivision (3).

(2) As used in this section, "establishment of financial responsibility" means submission of financial responsibility to the commissioner in the form of one (1) of the options under subsection (a).

(3) The permittee shall use one (1) of the following closure cost estimating standards:

(A) The entire solid waste land disposal facility closure standard is an amount that equals the estimated total cost of closing the entire solid waste land disposal facility, less an amount representing portions of the solid waste land disposal facility that have been certified for partial closure in accordance with:

(i) 329 IAC 10-22-3;

(ii) 329 IAC 10-30-5; or

(iii) 329 IAC 10-37-5.

(B) The incremental closure standard is an amount which, for any year of operation, equals the total cost of closing the portion of the solid waste land disposal facility dedicated to the current year of solid waste land disposal facility operation, plus all closure amounts from all other partially or completely filled portions of the solid waste land disposal facility from prior years of operation that have not yet been certified for partial closure in accordance with:

(i) 329 IAC 10-22-3;

(ii) 329 IAC 10-30-5; or

(iii) 329 IAC 10-37-5.

(c) Until final closure of the solid waste land disposal facility is certified, the permittee shall annually review and submit to the commissioner the financial closure estimate derived under this section within thirty (30) days after the annual submittal date. The funding must be established or updated within thirty (30) days after the original effective date of the establishment of responsibility for closure. The funding must be updated within thirty (30) days after the annual submittal date. The submittal must also include a copy of the final contour map of the solid waste land disposal facility that delineates the boundaries of all areas into which waste has been placed as of the annual review and certified by a registered professional engineer or registered land surveyor. In addition, as part of the annual review, the permittee shall revise the closure estimate as follows:

(1) For inflation, using an inflation factor derived from the annual implicit price deflator for gross national product as published by the United States Department of Commerce in its Survey of Current Business. The inflation factor is the result of dividing the latest published annual deflator by the deflator for the previous year as follows:

(A) The first revision is made by multiplying the original closure cost estimate by the inflation factor. The result is the revised closure cost estimate.

(B) Subsequent revisions are made by multiplying the latest revised closure cost estimate by the latest inflation factor.

(2) For changes in the closure plan, whenever such changes increase the cost of closure.

(d) The permittee may revise the closure cost estimate downward whenever a change in the closure plan decreases the cost of closure or whenever portions of the solid waste land disposal facility have been certified for partial closure under:

(1) 329 IAC 10-22-3;
(2) 329 IAC 10-30-5; or
(3) 329 IAC 10-37-5.

(Solid Waste Management Board; 329 IAC 10-39-2; filed Mar 14, 1996, 5:00 p.m.: 19 IR 1919; filed Mar 19, 1998, 11:07 a.m.: 21 IR 2817; filed Feb 26, 1999, 5:45 p.m.: 22 IR 2228; filed Aug 2, 1999, 11:50 a.m.: 22 IR 3866; errata filed Sep 8, 1999, 11:38 a.m.: 23 IR 27)

SECTION 99. 329 IAC 10-39-3 IS AMENDED TO READ AS FOLLOWS:

329 IAC 10-39-3 Post-closure; financial responsibility
Authority: IC 13-14-8-7; IC 13-15; IC 13-19-3
Affected: IC 13-20; IC 36-9-30

Sec. 3. (a) The permittee shall establish financial responsibility for post-closure care of the solid waste land disposal facility. The permittee shall choose from the following options:

(1) The trust fund option, including the following:
(A) The permittee shall establish a trust agreement on forms provided by the commissioner or on such other forms as approved by the commissioner.
(B) All trust agreements must conform to the requirements detailed in section 2(a)(1)(B) of this rule, with the exception that the term "post-closure" be substituted for the term "closure".

(2) The surety bond option, including the following:
(A) The permittee shall establish a surety bond on forms provided by the commissioner or on such other form as approved by the commissioner.
(B) All surety bonds must conform to the requirements detailed in section 2(a)(2)(B) through 2(a)(2)(E) of this rule, with the exception that the term "post-closure" be substituted for the term "closure".

(3) The letter of credit option, including the following:
(A) The permittee shall establish a letter of credit on forms provided by the commissioner or on such other forms as approved by the commissioner.
(B) All letters of credit must conform to the requirements detailed in section 2(a)(3)(B) through 2(a)(3)(D) of this rule, with the exception that the term "post-closure" be substituted for the term "closure".

(4) The insurance option, including the following:
(A) The permittee shall provide evidence of insurance on forms provided by the commissioner or on such other forms as approved by the commissioner.
(B) All insurance must conform to the requirements detailed in section 2(a)(4)(B) through 2(a)(4)(C) of this rule, with the exception that the term "post-closure" be substituted for the term "closure".

(5) The financial test for restricted waste sites option, including the following:
(A) This financial test is only available for restricted waste sites.
(B) If a permittee meets the criteria set forth in section 2(a)(5)(B) through 2(a)(5)(D) of this rule, the permittee shall be deemed to have established financial responsibility.

(6) The local government financial test option, including the following:
(A) This financial test is only available for permittees that are local governments. As used in this subdivision, "local government" means a county, municipality, township, or solid waste management district.
(B) If a permittee meets the criteria set forth in section 2(a)(6)(B) through 2(a)(6)(C) of this rule, the permittee shall be deemed to have established financial responsibility.
(C) If, at any time, the permittee fails to meet the financial test, the permittee shall establish an alternate financial responsibility mechanism within one hundred twenty (120) days after the end of the fiscal year for which the financial data required by this clause shows that the permittee no longer meets the requirements.
(D) The commissioner may disallow use of this test on the basis of qualifications in the opinion expressed in the state board of accounts' annual financial audit of the permittee. An adverse opinion or a disclaimer of opinion is cause for disallowance. Other qualifications may be cause for disallowance if, in the opinion of the commissioner, the qualifications indicate the permittee does not meet the requirements of this subdivision. The permittee shall choose an alternate financial responsibility mechanism within ninety (90) days after notification of the disallowance.

(7) The local government guarantee option. If the local government guarantor and the permittee meet the requirements of section 2(a)(7)(B) and 2(a)(7)(C) of this rule, the permittee shall be deemed to have established financial responsibility.

(b) The permittee shall choose a financial responsibility mechanism that guarantees funds will be available to meet the post-closure requirements of the solid waste land disposal facility, including the following:

(1) Funding must equal the amount determined under:
(A) 329 IAC 10-23-3(c)(5) and 329 IAC 10-23-3(c)(6);
(B) 329 IAC 10-31-3(b)(4); or
(C) 329 IAC 10-38-3(b)(4).

(2) Funding may be accomplished by initially funding the chosen financial responsibility mechanism in an amount equal to the amount determined under:
(A) 329 IAC 10-23-3(c)(5) and 329 IAC 10-23-3(c)(6);
(B) 329 IAC 10-31-3(b)(4); or
(C) 329 IAC 10-38-3(b)(4).

(3) Funding may also be accomplished by making annual payments equal to the amount determined by the formula:

$$\text{Next Payment} = \frac{CE - CV}{Y}$$

Where: CE = the current post-closure cost estimate
CV = the current value of the trust fund
Y = the number of years remaining in the pay-in period

Annual funding must be no later than thirty (30) days after either each annual anniversary date of the first payment into the mechanism or the establishment of the mechanism, if no payments are required.

(c) The permittee shall submit an annual update **for inflation and for changes in the post-closure plan, which increase the costs of post-closure,** within thirty (30) days after the annual submittal date to the commissioner regarding post-closure financial assurance until final closure certification. *(Solid Waste Management Board; 329 IAC 10-39-3; filed Mar 14, 1996, 5:00 p.m.: 19 IR 1922; filed Feb 26, 1999, 5:45 p.m.: 22 IR 2235; filed Aug 2, 1999, 11:50 a.m.: 22 IR 3871)*

SECTION 100. 329 IAC 10-39-7 IS AMENDED TO READ AS FOLLOWS:

329 IAC 10-39-7 Incapacity of permittee, guarantors, or financial institutions

Authority: IC 13-14-8-7; IC 13-15; IC 13-19-3
Affected: IC 13-20; IC 36-9-30

Sec. 7. (a) A permittee shall notify the commissioner by certified mail within ten (10) days after commencement of a voluntary or involuntary proceeding under bankruptcy under 11 U.S.C. 101 et seq., October 1, 1979, naming the permittee as debtor.

(b) A local government guarantor, which provides financial assurance to a permittee, shall notify the permittee and the commissioner by certified mail within ten (10) days after commencement of a voluntary or involuntary proceeding under bankruptcy under 11 U.S.C. 101 et seq., October 1, 1979, naming the local government guarantor as debtor.

(c) A permittee who fulfills the requirements of sections 1 through 5 of this rule by obtaining a trust fund, surety bond, letter of credit, insurance policy, or local government guarantee ~~will~~ **shall** be deemed to be without the required financial responsibility in the event of bankruptcy of the:

(1) trustee;

(2) institution issuing the surety bond, letter of credit, or insurance policy to issue such instruments; or

(3) local government guarantor.

The permittee shall establish other financial responsibility within sixty (60) days after such an event. *(Solid Waste Management Board; 329 IAC 10-39-7; filed Mar 14, 1996, 5:00 p.m.: 19 IR 1924; filed Feb 26, 1999, 5:45 p.m.: 22 IR 2236)*

SECTION 101. 329 IAC 10-39-9 IS AMENDED TO READ AS FOLLOWS:

329 IAC 10-39-9 Release of funds

Authority: IC 13-14-8-7; IC 13-15-2-1; IC 13-19-3-1
Affected: IC 13-30-2; IC 36-9-30

Sec. 9. (a) This section applies to all permittees funding financial responsibility mechanisms under this rule whether utilizing the entire facility standard (section 2(b)(3)(A) of this rule) or the incremental standard (section 2(b)(3)(B) of this rule).

(b) Permittees may request release of closure or post-closure financial responsibility funds as follows:

(1) Closure as follows:

(A) Prior to closure of the solid waste land disposal facility, if payments have been made by the permittee as a part of establishing a financial responsibility mechanism, and if the payments total more than the required amount, the permittee may request, and the commissioner shall release the excess amount provided no refund must be made for an amount less than two thousand five hundred dollars ($2,500). Such request for release must be made no more than once a year.

(B) After beginning final closure, a permittee or any other person authorized to perform closure may request reimbursement for closure expenditures by submitting itemized bills to the commissioner for a minimum of ten thousand dollars ($10,000), **except after final closure certification approval.** However, the permittee must provide maps indicating the closure work that has been completed, and after expenditures for closures have been reimbursed, the remaining amount in the fund must be an adequate amount to complete the remainder of the closure work as required by the closure plan.

(2) Post-closure as follows:

(A) Prior to closure of the solid waste land disposal facility, if payments have been made by the permittee as a part of establishing a financial responsibility mechanism and if the payments total more than the required amount, the permittee may request, and the commissioner shall release the excess amount provided no refund must be made for an amount less than two thousand five hundred dollars ($2,500). Such request for release must be made no more than once a year.

(B) During the period of post-closure care, the commissioner may approve a release of funds by an amount of not less than two thousand five hundred dollars ($2,500) and not more than ~~ten~~ **three** percent ~~(10%)~~ **(3%)** of the current balance of the trust fund, **except after final post-closure certification approval,** if the permittee demonstrates to the commissioner that the value of the trust fund exceeds the remaining cost of post-closure care. Provided, however, that at no time must the value of the trust fund be allowed to drop below the remaining cost of post-closure care. Such requests for release must be made no more than once a year.

(c) Within thirty (30) days after receipt of a request for release of funds under subsection (b), the commissioner shall determine whether the expenditures are justified and, if so, shall instruct the trustee to make reimbursement in such amounts as

the commissioner specifies in writing. If the commissioner determines that the cost of the closure or post-closure will be significantly greater than the value of the trust fund, the commissioner may withhold reimbursement of such amounts as deemed prudent until it is determined that the permittee is no longer required to maintain the financial responsibility. *(Solid Waste Management Board; 329 IAC 10-39-9; filed Mar 14, 1996, 5:00 p.m.: 19 IR 1924; filed Aug 2, 1999, 11:50 a.m.: 22 IR 3873)*

SECTION 102. 329 IAC 10-39-10 IS AMENDED TO READ AS FOLLOWS:

329 IAC 10-39-10 Financial assurance for corrective action for municipal solid waste landfills

Authority: IC 13-14-8-7; IC 13-15; IC 13-19-3
Affected: IC 13-20; IC 36-9-30

Sec. 10. (a) The owner, operator, or permittee of each MSWLF required to undertake a corrective action program ~~under 329 IAC 10-21-13~~ **for ground water impacts** shall establish financial assurance for the most recent corrective action program. The owner, operator, or permittee shall choose from the following options:

(1) The trust fund option, including the following:

(A) The owner, operator, or permittee shall demonstrate financial assurance for corrective action by obtaining a trust fund on forms provided by the commissioner or in such other form as approved by the commissioner.

(B) All trust funds must conform to the requirements detailed in section 2(a)(1)(B) of this rule, with the exception that the term "corrective action" be substituted for the term "closure".

(2) The surety bond option, including the following:

(A) The owner, operator, or permittee shall demonstrate financial assurance for corrective action by obtaining a surety bond on forms provided by the commissioner or in such other form as approved by the commissioner.

(B) All surety bonds must conform to the requirements detailed in section 2(a)(2)(B) through 2(a)(2)(E) of this rule, with the exception that the term "corrective action" be substituted for the term "closure".

(3) The letter of credit option, including the following:

(A) The owner, operator, or permittee shall demonstrate financial assurance for corrective action by obtaining a letter of credit on forms provided by the commissioner or in such other form as approved by the commissioner.

(B) All letters of credit must conform to the requirements detailed in section 2(a)(3)(B) through 2(a)(3)(D) of this rule, with the exception that the term "corrective action" be substituted for the term "closure".

(4) The local government financial test option, including the following:

(A) This financial test is only available for owners, operators, or permittees that are local governments. As used in this subdivision, "local government" means a county, municipality, township, or solid waste management district.

(B) If an owner, operator, or permittee meets the criteria set forth in section 2(a)(6)(B) through 2(a)(6)(C) of this rule, the owner, operator, or permittee shall be deemed to have established financial responsibility.

(C) If, at any time, the owner, operator, or permittee fails to meet the financial test, the owner, operator, or permittee shall establish an alternate financial responsibility mechanism within one hundred twenty (120) days after the end of the fiscal year for which the financial data required by this clause shows that the owner, operator, or permittee no longer meets the requirements.

(D) The commissioner may disallow use of this test on the basis of qualifications in the opinion expressed in the state board of accounts' annual financial audit of the owner, operator, or permittee. An adverse opinion or a disclaimer of opinion is cause for disallowance. Other qualifications may be cause for disallowance if, in the opinion of the commissioner, the qualifications indicate the owner, operator, or permittee does not meet the requirements of this subdivision. The owner, operator, or permittee shall choose an alternate financial responsibility mechanism within ninety (90) days after notification of the disallowance.

(5) The local government guarantee option. If the local government guarantor and the owner, operator, or permittee meet the requirements of section 2(a)(7)(B) and 2(a)(7)(C) of this rule, the owner, operator, or permittee shall be deemed to have established financial responsibility.

(b) The owner, operator, or permittee of an MSWLF shall choose a financial responsibility mechanism that guarantees funds will be available to meet the corrective action requirements under 329 IAC 10-21-13. The owner, operator, or permittee shall provide continuous coverage for corrective action until released from financial assurance requirements for corrective action by demonstrating compliance with 329 IAC 10-21-13 and shall include the following, as applicable:

(1) Payments into the trust fund must be made annually by the owner, operator, or permittee over half of the estimated length of the corrective action program in the case of corrective action for known releases. This period is referred to as the pay-in period. For a trust fund used to demonstrate financial assurance for corrective action, the first payment into the trust fund must be at least equal to one-half (½) of the current cost estimate for corrective action divided by the number of years in the corrective action pay-in period. The amount of subsequent payments must be determined by the following formula:

$$\text{Next Payment} = \frac{RB - CV}{Y}$$

Where: RB = the most recent estimate of the required trust fund balance for corrective action (that is, the total costs that will be incurred during the second half of the corrective action period)
CV = the current value of the trust fund
Y = the number of years remaining in the pay-in period

The initial payment into the trust fund must be made no later than one hundred twenty (120) days after the corrective action remedy has been selected in accordance with 329 IAC 10-21-13.

(2) The surety bond must be effective no later than one hundred twenty (120) days after the corrective action remedy has been selected in accordance with 329 IAC 10-21-13.

(3) The letter of credit must be effective no later than one hundred twenty (120) days after the corrective action remedy has been selected in accordance with 329 IAC 10-21-13.

(4) The local government financial test must be effective no later than one hundred twenty (120) days after the corrective action remedy has been selected in accordance with 329 IAC 10-21-13.

(5) The local government guarantee must be effective no later than one hundred twenty (120) days after the corrective action remedy has been selected in accordance with 329 IAC 10-21-13.

(c) An owner, operator, or permittee of an MSWLF required to undertake a corrective action program ~~under 329 IAC 10-21-13~~ **for ground water impacts** shall have a detailed written estimate, in current dollars, of the cost of hiring a third party to perform the corrective action in accordance with the program required under 329 IAC 10-21-13. The corrective action cost estimate must account for the total costs of corrective action activities as described in the corrective action plan for the entire corrective action period. The owner, operator, or permittee shall notify the commissioner that the estimate has been placed in the operating record. The owner, operator, or permittee shall do the following:

(1) Annually adjust the estimate for inflation until the corrective action program is completed in accordance with 329 IAC 10-21-13.

(2) Increase the corrective action cost estimate and the amount of financial assurance provided under subsections (a) and (b) if changes in the corrective action program or MSWLF conditions increase the maximum costs of corrective action.

The owner, operator, or permittee may reduce the amount of the corrective action cost estimate and the amount of financial assurance provided under subsections (a) and (b) if the cost estimate exceeds the maximum remaining costs of corrective action. The owner, operator, or permittee shall notify the commissioner that the justification for the reduction of the corrective action cost estimate and the amount of financial assurance has been placed in the operating record. *(Solid Waste Management Board; 329 IAC 10-39-10; filed Mar 14, 1996, 5:00 p.m.: 19 IR 1925; filed Feb 26, 1999, 5:45 p.m.: 22 IR 2236; filed Aug 2, 1999, 11:50 a.m.: 22 IR 3874)*

SECTION 103. THE FOLLOWING ARE REPEALED: 329 IAC 10-2-6; 329 IAC 10-2-29; 329 IAC 10-2-33; 329 IAC 10-2-53; 329 IAC 10-2-60; 329 IAC 10-2-76; 329 IAC 10-2-127; 329 IAC 10-2-128; 329 IAC 10-2-149; 329 IAC 10-2-177; 329 IAC 10-2-203; 329 IAC 10-2-205.

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 Pam Koons, Rules, Planning and Outreach, Office of Land Quality, (317) 232-8899 or (800) 451-6027 (in Indiana).

Copies of these rules are now on file at the Indiana Department of Environmental Management, 100 North Senate Avenue, Twelfth Floor West, Central File Room and Legislative Services Agency, One North Capitol, Suite 325, Indianapolis, Indiana and are open for public inspection.

Mary Beth Tuohy
Assistant Commissioner
Office of Land Quality

TITLE 405 OFFICE OF THE SECRETARY OF FAMILY AND SOCIAL SERVICES

Proposed Rule
LSA Document #02-184

DIGEST

Adds 405 IAC 1-19 and 405 IAC 1-20 concerning provisions affecting notification requirements and change of ownership for all providers in the Medicaid program, and defines how funds will be allocated (paid and recouped) to long term care providers when a change of ownership occurs. Effective 30 days after filing with the secretary of state.

405 IAC 1-19
405 IAC 1-20

SECTION 1. 405 IAC 1-19 IS ADDED TO READ AS FOLLOWS:

Rule 19. Ownership and Control Disclosures

405 IAC 1-19-1 Information to be disclosed
Authority: IC 12-8-6-5; IC 12-15-1-10; IC 12-15-21-2; IC 12-15-21-3
Affected: IC 12-13-7-3; IC 12-15

Sec. 1. (a) In accordance with and in addition to 42 CFR 455, Subpart B and 42 CFR 1002, Subpart A, as amended,

the following disclosure requirements apply to all providers of Medicaid services and shall be disclosed in accordance with this rule:

(1) The name and address of each person with an ownership or control interest in the disclosing entity or in any subcontractor in which the disclosing entity has direct or indirect ownership of five percent (5%) or more.

(2) Whether any of the persons named, in compliance with subdivision (1), is related to another as spouse, parent, child, or sibling.

(3) The name of any other disclosing entity in which a person with an ownership or control interest in the disclosing entity also has an ownership or control interest. This requirement applies to the extent that the disclosing entity can obtain this information by requesting it in writing from the person. The disclosing entity must:

(A) keep copies of all these requests and the responses to them;

(B) make them available to the office upon request; and

(C) advise the office when there is no response to a request.

(4) The name, address, and Social Security number of any agent or managing employee.

(b) Any document or agreement, stipulating ownership interests, or rights, duties, and liabilities of the entity or its members, required to be filed with the secretary of state, whether it be a single filing or a periodic filing, shall also be filed with the office or its fiscal agent. In the case of a partnership, the partnership agreement, if any, and any amendments thereto, shall be filed with the office immediately upon creation or alteration of the partnership.

(c) Upon any change of ownership interests, the entity and its members are responsible for notifying the office within ten (10) business days of the change unless the provider is:

(1) a nursing facility;

(2) a community residential facility for the developmentally disabled; or

(3) an intermediate care facility for the mentally retarded (long term care facilities).

(d) A long term care facility provider shall comply with notification requirements set forth in 405 IAC 1-20 for change of ownership.

(e) The office may suspend payment to an existing provider or reject a prospective provider's application for participation if the provider fails to disclose ownership or control information as required by this rule and 405 IAC 1-14.6-5. *(Office of the Secretary of Family and Social Services; 405 IAC 1-19-1)*

405 IAC 1-19-2 Time and manner of disclosure

Authority: IC 12-8-6-5; IC 12-15-1-10; IC 12-15-21-2; IC 12-15-21-3
Affected: IC 12-13-7-3; IC 12-15

Sec. 2. (a) Any disclosing entity that is a long term care facility must supply the information specified in this rule to the Indiana state department of health at the time it is surveyed.

(b) Any disclosing entity that is not a long term care facility must supply the information specified in this rule to the office or its fiscal agent at any time there is a change in ownership or control.

(c) Any new provider must supply the information specified in this rule at the time of filing a complete application.

(d) Providers are required to notify the office upon such time as the information specified in this rule changes within forty-five (45) days of the effective date of change in such form as the office shall prescribe. Long term care providers involved in a change of ownership shall provide notification in accordance with 405 IAC 1-20. New nursing facility providers are required to notify the office in accordance with this rule and 405 IAC 1-14.6-5. *(Office of the Secretary of Family and Social Services; 405 IAC 1-19-2)*

SECTION 2. 405 IAC 1-20 IS ADDED TO READ AS FOLLOWS:

Rule 20. Change of Ownership (CHOW) for a Long Term Care Facility

405 IAC 1-20-1 General

Authority: IC 12-8-6-5; IC 12-15-1-10; IC 12-15-21-2; IC 12-15-21-3
Affected: IC 12-13-7-3; IC 12-15

Sec. 1. (a) As used in this rule, "long term care facility" means any of the following:

(1) A nursing facility.

(2) A community residential facility for the developmentally disabled.

(3) An intermediate care facility for the mentally retarded.

(b) For Medicaid provider agreement purposes, the provider is the party directly or ultimately responsible for operating the business enterprise. This party is legally responsible for decisions and liabilities in a business management sense. The same party also bears the final responsibility for operational decisions made in the capacity of a governing body and for the consequences of those decisions.

(c) Whether the owner of the provider enterprise (provider) owns the premises or rents or leases the premises from a landlord or lessor is immaterial. However, if the provider enters into an agreement, which allows the landlord to make or participate in decisions about the

ongoing operation of the provider enterprise, this indicates that the provider has entered into either a partnership agreement or a management agency agreement instead of a property lease. A new partnership agreement constitutes a change of ownership. *(Office of the Secretary of Family and Social Services; 405 IAC 1-20-1)*

405 IAC 1-20-2 Notification requirements

Authority: IC 12-8-6-5; IC 12-15-1-10; IC 12-15-21-2; IC 12-15-21-3
Affected: IC 12-13-7-3; IC 12-15

Sec. 2. (a) When a change of ownership in a long term care facility is contemplated, the transferor provider shall notify the office, or its fiscal agent, no less than forty-five (45) days prior to the effective date of sale or lease agreement that a change of ownership may take place.

(b) Notification shall be in writing and include the following:

(1) A copy of the agreement of sale or transfer.

(2) The expected date of transfer.

(3) If applicable, the name of any individual who has an ownership or control interest, is a managing employee, or an agent of the transferor, who will also hold an ownership or control interest, be a managing employee, or be an agent of the transferee.

(c) The transferee shall make application to the office for an amendment to the transferor's provider agreement no less than forty-five (45) days prior to the expected date of transfer in accordance with this rule and 405 IAC 1-14.6-5(c).

(d) If notification requirements from both the transferor and the transferee have not been met on or before the forty-fifth day before the effective date of the change of ownership, all Medicaid payments due to the transferor will be held until such time as the information is received, reviewed, and approved for completeness. Payments will be held until such time as the transferee has fulfilled enrollment requirements in the Medicaid program as set forth in the provider manual and provider enrollment packet.

(e) The effective date of the change of ownership will be determined by the Indiana state department of health's certification and transmittal and amended by the Indiana state department of health, if necessary, to correspond with the transferor/transferee agreement of sale or transfer. *(Office of the Secretary of Family and Social Services; 405 IAC 1-20-2)*

405 IAC 1-20-3 Change of ownership types

Authority: IC 12-8-6-5; IC 12-15-1-10; IC 12-15-21-2; IC 12-15-21-3
Affected: IC 12-13-7-3; IC 12-15

Sec. 3. A change of ownership occurs under, but is not limited to, any of the following circumstances:

(1) For a sole proprietorship, if a provider of services is an entity owned by a single individual, a transfer of title and property to the enterprise to another person or firm, whether or not including a transfer of title to the real estate or if the former sole proprietor becomes one of the members of a business entity succeeding him or her as the new owner.

(2) For a partnership, in a partnership, the removal, addition, or substitution of an individual partner in the entity, in the absence of an express statement to the contrary in the partnership agreement, dissolves the old partnership and creates a new partnership.

(3) For a corporation, the merger of the applicant or provider corporation into another corporation, or the consolidation of two (2) or more corporations, resulting in the creation of a new corporation. In an incorporated provider entity, the corporation is the owner. The governing body of the corporation is the group having direct legal responsibility under state law for operation of the corporation's entity, whether that body is:

(A) a board of trustees;

(B) a board of directors;

(C) the entire membership of the corporation; or

(D) known by some other name.

(Office of the Secretary of Family and Social Services; 405 IAC 1-20-3)

405 IAC 1-20-4 Change of ownership effect

Authority: IC 12-8-6-5; IC 12-15-1-10; IC 12-15-21-2; IC 12-15-21-3
Affected: IC 12-13-7-3; IC 12-15

Sec. 4. When there is a change of ownership of a long term care facility, the office will transfer the provider agreement to the transferee subject to the terms and conditions under which it was originally issued and subject to any existing plan of correction and pending audit findings as follows:

(1) The transferor and transferee shall reach an agreement between themselves concerning Medicaid reimbursements, underpayments, overpayments, and civil monetary penalties.

(2) From the effective date of change of ownership and if all requirements are met, all reimbursements will be made to the transferee, regardless of whether the reimbursement was incurred by a current owner or previous owner.

(3) From the effective date of change of ownership, the transferee shall assume liability for repayment to the office of any amount due the office, regardless of whether liability was incurred by a current owner or operator or by a previous owner or operator.

(4) Liability of current and previous providers to the office shall be joint and several.

(5) A current or previous owner or lessee may request from the office a list of all known outstanding liabilities due the office by the facility and of any known pending

office actions against a facility that may result in further liability.

(6) For purposes of this section, examples of reimbursements, overpayments, and penalties shall include, but not be limited to, the following:

(A) Outstanding claims.

(B) Any retro rate adjustment that results in an underpayment or overpayment based upon the transferor's cost report.

(C) Amounts identified during past, present, or future audits that pertain to an audit period prior to a change in ownership.

(D) Pending or completed surveillance utilization review (SUR) audit.

(E) Imposition of penalties due to failure of the provider to be in substantial compliance with applicable federal requirements for nursing facilities participation in the Medicare or Medicaid program.

(F) Civil monetary penalties.

(G) Amounts established by final administrative decisions.

(Office of the Secretary of Family and Social Services; 405 IAC 1-20-4)

405 IAC 1-20-5 Record retention

Authority: IC 12-8-6-5; IC 12-15-1-10; IC 12-15-21-2; IC 12-15-21-3
Affected: IC 12-13-7-3; IC 12-15

Sec. 5. The transferee shall take possession of the Medicaid records of the transferor and safeguard them for no less than three (3) years from the date of the last claim reimbursed by the office or until any pending administrative or judicial appeal is closed, whichever is longer. *(Office of the Secretary of Family and Social Services; 405 IAC 1-20-5)*

SECTION 3. **Upon the effective date of 405 IAC 1-19-2, all disclosing entities have sixty (60) days to comply.**

Notice of Public Hearing

Under IC 4-22-2-24, notice is hereby given that on November 27, 2002 at 9:00 a.m., at the Indiana Government Center-South, 402 West Washington Street, Conference Room C, Indianapolis, Indiana the Office of the Secretary of Family and Social Services will hold a public hearing on proposed new rules concerning provider notification and change of ownership requirements. Written comments may be directed to the Indiana Government Center-South, 402 West Washington Street, Room W451, MS-27 Office of General Counsel, Attention: Maureen Bartolo, Indianapolis, Indiana 46204. Correspondence should be identified in the following manner: "COMMENTS RE: PROPOSED RULE AMENDMENT FOR NOTIFICATION AND CHANGE OF OWNERSHIP LSA #02-184". 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 Hamilton
Secretary
Office of the Secretary of Family and Social Services

TITLE 405 OFFICE OF THE SECRETARY OF FAMILY AND SOCIAL SERVICES

Proposed Rule
LSA Document #02-207

DIGEST

Amends 405 IAC 5-19-3 and 405 IAC 5-31-4 and adds 405 IAC 5-24-13 to add all legend and nonlegend water products, including, but not limited to, sterile water and saline, 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 5-19-3
405 IAC 5-24-13
405 IAC 5-31-4

SECTION 1. 405 IAC 5-19-3 IS AMENDED TO READ AS FOLLOWS:

405 IAC 5-19-3 Reimbursement parameters for durable medical equipment

Authority: IC 12-8-6-5; IC 12-15-1-10; IC 12-15-21-2; IC 12-15-21-3
Affected: IC 12-13-7-3; IC 12-15

Sec. 3. (a) Medicaid reimbursement is available for the rental or purchase of DME subject to the restrictions listed in this rule.

(b) DME and associated repair costs, including, but not limited to:

(1) ice bags;
(2) bed rails;
(3) canes;
(4) walkers;
(5) crutches;
(6) standard wheelchairs;
(7) traction equipment; or
(8) oxygen and equipment and supplies for its delivery, **including legend and nonlegend solutions used for humidification, irrigation, and replacement fluids;**

for the usual care and treatment of recipients in long term care facilities are reimbursed in the facility's per diem rate and may not be billed **separately** to Medicaid by the facility, pharmacy, or other provider. Nonstandard or custom/special equipment

and associated repair costs require prior authorization by the office and may be billed separately to Medicaid, when authorized. Facilities cannot require recipients to purchase or rent such equipment with their personal funds.

(c) Reimbursement of DME is based upon Medicare's fee schedule for fiscal year 1993 and classes of DME. The established Medicaid rates will be reviewed annually and adjusted as necessary. A separate fee schedule will be established for each of the following six (6) classes:

(1) Capped rental items.
(2) Inexpensive and other routinely purchased DME.
(3) Items requiring frequent and substantial servicing.
(4) Customized items.
(5) Prosthetic and orthotic devices.
(6) Oxygen and oxygen equipment.

(d) DME reimbursed at less than one hundred fifty dollars ($150) or other amount as defined by the office will not be subject to the capped rental payment, but rather be reimbursed on a rental or lump sum purchase with prior authorization. The total payment for the rental period may not exceed the purchase price.

(e) Items identified by the office that require frequent or substantial servicing will be paid on a rental basis only. No purchase payment will be made.

(f) All DME must be ordered in writing by a physician. The written order must be kept on file for audit purposes. *(Office of the Secretary of Family and Social Services; 405 IAC 5-19-3; filed Jul 25, 1997, 4:00 p.m.: 20 IR 3329; filed Sep 27, 1999, 8:55 a.m.: 23 IR 313; readopted filed Jun 27, 2001, 9:40 a.m.: 24 IR 3822)*

SECTION 2. 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, including, but not limited to, sterile water and saline, 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)*

SECTION 3. 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; **and**
(H) oxygen and equipment and supplies for its delivery, including humidification and solutions used for humidification;

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, including, but not limited to, sterile water and saline; and for all uses, including, but not

limited to, humidification, irrigation, and replacement fluids.

(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)

SECTION 4. **For purposes of including legend and nonlegend water products in nursing facility per diem rates, 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 the most recent state fiscal year. 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.**

SECTION 5. **Effective on the first day of the calendar quarter following the thirtieth day after filing with the secretary of state.**

Notice of Public Hearing

Under IC 4-22-2-24, notice is hereby given that on November 22, 2002 at 9:00 a.m., at the Indiana Government Center-South, 402 West Washington Street, Conference Center Room 1, Indianapolis, Indiana the Office of the Secretary of Family and Social Services will hold a public hearing on proposed amendments to include the cost of legend and nonlegend solutions in the per diem rate for Medicaid enrolled nursing facilities when these products are furnished to a nursing facility resident.

Further, in accordance with the public notice requirements of 42 CFR 447.205 and Section 1902(a)(13)(A) of the Social Security Act, the Indiana Family and Social Services Administration, Office of Medicaid Policy and Planning (OMPP) publishes this notice of proposed revisions to the Medicaid reimbursement formula for Medicaid enrolled nursing facilities.

This change is intended to create an incentive for nursing facilities to better monitor utilization of water products by their residents, and to contain costs in the Medicaid program. It is expected that payments to pharmacies will be reduced because they will no longer be permitted to bill Medicaid directly for water products furnished to nursing facility residents. This reduction is expected to result in shifting of those payments to nursing facilities. On average, nursing facility payments are expected to increase by approximately $0.35 per patient day. However, actual usage and reporting by the facility will determine the specific impact on an individual facility. Some facilities may see no increase in their rate; others may see increases up to a few dollars per patient day. On an annualized basis, this shift from pharmacy to nursing home payments for water products is expected to be approximately $3.5 million (state and federal funds). The overall fiscal impact to the Medicaid program is expected to be neutral, or to result in slight savings resulting from better management of water product usage.

Written comments concerning this change may be sent to: MS27 IFSSA, Attention: Catherine Rudd, 402 West Washington Street, Room W451, Indianapolis, Indiana 46204. Correspondence should be identified in the following manner: "COMMENTS RE: LSA DOCUMENT #02-207." Written comments will be made available for public display at the address below of the Family and Social Services Administration. Also, copies of these rules and this public notice are now on file and open for public inspection by contacting the director of the local county division of family and children office, except in Marion County, where public inspection may be made at 402 West Washington Street, Room W382, Indianapolis, Indiana.

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 405 OFFICE OF THE SECRETARY OF FAMILY AND SOCIAL SERVICES

Proposed Rule
LSA Document #02-234

DIGEST

Amends 405 IAC 2-3-17 and 405 IAC 2-3-21 to specify that the Medicaid personal needs allowance is the amount set by Indiana statute. Adds 405 IAC 7 concerning eligibility requirements and benefits issuance for supplemental assistance for personal needs for Medicaid recipients residing in health care facilities. Effective 30 days after filing with the secretary of state.

405 IAC 2-3-17
405 IAC 2-3-21
405 IAC 7

SECTION 1. 405 IAC 2-3-17 IS AMENDED TO READ AS FOLLOWS:

405 IAC 2-3-17 Income eligibility of institutionalized applicant or recipient with community spouse; posteligibility

Authority: IC 12-8-6-5; IC 12-15-1-10
Affected: IC 12-15-4; IC 12-15-5; IC 12-15-7-2

Sec. 17. (a) As used in this section, "institutionalized spouse" and "community spouse" have the meanings set forth in 42 U.S.C.A. 1396r-5(h)(1).

(b) The income eligibility of an institutionalized applicant or recipient with a community spouse shall be determined as follows:

(1) Determine the applicant's or recipient's countable income under section 3 of this rule and in accordance with income ownership provisions set forth in 42 U.S.C.A. 1396r-5(d).

(2) Subtract from the amount determined in subdivision (1) the individual income standard specified in section 18 of this rule.

(3) If the remainder calculated in subdivision (2) is zero dollars ($0) or less, the applicant or recipient is eligible for medical assistance.

(4) If the remainder calculated in subdivision (2) is greater than zero dollars ($0), the applicant or recipient is eligible if his or her estimated medical expenses exceed this remainder.

(c) If an applicant or recipient is determined eligible for medical assistance under subsection (b), posteligibility treatment of income to calculate the amount of income to be paid to the institution is determined as follows:

(1) Subtract from the applicant's or recipient's gross income determined according to ownership provisions set forth in 42 U.S.C.A. 1396r-5(b) those exclusions required by federal law.

(2) Subtract the minimum personal needs allowance ~~of fifty dollars ($50).~~ **specified in IC 12-15-7-2.**

(3) Subtract an amount for increased personal needs as allowed under Indiana's approved Medicaid state plan. The increased personal needs allowance includes, but is not limited to, court ordered guardianship fees paid to an institutionalized applicant or recipient's legal guardian, not to exceed thirty-five dollars ($35) per month. Guardianship fees include all services and expenses required to perform the duties of a guardian, as well as any attorney fees for which the guardian is liable.

(4) Subtract a spousal allocation equal to the community spouse's total income, in accordance with ownership provisions set forth in 42 U.S.C.A. 1396r-5(b), subtracted from the sum of nine hundred eighty-four dollars ($984), plus an excess shelter allowance determined under 42 U.S.C.A. 1396r-5(d)(4), subject to all provisions of 42 U.S.C.A. 1396r-5(d), 42 U.S.C.A. 1396r-5(e), and 42 U.S.C.A. 1396r-5(g).

(5) Subtract an allocation for each dependent family member, as defined in subsection (e), equal to one-third (1/3) of the amount by which nine hundred eighty-four dollars ($984) exceeds the family member's total income, subject to the provisions of 42 U.S.C.A. 1396r-5(d), 42 U.S.C.A. 1396r-5(e), and 42 U.S.C.A. 1396r-5(g).

(d) The spousal allocation calculated in subsection (c)(4) is deducted from the institutionalized applicant's or recipient's income only to the extent that it is actually made available to, or for the benefit of, the community spouse.

(e) "Dependent family member", for the purpose of determining the allocation in subsection (c)(5), is a person listed, as follows, who resides with the community spouse:

(1) Biological or adoptive children of either spouse under twenty-one (21) years of age.

(2) Biological or adoptive children of the community or institutionalized spouse who are twenty-one (21) years of age or over and who are claimed for tax purposes by either spouse under the Internal Revenue Service Code.

(3) The parent(s) of the community or institutionalized spouse who are claimed as dependents by either spouse for tax purposes under the Internal Revenue Service Code.

(4) Biological and adoptive siblings of the community or institutionalized spouse who are claimed by either spouse for tax purposes under the Internal Revenue Service Code.

(Office of the Secretary of Family and Social Services; 405 IAC 2-3-17; filed Dec 1, 1989, 5:00 p.m.: 13 IR 628; filed May 2, 1990, 4:55 p.m.: 13 IR 1707; filed Aug 9, 1991, 11:00 a.m.: 14 IR 2227; filed May 14, 1992, 5:00 p.m.: 15 IR 2191; filed Feb 16, 1993, 5:00 p.m.: 16 IR 1785; filed Feb 23, 1998, 11:30 a.m.: 21 IR 2383; filed Feb 7, 2000, 3:26 p.m.: 23 IR 1377; errata filed Mar 20, 2000, 3:19 p.m.: 23 IR 2003; readopted filed Jun 27, 2001, 9:40 a.m.: 24 IR 3822) NOTE: Transferred from the Division of Family and Children (470 IAC 9.1-3-19) to the Office of the Secretary of Family and Social Services (405 IAC 2-3-17) by P.L.9-1991, SECTION 131, effective January 1, 1992.

SECTION 2. 405 IAC 2-3-21 IS AMENDED TO READ AS FOLLOWS:

405 IAC 2-3-21 Posteligibility income calculation

Authority: IC 12-8-6-5; IC 12-15-1-10
Affected: IC 12-15-4; IC 12-15-5; IC 12-15-7-2

Sec. 21. Except as provided in section 17 of this rule, the following procedures are used to determine the amount of income to be paid to an institution for an applicant or recipient who has been determined eligible under section 20 of this rule and who is residing in a Title XIX certified hospital, nursing facility, intermediate care facility for the mentally retarded, or public institution:

(1) Determine the applicant's or recipient's total income which is not excluded by federal statute. Total income includes amounts deducted in the eligibility determination under section 20 of this rule.

(2) Subtract the minimum personal needs allowance ~~of fifty dollars ($50).~~ **specified in IC 12-15-7-2.**

(3) Subtract an amount for increased personal needs as allowed under Indiana's approved Medicaid state plan. The increased personal needs allowance includes, but is not limited to, court ordered guardianship fees paid to an institutionalized applicant or recipient's legal guardian, not to exceed thirty-five dollars ($35) per month. Guardianship fees include all services and expenses required to perform the duties of a guardian, as well as any attorney fees for which the guardian is liable.

(4) Subtract the amount of health insurance premiums.

(5) Subtract an amount for expenses incurred for necessary medical or remedial care recognized by state law but not covered under the state plan, subject to any reasonable limits set forth in Indiana's approved Medicaid state plan.

(6) The resulting amount is the amount by which the Medicaid payment to the facility shall be reduced.

(Office of the Secretary of Family and Social Services; 405 IAC 2-3-21; filed Feb 16, 1993, 5:00 p.m.: 16 IR 1788; filed Feb 23, 1998, 11:30 a.m.: 21 IR 2384; filed Feb 7, 2000, 3:26 p.m.: 23 IR 1378; errata filed Mar 20, 2000, 3:19 p.m.: 23 IR 2003; readopted filed Jun 27, 2001, 9:40 a.m.: 24 IR 3822)

SECTION 3. 405 IAC 7 IS ADDED TO READ AS FOLLOWS:

ARTICLE 7. STATE SUPPLEMENTAL ASSISTANCE FOR PERSONAL NEEDS

Rule 1. Eligibility Requirements

405 IAC 7-1-1 Eligibility; benefit calculation

Authority: IC 12-8-6-5; IC 12-15-1-10
Affected: IC 12-15-7-2; IC 12-15-7-6; IC 12-15-32-6.5

Sec. 1. (a) An individual is eligible for supplemental assistance for personal needs if the following criteria are met:

(1) The individual is receiving Medicaid and is residing in a Medicaid certified health care facility.

(2) The individual is receiving the reduced benefit amount paid by the Supplemental Security Income (SSI) program under 20 CFR 416.414 to SSI recipients who are in medical care facilities throughout a calendar month.

(3) The individual qualifies for a benefit based on his or her income as required in subsection (b).

(b) The monthly benefit amount for supplemental assistance for personal needs is calculated by subtracting the following from the personal needs allowance specified in IC 12-15-7-2 or IC 12-15-32-6.5:

(1) The amount of the reduced SSI benefit paid to an SSI recipient who is in a medical care facility throughout a calendar month.

(2) The amount of the recipient's other countable income as used in the posteligibility calculation under 405 IAC 2-3-17 or 405 IAC 2-3-21.

(c) The amount remaining in subsection (b)(2) is the amount of the supplemental assistance for personal needs benefit payment, except that a remaining amount of fifty cents ($.50), but not more than one dollar ($1) will result in a benefit of one dollar ($1), and a remaining amount of less than fifty cents ($.50) will result in a determination of ineligibility for supplemental assistance for personal needs. Other remaining amounts that include fifty cents ($.50) or more will be rounded up to the next dollar, and those that include amounts of less than fifty cents ($.50) will be rounded down to the next dollar amount.

(d) The effective date of supplemental assistance for personal needs is the later of the following:

(1) The month in which the individual's SSI is reduced to the amount allowed for SSI beneficiaries in health care facilities.

(2) The month after the individual's Medicaid eligibility has been authorized with a posteligibility budget under 405 IAC 2-3-17 or 405 IAC 2-3-21.

(e) A recipient of supplemental assistance for personal needs becomes ineligible beginning the month following the month in which the criteria in subsection (a) are no longer met. A recipient of supplemental assistance for personal needs who dies is entitled to the benefit for the month of death. *(Office of the Secretary of Family and Social Services; 405 IAC 7-1-1)*

Rule 2. Benefit Issuance

405 IAC 7-2-1 Benefit issuance; representative payee

Authority: IC 12-8-6-5; IC 12-15-1-10
Affected: IC 12-15-7-2; IC 12-15-7-6; IC 12-15-32-6.5

Sec. 1. (a) A benefit check shall be issued not later than five (5) calendar days after the first day of each benefit month in the name of the eligible individual, or to a representative payee authorized in accordance with subsection (d).

(b) Lost or stolen checks shall be reissued not later than fifteen (15) days after the recipient or representative payee submits to the local office of family and children the proper affidavit prescribed by Indiana and signed by the payee confirming that the check was not received.

(c) Benefit checks that are returned in the mail will be reissued in accordance with the procedures of the state auditor's office, not later than fifteen (15) days after written documentation from the payee of the correct and current address of the payee.

(d) An individual who signs the representative payee agreement for state supplemental assistance for personal needs will be permitted to receive the benefit check on behalf of the recipient if the recipient does not object. A representative payee must use the benefit check solely for the personal needs of the recipient. If at any time, proof is submitted to the satisfaction of the local office of family and children that a representative payee is not fulfilling his or her obligations under the agreement to provide for the personal needs of the recipient, the local office of family and children may require that another individual be selected as the representative payee. *(Office of the Secretary of Family and Social Services; 405 IAC 7-2-1)*

Notice of Public Hearing

Under IC 4-22-2-24, notice is hereby given that on November 26, 2002 at 9:00 a.m., at the Indiana Government Center-South, 402 West Washington Street, Conference Center Room A, Indianapolis, Indiana the Office of the Secretary of Family and Social Services will hold a public hearing on proposed amendments to 405 IAC 2-3-17 and 405 IAC 2-3-21 to specify that the Medicaid personal needs allowance is the amount set by Indiana statute, and new rules under 405 IAC 7 concerning eligibility requirements and benefits issuance for supplemental assistance for personal needs for Medicaid recipients residing in health care facilities. 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 440 DIVISION OF MENTAL HEALTH AND ADDICTION

Proposed Rule
LSA Document #02-218

DIGEST

Amends 440 IAC 4-3-1 to delete exemptions from mandatory services for community mental health centers. Amends 440 IAC 4.1-2-1, 440 IAC 4.1-2-4, 440 IAC 4.1-2-5, and 440 IAC 4.1-2-9 to require an applicant to be assigned an exclusive geographic primary service area before it is certified as a community mental health center, and to make the maintenance of financial viability a requirement of certification. Adds 440 IAC 4.1-3 to establish exclusive geographic primary service areas for community mental health centers, including criteria and procedures to justify a change of an assignment of a community mental health center to a primary service area. Effective July 1, 2003.

440 IAC 4-3-1 **440 IAC 4.1-2-5**
440 IAC 4.1-2-1 **440 IAC 4.1-2-9**
440 IAC 4.1-2-4 **440 IAC 4.1-3**

SECTION 1. 440 IAC 4-3-1 IS AMENDED TO READ AS FOLLOWS:

440 IAC 4-3-1 Mandatory services
Authority: IC 12-8-8-4; IC 12-21-2-3
Affected: IC 12-29

Sec. 1. **(a)** The management of services provided by the center shall be so structured as to promote continuity of care to every client. All services of the center must be readily accessible, and information easily transferable among service elements. The department and the center shall cooperate in defining and putting into operation policies and procedures that require clinical coordination by the center for patients going into the state hospital, and for patients coming from the state hospital to the care of the center.

(b) In order to be designated as a community mental health center, a provider shall, within its designated service area, provide in the following six (6) areas for the treatment and prevention of mental disorders:
(1) Inpatient services.
(2) Residential services.
(3) Partial hospitalization services.
(4) Outpatient services.
(5) Consultation-education services.
(6) Community support program.

(c) Centers are expected to stay sensitive to the demographic makeup of their service areas when planning for the provision of service. Care should be taken to provide for the specialized service needs of children, the older adult, and residents previously discharged from inpatient treatment at a mental health facility. Within the identified framework of mandatory services, the following target populations must be addressed:
(1) ~~chronically~~ **Seriously** mentally ill.
(2) Seriously emotionally ~~handicapped~~ **disturbed** children and adolescents.
(3) Alcohol and other drug abusers.
(4) Older adults.

(d) In addition to the above required services, the center may provide additional services to the service area if availability of resources can be demonstrated.

~~A center may request exemption from providing a described mandatory service for a fixed time period, not to exceed one (1) year. Such request shall be in writing and accompanied by supporting documentation. This exemption shall be renewable at the department's discretion.~~ *(Division of Mental Health and Addiction; 440 IAC 4-3-1; filed Jun 29, 1983; 10:31 a.m.: 6 IR 1398; filed Jan 22, 1988, 1:55 p.m.: 11 IR 1777; readopted filed May 10, 2001, 2:30 p.m.: 24 IR 3235)*

SECTION 2. 440 IAC 4.1-2-1 IS AMENDED TO READ AS FOLLOWS:

440 IAC 4.1-2-1 Certification by the division
Authority: IC 12-8-8-4; IC 12-21-2-3; IC 12-29-2-1
Affected: IC 12-29-2-14

Sec. 1. (a) Before an entity may call itself a community mental health center, and before the division may contract with an entity as a community mental health center for mental health

services, the entity must be certified by the division under this article, **including the assignment of an exclusive geographic primary service area, under 440 IAC 4.1-3.**

(b) A center which has applied for certification or which has been certified must provide information related to services as requested by the division and must participate in the division's quality assurance program. A center must respond to a request from the division as fully as it is capable. Failure to comply with a request from the division may result in termination of a center's certification.

(c) When a center has demonstrated compliance with all applicable laws and regulations, including the specific criteria in this article, a certificate shall be issued and shall be posted in a conspicuous place in the facility open to clients and the public. *(Division of Mental Health and Addiction; 440 IAC 4.1-2-1; filed Jan 18, 1995, 10:50 a.m.: 18 IR 1472; filed Jun 28, 2001, 4:24 p.m.: 24 IR 3643)*

SECTION 3. 440 IAC 4.1-2-4 IS AMENDED TO READ AS FOLLOWS:

440 IAC 4.1-2-4 Regular certification

Authority: IC 12-8-8-4; IC 12-21-2-3; IC 12-29-2-1
Affected: IC 12-7-2-40.6; IC 12-22-2-3; 42 U.S.C. 300x

Sec. 4. (a) An applicant for certification as a community mental health center shall file an application with the division.

(b) The application shall contain the following:
(1) A description of the organizational structure and mission of the applicant.
(2) The location of all operational sites of the applicant and proof of compliance with required health, fire, and safety codes as prescribed by federal and state law.
(3) List of governing board members and executive staff.
(4) Proof of general liability insurance coverage in the minimum amount of five hundred thousand dollars ($500,000) for bodily injury and property damage.
(5) A copy of the applicant's procedures to ensure protection of client rights and confidentiality.
(6) If the center is not operated by a unit of government, the applicant shall submit a copy of the most recent financial audit, including a balance sheet of assets and liabilities of the applicant, which shall be prepared by an independent certified public accountant.
(7) If the center is operated by a unit of government, the applicant shall submit either:
(A) a copy of the most recent financial audit, including a balance sheet of assets and liabilities of the applicant, which shall be prepared by an independent certified public accountant; or
(B) a copy of the most recent state board of accounts audit report regarding the center.
~~(8) The geographic area the applicant is requesting to serve.~~
~~(9)~~ **(8)** The history of mental health services provided by the applicant ~~in~~ **and** the geographic area the applicant ~~is requesting to serve.~~ **has served.**
~~(10)~~ **(9)** A budget detailing all sources of revenue and expenses.
~~(11)~~ **(10)** Proof of the applicant's current federal tax exempt status.

(c) The applicant shall have the following staff:
(1) At least ten percent (10%) of the applicant's direct care staff full-time equivalents shall be some combination of the following:
(A) Licensed clinical social workers.
(B) Licensed mental health counselors.
(C) Licensed marriage and family therapists.
(D) Clinical nurse specialists.
(E) Licensed psychologists, including individuals licensed as health service providers in psychology.
(F) Psychiatrists licensed to practice in the state of Indiana.
(2) Five percent (5%) of the applicant's direct care staff that qualify under subdivision (1) or the equivalent of fifty percent (50%) of a full-time position, whichever is greater, shall be psychiatrists.

(d) At the time of application, the applicant must provide the following services directly within the limits of the capacity of the center to any individual residing or employed in the applicant's service area, regardless of ability to pay for such services:
(1) Services for seriously mentally ill adults and seriously emotionally disturbed children and adolescents as follows:
(A) Case management.
(B) Crisis intervention.
(C) Outpatient services (including specialized outpatient services for children, the elderly, individuals with a serious mental illness, and residents of the service area who have been discharged from inpatient treatment).
(D) Day treatment or partial hospitalization.
(E) Individualized treatment planning.
(F) Family support services.
(G) Medication evaluation and monitoring.
(H) Services to prevent unnecessary and inappropriate treatment and hospitalization.
(I) Consultation/education services to the communities within the service area.
(2) Services for individuals who abuse alcohol and other drugs as follows:
(A) Crisis intervention.
(B) Consultation/education services to the communities within the service area.

(e) The following services must be available, but may be provided directly by the applicant or by contract with another entity:
(1) For seriously mentally ill adult population, the following:
(A) Inpatient care.
(B) Acute stabilization.

(C) Residential services, in compliance with rules promulgated to implement IC 12-22-2-3.

(2) For seriously emotionally disturbed children and adolescents, the following:

(A) Inpatient care.

(B) Acute stabilization.

(3) For individuals who abuse alcohol and other drugs, the following:

(A) Inpatient care.

(B) Acute stabilization, including detoxification services.

(C) Residential services, in compliance with rules promulgated to implement IC 12-22-2-3.

(D) Day treatment or partial hospitalization.

(E) Outpatient services.

(F) Case management services.

(f) At the time of application, the applicant shall be providing and have accreditation for all of the services that are required to be provided directly for each of the following populations:

(1) seriously emotionally disturbed children and adolescents;

(2) seriously mentally ill adults; and

(3) individuals who abuse alcohol and other drugs;

and all other services in the continuum of care that the center is providing directly.

(g) The applicant's accreditation must be by an accrediting agency approved by the division.

(h) The applicant must forward to the division proof of accreditation in all services provided by the applicant, site survey recommendations from the accrediting agency, and the applicant's responses to the site survey recommendations.

(i) The division may require the applicant to correct any deficiencies described in the site survey.

(j) The division shall issue regular certification as a community mental health center to the applicant after the division has determined that the applicant meets all criteria for a community mental health center set forth in ~~this rule and in~~ federal and state law **and in this article, including the assignment of an exclusive geographic primary service area under 440 IAC 4.1-3.**

(k) The certification shall expire ninety (90) days after the expiration of the center's accreditation from the accrediting agency designated by the center as its official accrediting agency.

(l) If an applicant is denied certification, a new application for certification may not be submitted until twelve (12) months have passed. *(Division of Mental Health and Addiction; 440 IAC 4.1-2-4; filed Jan 18, 1995, 10:50 a.m.: 18 IR 1473; filed Jun 28, 2001, 4:24 p.m.: 24 IR 3644)*

SECTION 4. 440 IAC 4.1-2-5 IS AMENDED TO READ AS FOLLOWS:

440 IAC 4.1-2-5 Maintenance of certification

Authority: IC 12-8-8-4; IC 12-21-2-3; IC 12-27-1-4; IC 12-29-2-1
Affected: IC 12-29-2-1

Sec. 5. Maintenance of certification is dependent upon the following:

(1) The center shall maintain accreditation from an approved accrediting agency. The division shall annually provide all centers with a list of accrediting agencies approved by the division.

(2) **The center shall demonstrate the administrative and financial capacity to continue successful operations as a viable entity, including the following:**

(A) The center shall purchase and maintain general liability insurance in the minimum amount of five hundred thousand dollars ($500,000) for bodily injury and property damage.

~~(3)~~ **(B)** An audit of the financial operations of the center shall be performed annually by an independent certified public accountant. The audit, including the management letter, shall be forwarded to the division within six (6) months of the end of the entity's fiscal year.

~~(4)~~ **(3)** The center shall have written policies and enforce these policies to support and protect the fundamental human, civil, constitutional, and statutory rights of each client. The center shall give a written statement of rights to each client and, in addition, the center shall document that center staff provides an oral explanation of these rights to each client.

~~(5)~~ **(4)** The center shall maintain compliance with required health, fire, and safety codes as prescribed by federal, state, and local law.

~~(6)~~ **(5)** The center shall serve the population groups listed at 440 IAC 4-3-1.

~~(7)~~ **(6)** The center shall continue to meet all staff and service requirements set forth at section 4 of this rule.

~~(8)~~ **(7)** The center shall comply with federal and state law regarding community mental health centers.

(Division of Mental Health and Addiction; 440 IAC 4.1-2-5; filed Jan 18, 1995, 10:50 a.m.: 18 IR 1473; filed Jun 28, 2001, 4:24 p.m.: 24 IR 3646)

SECTION 5. 440 IAC 4.1-2-9 IS AMENDED TO READ AS FOLLOWS:

440 IAC 4.1-2-9 Termination of certification

Authority: IC 12-8-8-4; IC 12-21-2-3; IC 12-29-2-1
Affected: IC 12-29-2-1

Sec. 9. (a) The division may terminate certification issued under this article upon the division's investigation and determination of the following:

(1) A substantive change in the operation of the center which, under the standards for accreditation, would cause the accrediting agency to revoke the accreditation.

(2) Failure of the center to regain accreditation within ninety (90) days following expiration of the center's current accreditation by the center's accrediting agency.

(3) Failure to comply with this article.
(4) Failure to forward the annual audit and management letter required by this article to the division.
(5) That the physical safety of the clients or staff of the center is compromised by a physical or sanitary condition of the center or of a physical facility of a center.
(6) The annual audit **or other financial or legal information** indicates evidence of fiscal mismanagement **or the failure to maintain financial viability.**
(7) Violation of a federal, state, or local statute, ordinance, rule, or regulation in the course of the operation of the center that endangers the health, safety, or continuity of services to consumers.

(b) If the division terminates an entity's certification as a community mental health center, the entity may not reapply to become a community mental health center until a lapse of twelve (12) months from the date of termination. *(Division of Mental Health and Addiction; 440 IAC 4.1-2-9; filed Jan 18, 1995, 10:50 a.m.: 18 IR 1474; filed Jun 28, 2001, 4:24 p.m.: 24 IR 3647)*

SECTION 6. 440 IAC 4.1-3 IS ADDED TO READ AS FOLLOWS:

Rule 3. Exclusive Geographic Primary Service Areas

440 IAC 4.1-3-1 Community mental health center; exclusive geographic primary service areas

Authority: IC 12-21-2-3; IC 12-29-2-1
Affected: IC 12-29-2-1

Sec. 1. (a) Each community mental health center (CMHC) shall have a mutually exclusive geographic primary service area for purposes of IC 12-29-2, designated by the division of mental health and addiction.

(b) The exclusive geographic primary service areas, taken together, shall cover the entire state of Indiana.

(c) The director of the division of mental health and addiction shall issue a list of the official exclusive geographic primary service areas assigned to each CMHC, pursuant to P.L.79-2002, SECTION 6. This list shall be updated whenever there is a change pursuant to this rule.

(d) The director of the division of mental health and addiction shall not reassign any exclusive geographic primary service area unless one (1) of the following occurs:
(1) An order has been issued by a hearing officer under this rule.
(2) A request for a change in the exclusive geographic primary service area has been made and the CMHCs and counties that would be affected by the change concur with the change in writing.
(3) An existing CMHC, which has an exclusive geographic primary service area, is denied certification or is terminated under this article.
(Division of Mental Health and Addiction; 440 IAC 4.1-3-1)

440 IAC 4.1-3-2 Obligations of each community mental health center regarding the exclusive geographic primary service area

Authority: IC 12-21-2-3; IC 12-29-2-1
Affected: IC 12-26-6-8; IC 12-26-7-3

Sec. 2. (a) Each community mental health center (CMHC) is obligated to provide accessible services for all individuals, within the limits of its capacity, in its exclusive geographic primary service area.

(b) Except for consumers who are enrolled by another CMHC or managed care provider, the CMHC is obligated to provide commitment screening to a state institution administered by the division of mental health and addiction for any individual residing in the CMHC's exclusive geographic primary service area who presents for screening services or is referred for screening services.

(c) Commitment screening to a state institution administered by the division of mental health and addiction shall be done by the CMHC that enrolled them, or by the CMHC with which the managed care provider that enrolled the person has a screening contract.

(d) Notwithstanding subsection (b), the designation of an exclusive geographic primary service area may not limit an eligible consumer's right to choose or access the treatment services of any provider who is certified by the division of mental health and addiction to provide publicly supported mental health services. *(Division of Mental Health and Addiction; 440 IAC 4.1-3-2)*

440 IAC 4.1-3-3 County complaints regarding a community mental health center

Authority: IC 12-21-2-3; IC 12-29-2-1; IC 12-29-2-16
Affected: IC 12-7-2-40.6

Sec. 3. (a) If the county commissioners have a concern about the community mental health center (CMHC) that is assigned to their county as part of its exclusive geographic primary service area, the county commissioners shall first take their complaint to the CMHC.

(b) If the concern cannot be resolved, the county commissioners may make a complaint to the director of the division of mental health and addiction. The director of the division of mental health and addiction shall mediate the disagreement between the CMHC and the county. The CMHC and the county have ninety (90) days to resolve their differences.

(c) If the CMHC and the county have not resolved their differences within ninety (90) days, the county commissioners may file a request with the director of the division of mental health and addiction to have another CMHC assigned to their county as a part of the CMHC's exclusive geographic primary service area. *(Division of Mental Health and Addiction; 440 IAC 4.1-3-3)*

440 IAC 4.1-3-4 Changes of the exclusive geographic primary service areas

Authority: IC 12-21-2-3; IC 12-29-2-1; IC 12-29-2-16
Affected: IC 4-21.5-3; IC 12-7-2-40.6

Sec. 4. (a) To change an exclusive geographic primary service area, a request to change an exclusive geographic primary service area must be made by the county commissioners or by a community mental health center (CMHC) to the director of the division of mental health and addiction.

(b) A CMHC may not request to be divested of the responsibility of a county that it has been assigned as a part of its exclusive geographic primary service area.

(c) A CMHC that is under a conditional certification status from the division of mental health and addiction or under a conditional accreditation status is not eligible to add territory in a change of an exclusive geographic primary service area.

(d) The notice of a request shall be made at least eighteen (18) months prior to the requested effective date of the change.

(e) Except in emergencies, as determined by the director, changes in the exclusive geographic primary service areas for purposes of IC 12-29 shall take effect on the next July 1.

(f) The director shall notify all regularly certified CMHCs when a request to change an exclusive geographic primary service area is received.

(g) A CMHC may concur with the change in writing.

(h) If the CMHCs affected by the request do not concur fully with the requested change, the director shall appoint a hearing officer under IC 4-21.5-3 to consider the evidence and issue an order regarding the requested change of an exclusive geographic primary service area.

(i) The hearing officer shall issue an order based on the following information regarding the CMHCs serving the contested area:

(1) An unduplicated count of consumers served in the contested area, as reported to the division of mental health and addiction on the consumer service data system during the current and the average of two (2) previous fiscal years.

(2) The availability of accessible services and the past delivery of those services to residents of the contested area.

(3) The completeness of the continuum of care, defined at IC 12-7-2-40.6, available in the contested area.

(4) The geographic accessibility of services.

(5) Information from and preferences of local community advocates and officials.

(6) The accreditation status of the centers.

(7) The certification status of the centers.

(8) Reports that are required by IC 12-29-2-16.

(9) Any other relevant information.

(j) The hearing officer shall consider all of the above in the order regarding the county or portion of a county awarded to each center. *(Division of Mental Health and Addiction; 440 IAC 4.1-3-4)*

440 IAC 4.1-3-5 Redesignation of the exclusive geographic primary service area

Authority: IC 12-21-2-3; IC 12-29-2-1
Affected: IC 12-29-2-1

Sec. 5. (a) When an existing community mental health center (CMHC), which has an exclusive geographic primary service area, is denied certification or is terminated under this article, the director shall redesignate that exclusive geographic primary service area to another or to multiple CMHCs.

(b) If there is a new CMHC applicant that has completed all of the requirements for certification except being assigned an exclusive geographic primary service area, that new CMHC applicant may be assigned the exclusive geographic primary service area.

(c) Changes in the exclusive geographic primary service areas for purposes of this section shall take effect as soon as the designation is made.

(d) The director shall notify all counties in the exclusive geographic primary service area and all regularly certified CMHCs when an existing CMHC is denied certification or is terminated. *(Division of Mental Health and Addiction; 440 IAC 4.1-3-5)*

440 IAC 4.1-3-6 Designation of a new community mental health center

Authority: IC 12-21-2-3; IC 12-29-2-1
Affected: IC 12-29-2-1

Sec. 6. (a) A new community mental health center (CMHC) is not automatically entitled to be assigned an exclusive geographic primary service area.

(b) No CMHC applicant may be certified as a CMHC if it cannot be assigned an exclusive geographic primary

service area. *(Division of Mental Health and Addiction; 440 IAC 4.1-3-6)*

440 IAC 4.1-3-7 County request that it be assigned to a new community mental health center

Authority: IC 12-21-2-3; IC 12-29-2-1
Affected: IC 4-21.5-3; IC 12-7-2-40.6

Sec. 7. (a) A county may request that their county or a portion of their county containing at least seventy-five thousand (75,000) people be assigned to the new community mental health center (CMHC).

(b) Changes in the exclusive geographic primary service areas for purposes of this section shall take effect on the next July 1.

(c) The director shall notify all regularly certified CMHCs when a request to change an exclusive geographic primary service area is received.

(d) An existing CMHC may concur with the change in writing.

(e) If the CMHCs affected by the request do not concur fully with the requested change, the director shall appoint a hearing officer under IC 4-21.5-3 to consider the evidence and issue an order regarding the requested change of an exclusive geographic primary service area.

(f) The hearing officer shall issue an order based on the following information regarding the CMHCs serving the contested area:

(1) An unduplicated count of consumers served in the contested area, as reported to the division of mental health and addiction on the consumer service data system during the current and the average of two (2) previous fiscal years.

(2) The availability of accessible services, and the past delivery of those services to residents of the contested area.

(3) The completeness of the continuum of care, defined at IC 12-7-2-40.6, available in the contested area.

(4) The geographic accessibility of services.

(5) Information from and preferences of local community advocates and officials.

(6) The accreditation status of the centers.

(g) The hearing officer shall consider all of the above in the order regarding the county or portion of a county awarded to each center. *(Division of Mental Health and Addiction; 440 IAC 4.1-3-7)*

440 IAC 4.1-3-8 Appeal rights

Authority: IC 12-21-2-3; IC 12-29-2-1
Affected: IC 4-21.5-5

Sec. 8. A community mental health center (CMHC) that is aggrieved by any adverse action taken under this rule may appeal the action under IC 4-21.5-5. *(Division of Mental Health and Addiction; 440 IAC 4.1-3-8)*

SECTION 7. **SECTIONS 1 through 6 of this document take effect July 1, 2003.**

Notice of Public Hearing

Under IC 4-22-2-24, notice is hereby given that on November 26, 2002 at 9:00 a.m., at the Indiana Government Center-South, 402 West Washington Street, Conference Center Room 9, Indianapolis, Indiana the Division of Mental Health and Addiction will hold a public hearing on proposed amendments regarding the establishment of exclusive geographic primary service areas for community mental health centers, including criteria and procedures to justify a change of an assignment of a community mental health center to a primary service area. 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.

Janet Corson
Director
Division of Mental Health and Addiction

TITLE 460 DIVISION OF DISABILITY, AGING, AND REHABILITATIVE SERVICES

Proposed Rule
LSA Document #02-151

DIGEST

Amends the personal needs allowance amount allowed under room and board assistance income eligibility to increase the amount from $50 to $52 pursuant to amended state statute. Effective 30 days after filing with the secretary of state.

460 IAC 5-1-13

SECTION 1. 460 IAC 5-1-13 IS AMENDED TO READ AS FOLLOWS:

460 IAC 5-1-13 Income eligibility

Authority: IC 12-8-8-4; IC 12-10-6-2; IC 12-10-6-3
Affected: IC 12-10-6

Sec. 13. (a) An applicant's or recipient's income eligibility for room and board assistance shall be determined by the procedures in this section.

(b) The following requirements apply to a single applicant or recipient:

(1) Determine the applicant's or recipient's countable income under section 11 of this rule.
(2) Subtract from the total amount determined in subdivision (1), ~~fifty~~ **fifty-two** dollars ~~($50)~~ **($52)** for the personal needs of the applicant or recipient.
(3) Subtract the established room and board rate from the amount determined in subdivision (2).
(4) If the remainder is less than zero dollars ($0), the applicant or recipient is eligible for room and board assistance.
(5) If the remainder is zero dollars ($0) or more, the applicant or recipient is ineligible for room and board assistance.

(c) The following requirements apply to married applicants or recipients residing in the room and board facility:
(1) Determine separately each spouse's countable income under section 11 of this rule.
(2) Subtract from each spouse's total amount determined in subdivision (1), ~~fifty~~ **fifty-two** dollars ~~($50)~~ **($52)** for the spouse's personal needs.
(3) Subtract the established room and board rate from the amount determined in subdivision (2) for each spouse.
(4) If each spouse's remainder is less than zero dollars ($0), each spouse is eligible for room and board assistance.
(5) If one (1) spouse is ineligible, subtract the amount of his average monthly medical expenses from his remainder determined in subdivision (3).
(6) Add the remainder determined in subdivision (5) to the eligible spouse's countable income **in** subdivision (1).
(7) Subtract from the total amount determined in subdivision (6), ~~fifty~~ **fifty-two** dollars ~~($50)~~ **($52)** for personal needs.
(8) Subtract the established room and board rate from the amount determined in subdivision (7).
(9) If the remainder is less than zero dollars ($0), the spouse is eligible for room and board assistance.
(10) If the remainder is zero dollars ($0) or more, both spouses are ineligible for room and board assistance.

(Division of Disability, Aging, and Rehabilitative Services; 460 IAC 5-1-13; filed Mar 1, 1984, 2:31 p.m.: 7 IR 1007, eff Apr 1, 1984; filed Sep 22, 1988, 2:30 p.m.: 12 IR 294; filed Feb 23, 1998, 11:30 a.m.: 21 IR 2385; filed Mar 13, 2000, 7:50 a.m.: 23 IR 1992) NOTE: Transferred from the Division of Family and Children (470 IAC 8.1-3-13) to the Division of Aging and Rehabilitative Services (460 IAC 5-1-13) by P.L.9-1991, SECTION 130, effective January 1, 1992.

Notice of Public Hearing

Under IC 4-22-2-24, notice is hereby given that on November 27, 2002 at 10:30 a.m., at the Indiana Government Center-South, 402 West Washington Street, Room W451, Conference Room A, Indianapolis, Indiana the Division of Disability, Aging, and Rehabilitative Services will hold a public hearing on proposed amendments concerning the personal needs allowance amount allowed under room and board assistance income eligibility to increase the amount from $50 to $52 pursuant to amended state statute.

If an accommodation is required to allow an individual with a disability to participate in this meeting, please contact Kevin Wild at (317) 233-2582 at least 48 hours prior to the meeting.

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.

Howard Stevenson
General Counsel
Division of Disability, Aging, and Rehabilitative Services

TITLE 460 DIVISION OF DISABILITY, AGING, AND REHABILITATIVE SERVICES

Proposed Rule
LSA Document #02-210

DIGEST

Adds 460 IAC 7 to establish standards and requirements for individualized support plans for eligible individuals with a developmental disability. Effective 30 days after filing with the secretary of state.

460 IAC 7

SECTION 1. 460 IAC 7 IS ADDED TO READ AS FOLLOWS:

ARTICLE 7. INDIVIDUALIZED SUPPORT PLAN

Rule 1. Purpose

460 IAC 7-1-1 Purpose
Authority: IC 12-8-8-4; IC 12-9-2-3; IC 12-11-2.1-12
Affected: IC 12-11-1.1; IC 12-11-2.1

Sec. 1. The purpose of this article is to establish standards and requirements for individualized support plans for service plans developed by the bureau of developmental disabilities services for eligible individuals with a developmental disability. *(Division of Disability, Aging, and Rehabilitative Services; 460 IAC 7-1-1)*

Rule 2. Applicability

460 IAC 7-2-1 Applicability
Authority: IC 12-8-8-4; IC 12-9-2-3; IC 12-11-2.1-12
Affected: IC 12-11-1.1; IC 12-11-2.1

Sec. 1. This article applies to the development of ISPs for individuals receiving services under an individualized

support plan through the bureau of developmental disabilities services. *(Division of Disability, Aging, and Rehabilitative Services; 460 IAC 7-2-1)*

Rule 3. Definitions

460 IAC 7-3-1 Applicability
Authority: IC 12-8-8-4; IC 12-9-2-3; IC 12-11-2.1-12
Affected: IC 12-11-1.1; IC 12-11-2.1

Sec. 1. The definitions in this rule apply throughout this article. *(Division of Disability, Aging, and Rehabilitative Services; 460 IAC 7-3-1)*

460 IAC 7-3-2 "BDDS" defined
Authority: IC 12-8-8-4; IC 12-9-2-3; IC 12-11-1.1-9; IC 12-11-2.1-12
Affected: IC 12-11-1.1; IC 12-11-2.1

Sec. 2. "BDDS" means the bureau of developmental disabilities services. *(Division of Disability, Aging, and Rehabilitative Services; 460 IAC 7-3-2)*

460 IAC 7-3-3 "Facilitator" defined
Authority: IC 12-8-8-4; IC 12-9-2-3; IC 12-11-1.1-9; IC 12-11-2.1-12
Affected: IC 12-11-1.1; IC 12-11-2.1

Sec. 3. "Facilitator" means the person who leads the individual's support team through the person centered planning process, which includes developing an ISP. *(Division of Disability, Aging, and Rehabilitative Services; 460 IAC 7-3-3)*

460 IAC 7-3-4 "Goal" defined
Authority: IC 12-8-8-4; IC 12-9-2-3; IC 12-11-1.1-9; IC 12-11-2.1-12
Affected: IC 12-11-1.1; IC 12-11-2.1

Sec. 4. "Goal" means an endpoint of instruction. *(Division of Disability, Aging, and Rehabilitative Services; 460 IAC 7-3-4)*

460 IAC 7-3-5 "ICF/MR" defined
Authority: IC 12-8-8-4; IC 12-9-2-3; IC 12-11-1.1-9; IC 12-11-2.1-12
Affected: IC 12-11-1.1; IC 12-11-2.1

Sec. 5. "ICF/MR" means a facility certified under Title XIX of the Social Security Act (42 U.S.C. 1396 et seq.) as an intermediate care facility for the mentally retarded. *(Division of Disability, Aging, and Rehabilitative Services; 460 IAC 7-3-5)*

460 IAC 7-3-6 "Individual" defined
Authority: IC 12-8-8-4; IC 12-9-2-3; IC 12-11-1.1-9; IC 12-11-2.1-12
Affected: IC 12-11-1.1; IC 12-11-2.1-1

Sec. 6. "Individual" means an individual with a developmental disability who has been determined eligible for services by a service coordinator pursuant to IC 12-11-2.1-1. *(Division of Disability, Aging, and Rehabilitative Services; 460 IAC 7-3-6)*

460 IAC 7-3-7 "Individualized support plan" or "ISP" defined
Authority: IC 12-8-8-4; IC 12-9-2-3; IC 12-11-2.1-12
Affected: IC 12-11-1.1; IC 12-11-2.1

Sec. 7. "Individualized support plan" or "ISP" means a plan that establishes supports and strategies intended to accomplish the individual's long term and short term outcomes by accommodating the financial and human resources offered to the individual through paid provider services or volunteer services, or both, as designed and agreed upon by the individual's support team. *(Division of Disability, Aging, and Rehabilitative Services; 460 IAC 7-3-7)*

460 IAC 7-3-8 "Legal representative" defined
Authority: IC 12-8-8-4; IC 12-9-2-3; IC 12-11-1.1-9; IC 12-11-2.1-12
Affected: IC 12-10-13-3.3; IC 12-11-1.1; IC 12-11-2.1

Sec. 8. "Legal representative" has the meaning set forth in IC 12-10-13-3.3. *(Division of Disability, Aging, and Rehabilitative Services; 460 IAC 7-3-8)*

460 IAC 7-3-9 "Legal status" defined
Authority: IC 12-8-8-4; IC 12-9-2-3; IC 12-11-1.1-9; IC 12-11-2.1-12
Affected: IC 12-11-1.1; IC 12-11-2.1

Sec. 9. "Legal status" means an indication of whether or not the individual is a subject of a guardianship or some other protective proceeding, or is a minor. *(Division of Disability, Aging, and Rehabilitative Services; 460 IAC 7-3-9)*

460 IAC 7-3-10 "Objective" defined
Authority: IC 12-8-8-4; IC 12-9-2-3; IC 12-11-1.1-9; IC 12-11-2.1-12
Affected: IC 12-11-1.1; IC 12-11-2.1

Sec. 10. "Objective" means a specifiable intermediate point toward a goal. *(Division of Disability, Aging, and Rehabilitative Services; 460 IAC 7-3-10)*

460 IAC 7-3-11 "Outcome" defined
Authority: IC 12-8-8-4; IC 12-9-2-3; IC 12-11-1.1-9; IC 12-11-2.1-12
Affected: IC 12-11-1.1; IC 12-11-2.1

Sec. 11. "Outcome" means the result of attainment of:
(1) a goal, including a training goal; or
(2) an objective.
(Division of Disability, Aging, and Rehabilitative Services; 460 IAC 7-3-11)

460 IAC 7-3-12 "Person centered planning" or "PCP" defined
Authority: IC 12-8-8-4; IC 12-9-2-3; IC 12-11-1.1-9; IC 12-11-2.1-12
Affected: IC 12-11-1.1; IC 12-11-2.1

Sec. 12. "Person centered planning" or "PCP" means a process that:
(1) allows an individual, the individual's legal representative, if applicable, and any other person chosen by the

individual to direct the planning and allocation of resources to meet the individual's life goals;
(2) achieves understanding of how an individual:
(A) learns;
(B) makes decisions; and
(C) is and can be productive;
(3) discovers what the individual likes and dislikes; and
(4) empowers an individual and the individual's family to create a life plan for the individual that:
(A) is based on the individual's preferences, dreams, and needs;
(B) encourages and supports the individual's long term hopes and dreams;
(C) is supported by a short term plan that is based on reasonable costs, given the individual's support needs;
(D) includes individual responsibility; and
(E) includes a range of supports, including funded, community, and natural supports.
(Division of Disability, Aging, and Rehabilitative Services; 460 IAC 7-3-12)

460 IAC 7-3-13 "Profile information" defined
Authority: IC 12-8-8-4; IC 12-9-2-3; IC 12-11-1.1-9; IC 12-11-2.1-12
Affected: IC 12-11-1.1; IC 12-11-2.1

Sec. 13. "Profile information" means a summary of the information developed through the person centered planning process that is attached to the ISP. *(Division of Disability, Aging, and Rehabilitative Services; 460 IAC 7-3-13)*

460 IAC 7-3-14 "Provider" defined
Authority: IC 12-8-8-4; IC 12-9-2-3; IC 12-11-1.1-9; IC 12-11-2.1-12
Affected: IC 12-11-1.1; IC 12-11-2.1

Sec. 14. "Provider" means a person or entity approved by the BDDS to provide the individual with agreed upon services. *(Division of Disability, Aging, and Rehabilitative Services; 460 IAC 7-3-14)*

460 IAC 7-3-15 "Qualified mental retardation professional" or "QMRP" defined
Authority: IC 12-8-8-4; IC 12-9-2-3; IC 12-11-1.1-9; IC 12-11-2.1-12
Affected: IC 12-11-1.1; IC 12-11-2.1

Sec. 15. "Qualified mental retardation professional" or "QMRP" means a staff of an ICF/MR who meets the qualifications and functions contained in 42 CFR 483.430(a). *(Division of Disability, Aging, and Rehabilitative Services; 460 IAC 7-3-15)*

460 IAC 7-3-16 "Service coordinator" defined
Authority: IC 12-8-8-4; IC 12-9-2-3; IC 12-11-1.1-9; IC 12-11-2.1-12
Affected: IC 12-11-1.1; IC 12-11-2.1

Sec. 16. "Service coordinator" means a service coordinator employed by the BDDS under IC 12-11-2.1. *(Division of Disability, Aging, and Rehabilitative Services; 460 IAC 7-3-16)*

460 IAC 7-3-17 "Support team" defined
Authority: IC 12-8-8-4; IC 12-9-2-3; IC 12-11-1.1-9; IC 12-11-2.1-12
Affected: IC 12-11-1.1; IC 12-11-2.1

Sec. 17. "Support team" means a team of persons, including an individual, the individual's legal representative, if applicable, an individual's providers, provider of case management services, and other persons who:
(1) are designated by the individual;
(2) know and work with the individual; and
(3) participate in the development and implementation of the individual's ISP.
(Division of Disability, Aging, and Rehabilitative Services; 460 IAC 7-3-17)

Rule 4. Development of an ISP

460 IAC 7-4-1 Development of an ISP
Authority: IC 12-8-8-4; IC 12-9-2-3; IC 12-11-1.1-9; IC 12-11-2.1-12
Affected: IC 12-11-1.1; IC 12-11-2.1

Sec. 1. An ISP shall be developed by an individual's support team using a "person centered planing" process. The support team shall be led by a facilitator chosen by the individual. *(Division of Disability, Aging, and Rehabilitative Services; 460 IAC 7-4-1)*

460 IAC 7-4-2 Collection of information
Authority: IC 12-8-8-4; IC 12-9-2-3; IC 12-11-1.1-9; IC 12-11-2.1-12
Affected: IC 12-11-1.1; IC 12-11-2.1

Sec. 2. The support team shall collect all the information required to complete the ISP. In collecting the information needed to complete the ISP, the team shall be cognizant of the past, present, and future influences of a variety of factors that define the individual's quality of life. *(Division of Disability, Aging, and Rehabilitative Services; 460 IAC 7-4-2)*

460 IAC 7-4-3 Composition of the support team
Authority: IC 12-8-8-4; IC 12-9-2-3; IC 12-11-1.1-9; IC 12-11-2.1-12
Affected: IC 12-11-1.1; IC 12-11-2.1

Sec. 3. (a) The support team shall include, as appropriate, the following persons, as designated by the individual:
(1) The individual.
(2) His or her legal guardian, if applicable.
(3) Close family members/advocates.
(4) The provider providing case management services to the individual.
(5) Providers providing services to the individual.
(6) A BDDS service coordinator.
(7) Others identified by the individual as being important in his or her life.

(b) The responsibility for assuring the convening of the individual's support team and the development of the ISP shall be the responsibility of:

(1) the provider providing case management services to the individual if the individual receives case management services;
(2) the individual's QMRP if the individual is receiving services in an ICF/MR; or
(3) the BDDS service coordinator if the individual does not receive case management services or is not receiving services in an ICF/MR.

If an individual is receiving services in an ICF/MR and a ISP is not in place, the individual's service coordinator shall work with the individual's QMRP to assure development of an ISP. *(Division of Disability, Aging, and Rehabilitative Services; 460 IAC 7-4-3)*

460 IAC 7-4-4 Written ISP
Authority: IC 12-8-8-4; IC 12-9-2-3; IC 12-11-1.1-9; IC 12-11-2.1-12
Affected: IC 12-11-1.1; IC 12-11-2.1

Sec. 4. The support team shall develop a written ISP that contains all of the sections required by 460 IAC 7-5. A profile sheet shall be attached to the ISP. *(Division of Disability, Aging, and Rehabilitative Services; 460 IAC 7-4-4)*

460 IAC 7-4-5 Updating the ISP
Authority: IC 12-8-8-4; IC 12-9-2-3; IC 12-11-1.1-9; IC 12-11-2.1-12
Affected: IC 12-11-1.1; IC 12-11-2.1

Sec. 5. The ISP shall be updated:
(1) whenever a change in the individual's condition or circumstances warrants the updating the individual's ISP; or
(2) annually.
(Division of Disability, Aging, and Rehabilitative Services; 460 IAC 7-4-5)

Rule 5. Sections of an ISP

460 IAC 7-5-1 Sections of an ISP
Authority: IC 12-8-8-4; IC 12-9-2-3; IC 12-11-1.1-9; IC 12-11-2.1-12
Affected: IC 12-11-1.1; IC 12-11-2.1

Sec. 1. An ISP shall have the following sections:
(1) Personal and demographic information section.
(2) Individual's diagnosis section.
(3) Individual's emergency contacts section.
(4) Outcome section.
(5) Statement of agreement section.
(6) Individualized support plan participants section.
(7) Meeting issues and requirements section.
(8) An optional attachment regarding resources.
(Division of Disability, Aging, and Rehabilitative Services; 460 IAC 7-5-1)

460 IAC 7-5-2 Personal and demographic information section
Authority: IC 12-8-8-4; IC 12-9-2-3; IC 12-11-1.1-9; IC 12-11-2.1-12
Affected: IC 12-11-1.1; IC 12-11-2.1

Sec. 2. The personal and demographic information section shall contain the following:
(1) The individual's last name, first name, and middle initial.
(2) The individual's address.
(3) The individual's date of birth.
(4) If applicable, the individual's Medicaid recipient number.
(5) The individual's legal status.
(6) The individual's current living arrangement.
(7) An indication of whether or not the individual is in school, is employed, or has another daily routine. If the individual has another daily routine, the daily routine shall be described.
(Division of Disability, Aging, and Rehabilitative Services; 460 IAC 7-5-2)

460 IAC 7-5-3 Diagnosis section
Authority: IC 12-8-8-4; IC 12-9-2-3; IC 12-11-1.1-9; IC 12-11-2.1-12
Affected: IC 12-11-1.1; IC 12-11-2.1

Sec. 3. The diagnosis section shall identify the individual's primary diagnosis, and, if applicable, a secondary diagnosis. *(Division of Disability, Aging, and Rehabilitative Services; 460 IAC 7-5-3)*

460 IAC 7-5-4 Emergency contacts section
Authority: IC 12-8-8-4; IC 12-9-2-3; IC 12-11-1.1-9; IC 12-11-2.1-12
Affected: IC 12-11-1.1; IC 12-11-2.1

Sec. 4. The emergency contacts section shall contain the name, phone number, relationship, addresses, and an alternate contact method for any emergency contacts for the individual. *(Division of Disability, Aging, and Rehabilitative Services; 460 IAC 7-5-4)*

460 IAC 7-5-5 Outcome section
Authority: IC 12-8-8-4; IC 12-9-2-3; IC 12-11-1.1-9; IC 12-11-2.1-12
Affected: IC 12-11-1.1; IC 12-11-2.1

Sec. 5. (a) The outcome section shall include all outcomes for the individual.

(b) Each outcome listed in the ISP shall contain the following:
(1) The desired outcome for the individual.
(2) The individual's current status regarding attainment of the outcome. Current status information shall be based upon the support team's discussions during the development of the ISP and a review of relevant documentation.
(3) The individual's past experience with the outcome. Past experience information shall be based upon the support team's discussions during the development of the ISP and a review of relevant documentation.
(4) Proposed strategies and activities for meeting and attaining the outcome.

(A) Multiple strategies can be used to meet more than one (1) outcome.

(B) Preferred strategies shall be assessed through discussion during the development of the ISP and shall include input from the individual and the individual's guardian or family members, or both.

Each strategy shall be clearly outlined and include all related information.

(5) The party or parties, paid or unpaid, responsible for assisting the individual in meeting the outcome. A responsible party cannot be changed unless the support team is reconvened and the ISP is amended to reflect a change in responsible party.

(6) Time frame for accomplishment of the outcome, which shall not exceed one (1) year.

(c) An area for progress notes shall be included for each outcome. Information can be added in this area, at any time during the life of the ISP, identifying progress made in meeting the desired outcome. *(Division of Disability, Aging, and Rehabilitative Services; 460 IAC 7-5-5)*

460 IAC 7-5-6 Statement of agreement section

Authority: IC 12-8-8-4; IC 12-9-2-3; IC 12-11-1.1-9; IC 12-11-2.1-12
Affected: IC 12-11-1.1; IC 12-11-2.1

Sec. 6. The statement of agreement section shall contain the following sentence: "I have been involved in the development of my Individualized Support Plan and I agree with this Plan. I know I can appeal to the DDARS if I disagree with how this plan is put into action.". There shall be a signature and date line for the individual to sign. *(Division of Disability, Aging, and Rehabilitative Services; 460 IAC 7-5-6)*

460 IAC 7-5-7 Individualized support plan participants section

Authority: IC 12-8-8-4; IC 12-9-2-3; IC 12-11-1.1-9; IC 12-11-2.1-12
Affected: IC 12-11-1.1; IC 12-11-2.1

Sec. 7. (a) The individualized support plan participants section shall list each person participating in the development of the ISP.

(b) The relationship of each participant to the individual shall be indicated.

(c) The date or dates the ISP was forwarded to each participant shall be indicated.

(d) The method by which the ISP was forwarded to the participant shall be indicated. *(Division of Disability, Aging, and Rehabilitative Services; 460 IAC 7-5-7)*

460 IAC 7-5-8 Meeting issues and requirements section

Authority: IC 12-8-8-4; IC 12-9-2-3; IC 12-11-1.1-9; IC 12-11-2.1-12
Affected: IC 12-11-1.1; IC 12-11-2.1

Sec. 8. (a) The meeting issues and requirements section shall have a subsection regarding health and behavioral issues as follows:

(1) The health and behavioral issues section shall indicate if a provider is needed to provide health and behavioral supports and if a provider is needed, the provider responsible for providing health and behavioral supports.

(2) Health and behavioral issues included in health and behavioral issues section shall include, as applicable, the following:

(A) Seizures or history of seizures.
(B) Allergies or history of allergies.
(C) Uses or requires dentures.
(D) Chewing difficulties.
(E) Swallowing difficulties.
(F) Dining difficulties.
(G) Vision difficulties.
(H) Hearing difficulties.
(I) Speaking difficulties or the individual's mode of communication.
(J) Behavior issues.
(K) Health or behavior issue identified as a result of a review of incident reports concerning the individual.
(L) Medication or self medication issues, or both.
(M) Results of laboratory testing.
(N) Any other chronic condition or healthcare issue.

(3) The health and behavioral issues section shall identify the following:

(A) The individual's regular family physician.
(B) The individual's dentist.
(C) Any specialist with whom the individual consults.

(4) For each health issue or behavioral issue that is identified, a comment section shall be included that contains a discussion of how the health issue or behavioral issue:

(A) affects the individual; and
(B) is addressed by the ISP.

(b) The meeting issues and requirements section shall have a subsection identifying any environmental requirements the individual may have, including the following:

(1) The environmental requirements section shall indicate if a provider is needed to provide environmental and living arrangement supports and if a provider is needed, the provider responsible for providing environmental and living arrangement supports.

(2) The environmental requirements section shall include, as applicable, the following:

(A) The provider responsible for environment and living arrangement supports.
(B) Carbon monoxide detectors.
(C) Smoke detectors.
(D) Emergency phone numbers.
(E) Emergency evacuation routes and plan.

(F) Fire extinguishers.
(G) Insurance.
(H) Anti-scaling devices.
(I) Devices and home modifications.
(J) Personal emergency response system.
(K) Need for a photograph in the individual's personal file.
(L) Transportation.
(M) Individual property and financial resources.

(3) For each environmental requirement that is identified in the ISP, a comment section shall be included that contains a discussion of how the environmental need:
(A) affects the individual; and
(B) is addressed by the ISP.

(c) The meeting issues and requirements section shall have a subsection identifying the following provider requirements:

(1) If the individual is receiving case management services, when the provider providing case management services shall make the first contact with the individual.

(2) If the individual is receiving case management services, the minimum frequency of contacts the provider providing case management services shall have with the individual.

(3) The provider who is to maintain the individual's personal file.

(4) How often each provider shall analyze and update the provider's records.

(5) How often the individual shall be informed of the following:
(A) Medical condition.
(B) Developmental status.
(C) Behavior status.
(D) Risk of treatment.

(d) Right to refuse treatment. *(Division of Disability, Aging, and Rehabilitative Services; 460 IAC 7-5-8)*

460 IAC 7-5-9 Optional attachment: resources
Authority: IC 12-8-8-4; IC 12-9-2-3; IC 12-11-1.1-9; IC 12-11-2.1-12
Affected: IC 12-11-1.1; IC 12-11-2.1

Sec. 9. An optional resources attachment regarding resources may be attached to the ISP. If an optional resources attachment is used it may indicate the following:

(1) The funding supports the individual currently receives.

(2) The funding supports the support team discussed during the development of the ISP.

(3) The funding supports the individual does not desire to receive.

(4) The funding supports for which the individual has applied.

(5) Any funding supports for which the individual is on a waiting list.

(Division of Disability, Aging, and Rehabilitative Services; 460 IAC 7-5-9)

Notice of Public Hearing

Under IC 4-22-2-24, notice is hereby given that on November 25, 2002 at 2:00 p.m. and 5:00 p.m., at the Indianapolis-Marion County Public Library, 4180 North College Avenue, Indianapolis, Indiana; ***AND*** *on November 25, 2002 at 2:00 p.m. and 5:00 p.m., at the Porter County Public Library, 103 Jefferson Street, Valparaiso, Indiana;* ***AND*** *on November 25, 2002 at 2:00 p.m. and 5:00 p.m., at the New Albany-Floyd County Public Library, 180 West Spring Street, New Albany, Indiana the Division of Disability, Aging, and Rehabilitative Services will hold a public hearing on proposed new rules concerning the standards and requirements for individualized support plans for eligible individuals with a developmental disability. If an accommodation is required to allow an individual with a disability to participate in a public hearing, please contact Jean Oswalt at (317) 232-1161 at least 48 hours before the hearing. 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.*

Steven C. Cook
Director
Division of Disability, Aging, and Rehabilitative Services

TITLE 470 DIVISION OF FAMILY AND CHILDREN

Proposed Rule
LSA Document #02-152

DIGEST

Amends 470 IAC 8.1-2-12 concerning the personal needs allowance amount allowed under assistance to residents in county homes income eligibility to increase the amount from $50 to $52 pursuant to amended state statute. Effective 30 days after filing with the secretary of state.

470 IAC 8.1-2-12

SECTION 1. 470 IAC 8.1-2-12 IS AMENDED TO READ AS FOLLOWS:

470 IAC 8.1-2-12 Income eligibility
Authority: IC 12-10-6-1; IC 12-13-2-3; IC 12-13-5-3
Affected: IC 12-10-6; IC 12-30

Sec. 12. (a) An applicant's or recipient's income eligibility for assistance to residents in county homes shall be determined by the procedures in this section.

(b) The following requirements apply to a single applicant or recipient:

(1) Determine the applicant's or recipient's countable income under section 10 of this rule.

(2) Subtract from the total amount determined in subdivision (1), ~~fifty~~ **fifty-two** dollars ~~($50)~~ **($52)** for the personal needs of the applicant or recipient.

(3) Subtract the established board and room rate from the amount determined in subdivision (2).

(4) If the remainder is less than zero dollars ($0), the applicant or recipient is eligible for assistance to residents in county homes.

(5) If the remainder is zero dollars ($0) or more, the applicant or recipient is ineligible for assistance to residents in county homes.

(c) The following requirements apply to married applicants or recipients residing in the county home:

(1) Determine separately each spouse's countable income under section 10 of this rule.

(2) Subtract from each spouse's total amount determined in subdivision (1), ~~fifty~~ **fifty-two** dollars ~~($50)~~ **($52)** for the spouse's personal needs.

(3) Subtract the established room and board rate from the amount determined in subdivision (2) for each spouse.

(4) If each spouse's remainder is less than zero dollars ($0), each spouse is eligible for assistance to residents in county homes.

(5) If one (1) spouse is ineligible, subtract the amount of his average monthly medical expenses from his remainder determined in subdivision (3).

(6) Add the remainder determined in subdivision (5) to the eligible spouse's countable income in subdivision (1).

(7) Subtract from the total amount determined in subdivision (6), ~~fifty~~ **fifty-two** dollars ~~($50)~~ **($52)** for personal needs.

(8) Subtract the established board and room rate from the amount determined in subdivision (7).

(9) If the remainder is less than zero dollars ($0), the spouse is eligible for assistance to residents in county homes.

(10) If the remainder is zero dollars ($0) or more, both spouses are ineligible for assistance to residents in county homes.

(Division of Family and Children; 470 IAC 8.1-2-12; filed Mar 1, 1984, 2:31 p.m.: 7 IR 1002, eff Apr 1, 1984; filed Sep 22, 1988, 2:30 p.m.: 12 IR 293; filed Mar 5, 1998, 9:15 a.m.: 21 IR 2385; filed Mar 13, 2000, 7:41 a.m.: 23 IR 1993)

Notice of Public Hearing

Under IC 4-22-2-24, notice is hereby given that on November 27, 2002 at 10:30 a.m., at the Indiana Government Center-South, 402 West Washington Street, Room W451 Conference Room A, Indianapolis, Indiana the Division of Family and Children will hold a public hearing on proposed amendments concerning the personal needs allowance amount allowed under assistance to residents in county homes income eligibility to increase the amount from $50 to $52 pursuant to amended state statute.

If an accommodation is required to allow an individual with a disability to participate in this meeting, please contact Kevin Wild at (317) 233-2582 at least 48 hours prior to the meeting.

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.

Howard Stevenson
General Counsel
Division of Family and Children

TITLE 760 DEPARTMENT OF INSURANCE

Proposed Rule
LSA Document #02-137

DIGEST

Adds 760 IAC 1-68 regarding requirements for a multiple employer welfare arrangement to obtain a certificate of registration, including reinsurance requirements, reserve levels, deposits, financial reporting, fidelity bonds, and operation of a multiple employer welfare arrangement, and to otherwise implement IC 27-1-34. Effective 30 days after filing with the secretary of state.

760 IAC 1-68

SECTION 1. 760 IAC 1-68 IS ADDED TO READ AS FOLLOWS:

Rule 68. Multiple Employer Welfare Arrangements

760 IAC 1-68-1 Definitions
Authority: IC 27-1-34-9
Affected: IC 27-1-34-1

Sec. 1. The following definitions apply throughout this rule:

(1) "Commissioner" means the commissioner of the Indiana department of insurance.

(2) "Creditable coverage" has the meaning set forth in the federal Health Insurance Portability and Accountability Act of 1996 (26 U.S.C. 9801(c)(1)).

(3) "Department" means the Indiana department of insurance.

(4) "Fund balance" means the total assets in excess of total liabilities, except that assets pledged to secure debts not reflected on the books of the multiple employer welfare arrangement are not included in the fund balance. The term includes other contributed capital, retained earnings, and subordinated debt.

(5) "Health benefit plan" means any plan that provides benefits for health care services. The term does not include the following:

(A) Accident-only or disability income insurance or a combination of accident-only and disability income insurance.

(B) Credit only insurance.

(C) Disability insurance.

(D) Coverage for a specified disease or illness.

(E) Medicare supplement policies.

(F) Long term care coverage.

(G) Workers' compensation insurance.

(H) A jointly managed trust authorized under 29 U.S.C. 141 et seq. with a plan of benefits for employees negotiated in a collective bargaining agreement governing wages, hours, and working conditions of the employees as authorized under 29 U.S.C. 157.

(I) Hospital indemnity or fixed indemnity insurance.

(J) Reinsurance contract issued on a stop-loss, quota-share, or similar basis.

(K) Short term major medical contracts.

(L) Liability insurance.

(6) "Multiple employer welfare arrangement" or "MEWA" has the meaning set forth in IC 27-1-34-1.

(7) "Participant criteria" means any criteria or rules established by an employer to determine the employees who are eligible for enrollment, including continued enrollment, under the terms of a health benefit plan.

(8) "Participation agreement" means the document pursuant to which an employer undertakes and agrees to fulfill obligations as a member of the MEWA.

(9) "Qualified actuary" means an actuary who is not an employee of the MEWA and is a fellow of the Society of Actuaries, a member of the American Academy of Actuaries, or an enrolled actuary under the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1001, et seq.).

(10) "Qualified financial institution" means an institution that is organized, or in the case of a United States branch or agency office of a foreign banking organization is licensed, under the laws of the United States or any state, and has been granted authority to operate with fiduciary powers and is regulated, supervised, and examined by federal or state authorities having regulatory authority over banks and trust companies.

(Department of Insurance; 760 IAC 1-68-1)

760 IAC 1-68-2 Certificate of registration

Authority: IC 27-1-34-9

Affected: IC 4-21.5-5; IC 27-1-25; IC 27-1-34

Sec. 2. (a) A MEWA may not engage in business in Indiana without first obtaining a certificate of registration from the department.

(b) To obtain a certificate of registration a MEWA shall submit an application for a certificate of registration. The application shall be on a form prescribed by the department. The application shall be completed and submitted along with the following information:

(1) Copies of all articles, bylaws, agreements, trusts, or other documents describing the rights and obligations of employers, employees, and beneficiaries.

(2) Current financial statements of the MEWA and a projection of the assets, liabilities, income, and expenses of the MEWA for the next twelve (12) months.

(3) Proof of a fidelity bond, which shall protect against acts of fraud or dishonesty in servicing the MEWA, covering each person responsible for servicing the MEWA in an amount equal to:

(A) the greater of ten percent (10%) of the premiums and contributions received by the MEWA; or

(B) ten percent (10%) of the benefits paid;

during the preceding calendar year, with a minimum of ten thousand dollars ($10,000) and a maximum of five hundred thousand dollars ($500,000). No additional bond shall be required of a third party administrator licensed under IC 27-1-25.

(4) A business plan for the MEWA, including the proposed marketing and sales plan and documents.

(5) An opinion from a qualified actuary satisfactory to the commissioner showing that the MEWA will be operated in accordance with sound actuarial principles.

(6) A certification by the applicant that the MEWA is in compliance with all applicable provisions of the Employee Retirement Income Security Act of 1974 (29 U.S.C. Section 1001 et seq.) or that the applicant is exempt from the Employee Retirement Income Security Act of 1974 including the basis for the asserted exemption.

(7) Copies of the plan documents and agreements with service providers.

(8) A statement of the costs of coverage to be charged, including an itemization of amounts for administration, reserves, and other expenses associated with operation of the MEWA.

(9) Names and addresses of the following:

(A) The association or group of employers sponsoring the MEWA.

(B) The members of the board of trustees or directors, as applicable, of the MEWA.

(C) If not an association, at least two (2) employers.

(10) The application fee required by section 16 of this rule.

(c) The commissioner shall examine the application and documents submitted by the applicant and shall have the power to conduct any investigation the commissioner may deem necessary and to examine under oath any persons interested in or connected with the MEWA. The commis-

sioner may request any additional information that he or she deems relevant to the application. A certificate of registration will not be issued until the commissioner approves the MEWA's application.

(d) To meet the requirements for approval of an application for a certificate of registration, a MEWA must meet all of the following conditions.

(1) The employers in the MEWA must be members of an association or group of two (2) or more businesses in the same trade or industry, including closely related businesses that provide support, services, or supplies primarily to that trade or industry. If an association, the association must:

(A) be engaged in substantial activity for its members other than sponsorship of an employee welfare benefit plan; and

(B) have been in existence for a period of not less than two (2) years prior to engaging in any activities relating to the provision of employee health benefits to its members.

(2) The MEWA must be controlled and sponsored directly by participating employers or participating employees, or both. The MEWA must be operated pursuant to a trust agreement by a board of trustees that has complete fiscal control over the arrangement and that is responsible for all operations of the MEWA. The trustees must be owners, partners, officers, directors, or employees of employers in the MEWA. The trustees must be equitably divided through the participating employers, no one (1) employer may be represented by a majority of the board.

(3) The association or MEWA must be a not-for-profit organization.

(4) Coverage under the MEWA must not be offered to persons or groups other than participating employers and, in the event of an association the sponsoring association.

(5) The MEWA must have within its own organization adequate facilities and competent personnel, as determined by the commissioner, to service the employee benefit plan or must have contracted with a third party administrator holding a certificate of registration under IC 27-1-25.

(6) The MEWA must have applications from not less than two (2) employers and plan to provide similar benefits for not less than two hundred (200) participating employees. The annual gross premiums of or contributions to the plan must not be less than:

(A) twenty thousand dollars ($20,000) for a plan that provides only vision benefits;

(B) seventy-five thousand dollars ($75,000) for a plan that provides only dental benefits; and

(C) two hundred thousand dollars ($200,000) for all other plans.

(7) The MEWA must possess a written commitment, binder, or policy for stop-loss insurance issued by an insurer authorized to do business in this state providing:

(A) not less than sixty (60) days' notice to the commissioner of any cancellation or nonrenewal of coverage; and

(B) both specific and aggregate coverage with an aggregate retention of no more than one hundred twenty-five percent (125%) of the amount of expected claims for the next plan year and a specific retention amount annually determined by the actuarial report required by section 8 of this rule.

Both the specific and the aggregate coverage must require all claims to be submitted within ninety (90) days after the claim is incurred and provide a twelve (12) month claims incurred period and a fifteen (15) month paid claims period for each policy year.

(8) The contributions must be set to fund at least one hundred percent (100%) of the aggregate retention plus all other costs of the MEWA.

(9) The MEWA must establish a procedure acceptable to the commissioner for:

(A) handling claims for benefits in the event of dissolution of the MEWA; and

(B) the routine handling of claims.

(10) The MEWA must obtain the required bond.

(11) The MEWA must be operated in accordance with sound actuarial principles.

(12) All funds of the MEWA must be held in trust in the name of the MEWA in a qualified financial institution.

(13) The MEWA's participation application and participation agreement must contain the language required by section 14 of this rule.

(e) A denial of an application shall:

(1) be in writing;

(2) specify the reasons for denial; and

(3) provide notice of the applicant's right to request a hearing.

Any request for a hearing shall be submitted within thirty (30) days of receipt of the department's denial. A final order of the commissioner is a final order subject to judicial review pursuant to IC 4-21.5-5.

(f) A MEWA in existence on January 1, 2003, shall do the following:

(1) File notice with the commissioner by March 1, 2003, of its intent to apply for an initial certificate of registration.

(2) File for its initial certificate of registration by June 1, 2003.

The MEWA may continue to conduct business until the certificate of registration is granted or denied by the commissioner. *(Department of Insurance; 760 IAC 1-68-2)*

760 IAC 1-68-3 Eligibility

Authority: IC 27-1-34-9
Affected: IC 27-1-34

Sec. 3. A MEWA may only provide benefits to active or retired owner, officers, director, or employees of or partners in participating employers, or the dependents of such persons, except as otherwise limited by the Employee Retirement Income Security Act of 1874 (29 U.S.C. 1001 et seq.). *(Department of Insurance; 760 IAC 1-68-3)*

760 IAC 1-68-4 Coverage requirements

Authority: IC 27-1-34-9
Affected: IC 25-22.5; IC 25-29; IC 27-1-34

Sec. 4. (a) A MEWA may refuse to provide coverage to an employer employing fifty (50) or more employees in accordance with the MEWA's underwriting standards and criteria.

(b) A MEWA must provide coverage to any employer that meets the participating employer criteria and who employs two (2) to fifty (50) employees.

(c) Upon issuance of coverage to any employer, each MEWA shall provide coverage to the employees who meet the participation criteria established by the terms of the plan document without regard to an individual's health status related factors. The participation criteria may not be based on health status factors.

(d) The MEWA shall accept or reject the entire group of individuals who meet the participation criteria and who choose coverage. The MEWA may exclude only those individuals who have declined coverage. Denial by a MEWA of an application for coverage from an employer must be in writing and must state the reason or reasons for the denial.

(e) The MEWA shall obtain a written waiver for each employee who meets the participation criteria and who declines coverage under the MEWA. The waiver must ensure that the employee was not induced or pressured into declining coverage because of the employee's or a dependent's health status.

(f) A MEWA may not provide coverage to an employer or the employees of an employer if the MEWA or an agent for the MEWA knows that the employer has induced or pressured an employee who meets the participation criteria or a dependent of the employee to decline coverage because of that individual's health status.

(g) A MEWA may require an employer to meet minimum contribution or participation requirements as a condition of issuance and renewal in accordance with the terms of the MEWA's plan document. Those requirements shall be:

(1) stated in the plan document; and

(2) applied uniformly to each employer offered or issued coverage by the MEWA.

(h) The initial enrollment period for employees meeting the participation criteria must be at least thirty-one (31) days, with a thirty-one (31) day annual open enrollment period. If dependent coverage is offered, the dependent's open enrollment must also comply with these time periods.

(i) A MEWA may establish a waiting period during which a new employee is not eligible for coverage in accordance with the plan document.

(j) A MEWA's plan document may not, by use of a rider or amendment applicable to a specific individual, limit or exclude coverage by type of illness, treatment, medical condition, or accident, except for preexisting conditions as follows:

(1) A preexisting condition provision in a MEWA may not apply to an expense incurred on or after the expiration of the twelve (12) months following the initial effective date of coverage of the participating employee or dependent. However, this time period may be extended to eighteen (18) months for a late enrollee as defined in the federal Health Insurance Portability and Accountability Act of 1996.

(2) A preexisting condition provision in a MEWA plan document may not apply to coverage for a disease or condition other than a disease or condition for which medical advice, diagnosis, care, or treatment was recommended or received during the six (6) months before the earlier of the:

(A) effective date of coverage; or

(B) first day of the waiting period.

(3) A MEWA shall not treat genetic information as a preexisting condition in the absence of a diagnosis of the condition related to the information.

(4) A MEWA shall not treat a pregnancy as a preexisting condition.

(5) A preexisting condition provision in a MEWA's plan document may not apply to an individual who was continuously covered for a period of twelve (12) months under creditable coverage that was in effect up to a date not more than sixty-three (63) days before the effective date of coverage under the health benefit plan, excluding any waiting period.

(6) In determining whether a preexisting condition provision applies to an individual covered by a MEWA's plan document, the MEWA shall credit the time the individual was covered under previous creditable coverage if the previous coverage was in effect at any time during the twelve (12) months preceding the effective date of coverage under the MEWA. If the previous coverage was issued under a health benefit plan, any waiting period shall also be credited to the preexisting condition provision period.

(7) This section does not preclude application of any waiting period applicable to all new participating employ-

ees under the health benefit plan in accordance with the terms of the MEWA's plan document.

(k) A MEWA shall provide that the insurance benefits applicable for the individual or family member shall be payable with respect to a newly born or adopted child of a covered person. The coverage shall consist of coverage of injury or sickness, including the necessary care and treatment of medically diagnosed congenital defects and birth abnormalities. Coverage shall include, but not be limited to, benefits for inpatient or outpatient expenses arising from medical and dental treatment (including orthodontic and oral surgery treatment) involved in the management of birth defects known as cleft lip and cleft palate. If payment of a specific premium or fee is required to provide coverage for a child, the policy or contract may require that notification of the birth or adoption and payment of the required premium or fee must be furnished to the MEWA within thirty-one (31) days after the date for birth or adoption in order to have continuous coverage beyond the thirty-one (31) day period.

(l) Coverage offered by the MEWA shall comply with the following:

(1) The federal Women's Health and Cancer Rights Act.

(2) The federal Mental Health Parity Act.

(3) The federal Pregnancy Discrimination Act.

(m) The MEWA shall comply with the federal Health Insurance Portability and Accountability Act of 1996.

(n) The MEWA shall provide coverage for the following:

(1) The medically necessary treatment for diabetes, including medically necessary supplies and equipment as ordered in writing by a physician licensed under IC 25-22.5 or a podiatrist licensed under IC 25-29, subject to general provisions of the health benefit plan.

(2) At least one (1) prostate specific antigen test annually for an insured who is at least fifty (50) years of age or is younger than fifty (50) years of age and is at high risk for prostate cancer according to the most recent published guidelines of the American Cancer Society.

(3) Colorectal cancer examinations and laboratory tests for cancer for any nonsymptomatic insured, in accordance with the current American Cancer Society guidelines for a covered individual who is fifty (50) years of age or less than fifty (50) years of age and at high risk for colorectal cancer according to the most recent published guidelines of the American Cancer Society.

(o) The MEWA shall offer coverage for nonexperimental surgical treatment by a health care provider of morbid obesity that has persisted for at least five (5) years and nonsurgical treatment, supervised by a physician, has been unsuccessful for at least eighteen (18) consecutive months. Morbid obesity means any of the following:

(1) A weight of at least two (2) times the ideal weight for frame, age, height, and gender, as specified in the 1983 Metropolitan Life Insurance tables.

(2) A body mass index of at least thirty-five (35) kilograms per meter squared, with comorbidity or coexisting medical conditions, such as hypertension, cardiopulmonary conditions, sleep apnea, or diabetes.

(3) A body mass index of at least forty (40) kilograms per meter squared without comorbidity.

For purposes of this section, body mass index is equal to weight in kilograms divided by height in meters squared.

(p) A MEWA may not deny enrollment of a child of a covered individual because the child was born out of wedlock, the child is not claimed as a dependent on the parent's federal income tax return, or the child does not reside with the parent or in the MEWA's service area. Whenever a child of a noncustodial parent is eligible for coverage with or covered by the MEWA the MEWA shall do the following:

(1) Provide any information to the custodial parent that is necessary for the child to obtain benefits through the MEWA.

(2) Permit the custodial parent, or the provider of medical services with the custodial parent's approval, to submit claims for covered services without the approval of the noncustodial parent.

(3) Make payments on insurance claims submitted under subdivision (2) directly to the custodial parent, the provider of the medical services, or the office of Medicaid policy and planning.

(4) When a parent is required by a court or an administrative order to provide health coverage for a child and the parent is eligible for family health coverage with the MEWA, the MEWA must do all of the following:

(A) Permit the parent to enroll under the family coverage a child who is otherwise eligible for the coverage, without regard to any enrollment season restriction.

(B) Enroll a child under the family coverage upon application by the child's custodial parent, the office of Medicaid policy and planning or a Title IV-D agency whenever a noncustodial parent who is enrolled fails to apply for coverage of the child.

(C) The MEWA may not disenroll or eliminate coverage of a child who is otherwise eligible for coverage unless the insurer is provided satisfactory written evidence that the court order or administrative order is no longer in effect or the child is or will be enrolled in comparable health coverage not later than the effective date of the disenrollment.

(q) If the MEWA coordinates benefits, the coordination

of benefits provision must comply with the National Association of Insurance Commissioners model regulation on coordination of benefits. *(Department of Insurance; 760 IAC 1-68-4)*

760 IAC 1-68-5 Applications

Authority: IC 27-1-34-9
Affected: IC 27-1-34

Sec. 5. (a) A MEWA, in its application for coverage, may ask questions of a medically specific nature that are necessary to render a fully informed underwriting determination, based upon sound actuarial principles concerning whether to accept or rate a particular risk, subject to the following conditions:

(1) Questions relating to medical and other factual matters intending to reveal the possible existence of medical conditions are permissible if the applicant has been given an opportunity to provide an explanation for any affirmative answers given in the application. Questions shall:

(A) be related to a finite period of time preceding completion of the application;

(B) be specific and objective; and

(C) provide the applicant the opportunity to give a detailed explanation.

(2) No question in an application shall be directed towards determining or designed to establish the applicant's sexual orientation.

(3) Questions relating to the applicant having human immunodeficiency virus or having been diagnosed as having human immunodeficiency virus are permissible if they are factual, objective, and designed to establish the existence of the condition.

(b) An insurer may require a potential insured to submit to any medical tests, at the insurer's expense, the purpose of which is to determine infection with human immunodeficiency virus, subject to the following conditions:

(1) The test is necessary to render a fully informed underwriting determination based upon sound actuarial principles concerning whether to accept or rate a particular risk.

(2) Whenever an applicant is requested to take a test to determine human immunodeficiency virus infection in connection with an application for insurance, the use of such a test must be revealed to the applicant and his or her written consent obtained. No adverse underwriting decision shall be made on the basis of such a positive test unless an established test protocol has been followed.

(3) The following test protocol is established and must be the basis of an adverse underwriting determination:

(A) Two (2) positive ELISA tests.

(B) One (1) Western Blot test, which is not negative, must be obtained from the same sample from tests conducted by a qualified laboratory.

(4) All results of tests to determine human immunodeficiency virus infection and application responses are confidential and shall not be shared with anyone other than the applicant, the applicant's physician, and the insurer's underwriting department, except as follows:

(A) Test results and application responses may be shared with underwriting departments of affiliates of the insurer and reinsurers, who shall be subject to all provisions of this rule as if they were the insurer to which application was originally made.

(B) Test results may be reported to the Medical Information Bureau, Inc., provided that:

(i) the insurer will not report that tests of an applicant showed the presence of human immunodeficiency virus, but only that unspecified test results were abnormal; and

(ii) reports must use a general code that also covers results of tests for many diseases or conditions that are not related to human immunodeficiency virus or acquired immune deficiency syndrome.

(5) An insurer may make an underwriting or a rating determination based upon questions asked and tests required pursuant to this subsection, subject to the following conditions:

(A) Sexual orientation may not be used in the underwriting process or in the determination of insurability.

(B) Insurance support organizations shall be directed by insurers not to investigate, directly or indirectly, the sexual orientation of an applicant or a beneficiary.

(C) Neither the marital status, the living arrangements, the occupation, the gender, the medical history, the beneficiary designation, nor the zip code or other territorial classification of an applicant may be used to establish, or aid in establishing, the applicant's sexual orientation.

(D) For purposes of rating a group for health, an insurer may impose territorial rates, but only if the rates are based on sound actuarial principles or are related to actual or reasonably anticipated experience.

(E) No adverse underwriting decision shall be made because medical records or a report from an insurance support organization shows that the applicant has demonstrated concern about human immunodeficiency virus by seeking testing or counseling from health care professionals. This subsection does not apply to an applicant seeking treatment or diagnosis for a specific condition.

(6) In the event a MEWA determines to accept a risk, it must do so without limitations or exclusions solely of the coverage for human immunodeficiency virus, acquired immune deficiency syndrome, or a related condition, as follows:

(A) No maximum dollar amount of coverage, which is limited solely to human immunodeficiency virus, acquired immune deficiency syndrome, or a related condition, shall be included in any policy or certificate.
(B) No exclusion of coverage, which is limited solely to human immunodeficiency virus, acquired immune deficiency syndrome, or a related condition, shall be included in any policy or certificate.
(Department of Insurance; 760 IAC 1-68-5)

760 IAC 1-68-6 Premium rates
Authority: IC 27-1-34-9
Affected: IC 27-1-34

Sec. 6. A MEWA may not charge an adjustment to premium rates for individual employees or dependents for health status related factors or duration of coverage. Any adjustment must be applied uniformly to the rates charged for all participating employees and dependents of participating employees of the employer. *(Department of Insurance; 760 IAC 1-68-6)*

760 IAC 1-68-7 Marketing practices
Authority: IC 27-1-34-9
Affected: IC 27-1-34

Sec. 7. (a) On request, the MEWA shall provide an employer with a summary of the plans for which the employer is eligible. All marketing materials shall include the disclosure required by section 14 of this rule.

(b) The department may require periodic reports by MEWAs and agents regarding health benefit plans issued by MEWAs. *(Department of Insurance; 760 IAC 1-68-7)*

760 IAC 1-68-8 Third party administrator
Authority: IC 27-1-34-9
Affected: IC 27-1-25; IC 27-1-34

Sec. 8. (a) If a MEWA enters into an agreement with a third party administrator to provide administrative, marketing, or other services related to the offering of health benefits plans to employers in this state, the third party administrator must hold a certificate of registration issued under IC 27-1-25.

(b) A trustee may not be an owner, officer, or employee of the administrator. *(Department of Insurance; 760 IAC 1-68-8)*

760 IAC 1-68-9 Filings by multiple employer welfare arrangement
Authority: IC 27-1-34-9
Affected: IC 27-1-34

Sec. 9. (a) Each MEWA shall file the following information on a quarterly basis, and the filing is due forty-five (45) days after the end of the MEWA's fiscal quarter:

(1) Quarterly financial statements, including a balance sheet and income statement prepared in accordance with generally accepted accounting principles signed by an officer of the MEWA.
(2) A list of any employers who have obtained coverage with the MEWA during the previous quarter and the number of their covered employees.

(b) Each MEWA transacting business in this state shall file an annual report with the commissioner within ninety (90) days of the end of the MEWA's fiscal year. The report shall be verified by the oath of the chair of the board of trustees. The report must summarize the business activities of the trust for the immediately preceding year and must contain all of the following items:
(1) Management discussion and analysis.
(2) Financial statements audited by a certified public accountant.
(3) An actuarial opinion prepared and certified by a qualified actuary that states:
(A) The MEWA is being operated in accordance with sound actuarial principles.
(B) A description and explanation of actuarial assumptions and actuarial methods.
(C) The recommended level of specific and aggregate stop-loss insurance the MEWA should maintain.
(4) A statement detailing any modified terms of a plan document along with a certification from the trustees that any changes are in compliance with the minimum requirements of this rule.
(5) If the MEWA has been examined by a regulatory authority, the report shall:
(A) identify the entity that conducted the examination; and
(B) include a copy of the examination report.
(6) The names and addresses of all participating employers, and the total number of covered individuals.

(c) Each filing made with the department shall be accompanied by the filing fee required by section 16 of this rule. *(Department of Insurance; 760 IAC 1-68-9)*

760 IAC 1-68-10 Financial condition
Authority: IC 27-1-34-9
Affected: IC 27-1-34

Sec. 10. Each MEWA shall maintain a minimum fund balance of five hundred thousand dollars ($500,000). *(Department of Insurance; 760 IAC 1-68-10)*

760 IAC 1-68-11 Examination
Authority: IC 27-1-34-9
Affected: IC 27-1-3.1; IC 27-1-34-6

Sec. 11. (a) The commissioner or any person appointed by the commissioner shall have the power to examine the

affairs of any MEWA and for such purposes shall have free access to all the books, records, and document that relate to the business of the plan and may examine under oath its trustees or directors, officers, agents, and employees in relation to the affairs, transactions, and conditions of the MEWA. Expenses of the examination shall be paid by the MEWA as provided in IC 27-1-34-6. The examination shall be conducted and in accordance with IC 27-1-3.1 and may cover financial or market conduct issues.

(b) Each MEWA must have and maintain a place of business in Indiana and must make available to the commissioner complete records of its assets, transactions, and affairs in accordance with such methods and systems as are customary for or suitable to the kind or kinds of business transacted. *(Department of Insurance; 760 IAC 1-68-11)*

760 IAC 1-68-12 Forms
Authority: IC 27-1-34-9
Affected: IC 4-21.5; IC 27-1-34

Sec. 12. (a) No participation agreement or contract form, application form, certificate, rider, endorsement, summary plan description, or other evidence of coverage may be issued unless the form, and any subsequent changes to the form, has been filed with the commissioner. The form may not be used for thirty (30) days after the filing unless the commission gives written approval of the form before the expiration of thirty (30) days.

(b) The commissioner may, within thirty (30) days after the filing of a form, disapprove the form if the form:
(1) violates or does not comply with this rule or any applicable statute;
(2) contains or incorporates by reference inconsistent, ambiguous, or misleading clauses or exceptions and conditions that deceptively affect the risk proposed to be assumed in the general coverage of the contract;
(3) has any title heading or other indication of its provision that is misleading;
(4) is printed or otherwise reproduced in such manner as to render any material provision of the form substantially illegible; or
(5) contains any provision that is unfair, inequitable, or encourages misrepresentation.

(c) A disapproval must:
(1) be in writing; and
(2) identify the reason for the denial and provide an opportunity for a hearing on the matter.

(d) The commissioner may, after notice and a hearing, withdraw approval of a form for the reasons stated in subsection (b).

(e) Any final order of the commissioner under this section is a final order and subject to judicial review under IC 4-21.5.

(f) All filings under this section shall be accompanied by the filing fee required by section 16 of this rule. *(Department of Insurance; 760 IAC 1-68-12)*

760 IAC 1-68-13 Enforcement
Authority: IC 27-1-34-9
Affected: IC 27-1-34

Sec. 13. (a) The commissioner may deny, suspend, or revoke a certificate of registration if, after notice and a hearing, the commissioner finds that the MEWA has failed to meet the requirements of this rule or any applicable statute.

(b) The commissioner shall deny, suspend, or revoke the certificate of registration of a MEWA if the commissioner finds any of the following exist:
(1) The MEWA has a negative fund balance.
(2) The MEWA has refused to:
(A) be examined; or
(B) produce the MEWA's accounts, records, and files for examination;
or any of the MEWA's officers have refused to give information with respect to the MEWA's affairs to perform any other legal obligation as to such examination when required by the commissioner.
(3) The MEWA has failed to pay a final judgment rendered against it in court within thirty (30) days.
(4) The MEWA no longer meets the requirements for the authority originally granted.
(Department of Insurance; 760 IAC 1-68-13)

760 IAC 1-68-14 Termination
Authority: IC 27-1-34-9
Affected: IC 27-1-34

Sec. 14. If a MEWA is terminated for any reason, the trust may not be dissolved until all outstanding financial obligations of the MEWA are paid. The MEWA may retain sufficient funds to provide coverage for an additional period as the trustees of the MEWA consider prudent. The trustees may purchase additional insurance for protection against potential future claims. Any funds remaining in the MEWA after satisfaction of all obligations must be paid to participating employers or covered employees in an equitable manner meeting with the approval of the commissioner. Written notice of the termination must be provided to each covered employee, the United States Department of Labor, and the commissioner at least thirty (30) days before the effective date of the termination. *(Department of Insurance; 760 IAC 1-68-14)*

760 IAC 1-68-15 Liability of participants
Authority: IC 27-1-34-9
Affected: IC 27-1-34

Sec. 15. (a) The liability of each employer participant for the obligations of the MEWA is joint and several.

(b) Each employer participant has a contingent assessment liability pursuant to this section for payment of actual losses and expenses incurred while the participation agreement was in force.

(c) Each participation agreement or contract issued by the MEWA must contain a statement of the contingent liability of employer participants. Both the application for participation and the participation agreement must contain, in contrasting color and not less than twelve (12) point type, the statement, "This is a fully assessable contract. In the event (the MEWA) is unable to pay its obligations, participating employers will be required to contribute through an equitable assessment the money necessary to meet any unfulfilled obligations.". *(Department of Insurance; 760 IAC 1-68-15)*

760 IAC 1-68-16 Written notice
Authority: IC 27-1-34-9
Affected: IC 27-1-34

Sec. 16. (a) A MEWA shall provide to each participating employer the written notice, "In the event the plan or the MEWA does not ultimately pay medical expenses that are eligible for payment under the plan for any reason, the participating employer may be liable for those expenses.".

(b) Every application and coverage form, including certificates of coverage, must contain in not less than twelve (12) point type the notice, "Your coverage is issued by a multiple employer welfare arrangement. The multiple employer welfare arrangement may not be subject to all of the insurance laws and regulations of Indiana. State insurance guaranty funds are not available for your multiple employer welfare arrangement.". *(Department of Insurance; 760 IAC 1-68-16)*

760 IAC 1-68-17 Fees
Authority: IC 27-1-34-9
Affected: IC 27-1-34

Sec. 17. The following fees apply to MEWAs:
(1) An applicant shall pay a nonrefundable fee of three hundred fifty dollars ($350) for filing an application for a certificate of registration.
(2) Each MEWA holding a certificate of registration shall pay an annual internal audit fee of one hundred dollars ($100).
(3) A fee of fifty dollars ($50) shall accompany the filing of the annual report required by section 8 of this rule.
(4) A fee of thirty-five dollars ($35) shall accompany each form filed as required by section 10 of this rule.
(Department of Insurance; 760 IAC 1-68-17)

760 IAC 1-68-18 Fully insured MEWAs
Authority: IC 27-1-34-9
Affected: IC 27-1-34

Sec. 18. This rule does not apply to a fully insured MEWA. A fully insured MEWA is a MEWA that provides benefits to its participating employees and beneficiaries for which one hundred percent (100%) of the liability has been assumed by an insurance company or health maintenance organization holding a certificate of authority in Indiana. The covered individual must be entitled to make a claim for payment directly to the insurance company or health maintenance organization. *(Department of Insurance; 760 IAC 1-68-18)*

760 IAC 1-68-19 Severability
Authority: IC 27-1-34-9
Affected: IC 27-1-34

Sec. 19. If any section or portion of a section of this rule or its applicability to any person or circumstance is held invalid by a court, the remainder of the rule or the applicability of the provision to other persons or circumstances shall not be affected. *(Department of Insurance; 760 IAC 1-68-19)*

Notice of Public Hearing

Under IC 4-22-2-24, notice is hereby given that on November 26, 2002 at 10:00 a.m., at the Department of Insurance, 311 West Washington Street, Suite 300, Indianapolis, Indiana the Department of Insurance will hold a public hearing on a proposed rule regarding requirements for multiple employer welfare arrangements to obtain a certificate of registration, including reinsurance requirements, reserve levels, deposits, financial reporting, fidelity bonds, and operation of a multiple employer welfare arrangement, and to otherwise implement IC 27-1-34. Copies are available at the Web site for the Department of Insurance at www.state.in.us/idoi. Copies of these rules are now on file at the Department of Insurance, 311 West Washington Street, Suite 300 and Legislative Services Agency, One North Capitol, Suite 325, Indianapolis, Indiana and are open for public inspection.

Sally McCarty
Commissioner
Department of Insurance

TITLE 840 INDIANA STATE BOARD OF HEALTH FACILITY ADMINISTRATORS

Proposed Rule
LSA Document #02-219

DIGEST

Amends 840 IAC 1-1-4 concerning qualifications for licensure. Effective 30 days after filing with the secretary of state.

840 IAC 1-1-4

SECTION 1. 840 IAC 1-1-4, AS AMENDED AT 25 IR 2856, SECTION 3, IS AMENDED TO READ AS FOLLOWS:

840 IAC 1-1-4 Qualifications for licensure
Authority: IC 25-19-1-4
Affected: IC 25-19-1-3

Sec. 4. ~~(a) All applicants for licensure as an H.F.A. before July 1, 2002, must have completed, at the time of application, the requirements of IC 25-19-1-3(a)(1) and the following educational attainments and administrator-in-training programs:~~

~~(1) Possession of a baccalaureate or higher degree in any subject from an accredited institution of higher learning approved by the board, and completion of a required six (6) month administrator-in-training program.~~

~~(2) Possession of an associate degree in long term care, health care administration, or equivalent from an accredited institution of higher learning approved by the board, and completion of a required six (6) month administrator-in-training program.~~

~~(3) Completion of a specialized course of study in long term health care administration approved by the board, and completion of a required six (6) month administrator-in-training program.~~

~~(b)~~ **(a)** All applicants for licensure as an H.F.A. ~~on or after July 1, 2002,~~ must have completed, at the time of application, the requirements of IC 25-19-1-3(a)(1) and **any of** the following educational attainments and administrator-in-training programs:

(1) Possession of a baccalaureate or higher degree from an accredited institution of higher learning approved by the board, and completion of a required administrator-in-training program.

(2) Possession of an associate degree in health care from an accredited institution of higher learning approved by the board, completion of a specialized course of study in long term health care administration approved by the board, and completion of a required administrator-in-training program.

(3) Completion of a specialized course of study in long term health care administration prescribed by the board, and completion of a required six (6) month administrator-in-training program.

~~(c)~~ **(b)** Applicants for licensure by endorsement as an H.F.A. may request that the board consider previous experience to satisfy the requirements of subsection (a). Educational and A.I.T. requirements may be satisfied by two (2) years of active work experience as a licensed health facility administrator in another state. Evidence must be presented to the board demonstrating competency of practice.

~~(d)~~ **(c)** Applicants for licensure as an H.F.A. may request that the board consider previous experience to satisfy the A.I.T. requirements of subsection (a). A.I.T. requirements may be satisfied by:

(1) one (1) year of active work experience as a licensed H.F.A.;

(2) completion of a training program required for licensure as an H.F.A. in another state that is determined by the board to be equivalent to the A.I.T. requirements of this state;

(3) completion of a residency-internship in health care administration completed as part of a degree requirement of

~~(A)~~ subsection (a)(1) and (a)(2) ~~before July 1, 2002,~~ that is determined by the board to be equivalent to the A.I.T. requirements of this state;

~~(B) subsection (b)(1) and (b)(2) on or after July 1, 2002, that is determined by the board to be equivalent to the A.I.T. requirements of this state;~~

(4) one (1) year of active work experience as a chief executive officer or chief operations officer in a hospital; or

(5) a master's degree in health care administration and six (6) months of active work experience as a licensed H.F.A. in another state.

(Indiana State Board of Health Facility Administrators; Rule 5; filed May 26, 1978, 9:09 a.m.: 1 IR 244; filed May 2, 1985, 10:33 a.m.: 8 IR 1147; filed Sep 29, 1987, 2:08 p.m.: 11 IR 793; filed Dec 22, 1987, 2:36 p.m.: 11 IR 1604; errata filed Mar 25, 1991, 4:40 p.m.: 14 IR 1626; errata filed Jul 8, 1991, 5:00 p.m.: 14 IR 2066; readopted filed May 1, 2002, 10:35 a.m.: 25 IR 2856)

Notice of Public Hearing

Under IC 4-22-2-24, notice is hereby given that on December 5, 2002 at 10:45 a.m., at the Indiana Government Center-South, 402 West Washington Street, Conference Center Rooms 1 and 2, Indianapolis, Indiana the Indiana State Board of Health Facility Administrators will hold a public hearing on proposed rules concerning qualifications for licensure. Copies of these rules are now on file at the Indiana Government Center-South, 402 West Washington Street, Room W041 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 844 MEDICAL LICENSING BOARD OF INDIANA

Proposed Rule
LSA Document #02-181

DIGEST

Amends 844 IAC 6-4-1 concerning mandatory registration and renewal of licenses for physical therapists and mandatory registration and renewal of certificates for physical therapist's assistants. Effective 30 days after filing with the secretary of state.

844 IAC 6-4-1

SECTION 1. 844 IAC 6-4-1, AS READOPTED AT 25 IR 1325, SECTION 1, IS AMENDED TO READ AS FOLLOWS:

844 IAC 6-4-1 Mandatory registration; renewal
Authority: IC 25-27-1-5
Affected: IC 25-27-1-8

Sec. 1. (a) Every physical therapist ~~and physical therapist's assistant~~ holding a license issued by the committee shall renew his or her license biennially on or before July 1 of each even-numbered year. ~~No fee is required for the year in which the physical therapist or physical therapist's assistant is issued his or her first license.~~

(b) A licensee's failure to receive notification of renewal due to failure to notify the committee of a change of address or name shall not constitute an error on the part of the committee, board, or bureau, nor shall it exonerate or otherwise excuse the licensee from renewing such license.

(c) Every physical therapist's assistant holding a certificate issued by the committee shall renew his or her certificate biennially on or before July 1 of each even-numbered year.

(d) A certificate holder's failure to receive notification of renewal due to failure to notify the committee of a change of address or name shall not constitute an error on the part of the committee, board, or bureau, nor shall it exonerate or otherwise excuse the certificate holder from renewing such certificate. *(Medical Licensing Board of Indiana; 844 IAC 6-4-1; filed Mar 10, 1983, 3:59 p.m.: 6 IR 775; filed Aug 6, 1987, 3:00 p.m.: 10 IR 2735; filed Sep 22, 1994, 4:30 p.m.: 18 IR 266; readopted filed Nov 9, 2001, 3:16 p.m.: 25 IR 1325)*

Notice of Public Hearing

Under IC 4-22-2-24, notice is hereby given that on December 5, 2002 at 9:45 a.m., at the Indiana Government Center-South, 402 West Washington Street, Conference Center Room C, Indianapolis, Indiana the Medical Licensing Board of Indiana will hold a public hearing on proposed amendments concerning mandatory registration and renewal of licenses for physical therapists and mandatory registration and renewal of certificates for physical therapist's assistants. Copies of these rules are now on file at the Indiana Government Center-South, 402 West Washington Street, Room W041 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

Indiana Register

Readopted Rules

TITLE 405 OFFICE OF THE SECRETARY OF FAMILY AND SOCIAL SERVICES

LSA Document #02-275

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.

405 IAC 4-1

SECTION 1. UNDER IC 4-22-2.5-4, THE FOLLOWING IS READOPTED:

405 IAC 4-1 Qualified Nonprofit Agencies

Notice of Public Hearing

Under IC 4-22-2-24 and IC 4-22-2.5-4, notice is hereby given that on December 2, 2002 at 1:00 p.m., at the Indiana Government Center-South, 402 West Washington Street, Room W451, Conference Room A, Indianapolis, Indiana the Office of the Secretary of Family and Social Services 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:

MS27
Kevin Wild
FSSA Office of General Counsel
Indiana Government Center-South
402 West Washington Street, Room W451
Indianapolis, Indiana 46204.

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 460 DIVISION OF DISABILITY, AGING, AND REHABILITATIVE SERVICES

LSA Document #02-262

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.

460 IAC 1-3-3 **460 IAC 1-3-7**
460 IAC 1-3-6 **460 IAC 1-3-12**

SECTION 1. UNDER IC 4-22-2.5-4, THE FOLLOWING ARE READOPTED:

460 IAC 1-3-3 Accounting records; retention schedule; audit trail; accrual basis; segregation of accounts by nature of business and by location
460 IAC 1-3-6 Active providers; rate review; annual request; additional requests; requests due to change in law; request concerning capital return factor; computation of factor
460 IAC 1-3-7 Request for rate review; budget component; occupancy level assumptions; effect of inflation assumptions
460 IAC 1-3-12 Allowable costs; capital return factor

Notice of Public Hearing

Under IC 4-22-2-24 and IC 4-22-2.5-4, notice is hereby given that on December 2, 2002 at 1:00 p.m., at the Indiana Government Center-South, 402 West Washington Street, Room W451, Conference Room A, Indianapolis, Indiana the Division of Disability, Aging, and Rehabilitative Services 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:

MS27
Kevin Wild
FSSA Office of General Counsel
Indiana Government Center-South
402 West Washington Street, Room W451
Indianapolis, Indiana 46204.

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.

Bobby L. Conner
Director
Division of Disability, Aging, and Rehabilitative Services

TITLE 905 ALCOHOL AND TOBACCO COMMISSION

LSA Document #02-272

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.

905 IAC 1-39
905 IAC 1-40
905 IAC 1-41

SECTION 1. UNDER IC 4-22-2.5-4, THE FOLLOWING ARE READOPTED:

905 IAC 1-39 Horse Track and Satellite Facility Permits
905 IAC 1-40 Catering Halls and Supplemental Caterer's Permits
905 IAC 1-41 Separation of Family Room from Barroom

Notice of Public Hearing

Under IC 4-22-2-24 and IC 4-22-2.5-4, notice is hereby given that on December 2, 2002 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 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:

Mary L. DePrez, Chairperson
Alcohol and Tobacco Commission
Indiana Government Center-South
302 West Washington Street, Room E114
Indianapolis, Indiana 46204.

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 DePrez
Chairperson
Alcohol and Tobacco Commission

TITLE 240 STATE POLICE DEPARTMENT

LSA Document #02-139(F)

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.

240 IAC 7-1-6

SECTION 1. UNDER IC 4-22-2.5-4, THE FOLLOWING IS READOPTED:

240 IAC 7-1-6 Fees; validity of certificate

LSA Document #02-139(F)
Intent to Readopt Rules Published: June 1, 2002; 25 IR 2852
Proposed Readopted Rules Published: August 1, 2002; 25 IR 3882
Hearing Held: September 4, 2002
Filed with Secretary of State: September 17, 2002, 3:20 p.m.

TITLE 312 NATURAL RESOURCES COMMISSION

LSA Document #02-72(F)

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.

312 IAC 2
312 IAC 3
312 IAC 18

SECTION 1. UNDER IC 4-22-2.5-4, THE FOLLOWING ARE READOPTED:

312 IAC 2 PROCEDURES AND DELEGATIONS
312 IAC 3 ADJUDICATORY PROCEEDINGS
312 IAC 18 ENTOMOLOGY AND PLANT PATHOLOGY

LSA Document #02-72(F)
Intent to Readopt Rules Published: April 1, 2002; 25 IR 2312
Proposed Readopted Rules Published: July 1, 2002; 25 IR 3461
Hearing Held: August 1, 2002
Filed with Secretary of State: October 2, 2002, 9:10 a.m.

TITLE 857 INDIANA OPTOMETRIC LEGEND DRUG PRESCRIPTION ADVISORY COMMITTEE

LSA Document #02-78(F)

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.

857 IAC 1-4-1

SECTION 1. UNDER IC 4-22-2.5-4, THE FOLLOWING IS READOPTED:

857 IAC 1-4-1 Fees

LSA Document #02-78(F)
Intent to Readopt Rules Published: April 1, 2002; 25 IR 2313
Proposed Readopted Rules Published: August 1, 2002; 25 IR 3883
Hearing Held: September 4, 2002
Filed with Secretary of State: September 27, 2002, 2:58 p.m.

60 Day Requirement (IC 4-22-2-19)

TITLE 610 DEPARTMENT OF LABOR

LSA Document #01-340

September 24, 2002

The Honorable Jerry Denbo, Chairperson
Administrative Rules Oversight Committee
c/o George Angelone
Legislative Services Agency

Dear Chairperson Denbo,

I am writing to inform the Administrative Rules Oversight Committee of the following situation, regarding adoption of Final Rule 610 IAC 4-6.

The Indiana Department of Labor is adopting Final Rule 610 IAC 4-6. Although this rule is replacing 610 IAC 4-4, which is being repealed, our adoption process does not qualify for statutory exceptions made available for agencies amending an already existing rule. Final Rule 610 IAC 4-6 is the Indiana Department of Labor's rule relating to the reporting and recording of occupational workplace illnesses and injuries. Indiana Code 4-22-2-19 requires our agency to start our rule-making process within sixty days of obtaining statutory authority, and we have not begun the adoption process for 610 IAC 4-6 within sixty days. This is so for the following reasons.

Reasons for Delay

From 2001 through 2002, the federal Occupational Safety and Health Administration (OSHA) adopted this rule nationally. We are a state Agency responsible for enforcing all federal occupational safety and health regulations, and under federal OSHA law we are a "state plan" state. As such, federal funding for our Agency, and the Agency's very existence, are contingent upon enforcement of rules substantially similar to federal OSHA rules. Thus it is necessary that we adopt for Indiana a state rule substantially similar to the newly, federally adopted record keeping regulation. However, that newly, federally adopted record keeping regulation was not adopted until well after the sixty days deadline required by Indiana law. Thus, we could not adopt a substantially similar state regulation until well after the sixty days deadline required by Indiana law.

Sincerely,

J.T. Whitehead
Counsel
Indiana Department of Labor

402 West Washington Street, Room W195
Indianapolis, Indiana 46204
Telephone (317) 233-3605

TITLE 326 AIR POLLUTION CONTROL BOARD

SECOND NOTICE OF COMMENT PERIOD
#02-189(APCB)

DEVELOPMENT OF AMENDMENTS TO RULES CONCERNING LEAD-BASED PAINT ACTIVITIES

PURPOSE OF NOTICE

The Indiana Department of Environmental Management (IDEM) has developed draft rule language for amendments to 326 IAC 23 concerning the licensing and approval of individuals and contractors engaged in lead-based paint activities and training programs providing instruction in such activities. With this rulemaking, IDEM is adding a new licensing discipline of clearance examiner to implement the requirements of House Enrolled Act (HEA) 1171 and adding U.S. EPA amendments to 40 CFR 745 to maintain program approval. By this notice, IDEM is soliciting public comment on the draft rule language. IDEM seeks comment on the affected citations listed and any other provisions of Title 326 that may be affected by this rulemaking.

HISTORY

First Notice of Comment Period: July 1, 2002, Indiana Register (25 IR 3464).

CITATIONS AFFECTED: 326 IAC 23-1-4; 326 IAC 23-1-4.5; 326 IAC 23-1-7.5; 326 IAC 23-1-9; 326 IAC 23-1-10; 326 IAC 23-1-11; 326 IAC 23-1-11.5; 326 IAC 23-1-11.7; 326 IAC 23-1-17; 326 IAC 23-1-21.5; 326 IAC 23-1-23; 326 IAC 23-1-27; 326 IAC 23-1-27.5; 326 IAC 23-1-32.5; 326 IAC 23-1-33.5; 326 IAC 23-1-33.7; 326 IAC 23-1-34.5; 326 IAC 23-1-37; 326 IAC 23-1-40; 326 IAC 23-1-42; 326 IAC 23-1-43; 326 IAC 23-1-44; 326 IAC 23-1-45; 326 IAC 23-1-46; 326 IAC 23-1-47; 326 IAC 23-1-48.5; 326 IAC 23-1-48.6; 326 IAC 23-1-52.5; 326 IAC 23-1-54.5; 326 IAC 23-1-55.5; 326 IAC 23-1-59.5; 326 IAC 23-1-60.5; 326 IAC 23-1-60.6; 326 IAC 23-1-60.7; 326 IAC 23-1-61.5; 326 IAC 23-1-62.5; 326 IAC 23-1-63; 326 IAC 23-1-69.5; 326 IAC 23-1-69.6; 326 IAC 23-1-69.7; 326 IAC 23-1-70.5; 326 IAC 23-2-1; 326 IAC 23-2-3; 326 IAC 23-2-4; 326 IAC 23-2-5; 326 IAC 23-2-6; 326 IAC 23-2-8; 326 IAC 23-2-9; 326 IAC 23-3-1; 326 IAC 23-3-3; 326 IAC 23-3-4.5; 326 IAC 23-3-5; 326 IAC 23-3-7; 326 IAC 23-3-12; 326 IAC 23-4-1; 326 IAC 23-4-2; 326 IAC 23-4-3; 326 IAC 23-4-4; 326 IAC 23-4-5; 326 IAC 23-4-6; 326 IAC 23-4-7; 326 IAC 23-4-9; 326 IAC 23-4-13; 326 IAC 23-5.

AUTHORITY: IC 13-14-9; IC 13-17-14-5.

SUBJECT MATTER AND BASIC PURPOSE OF RULEMAKING

IDEM established a lead-based paint program in 326 IAC 23 effective February 5, 1999, to ensure that a person conducting lead-based paint activities in certain specified housing and child-occupied facilities does so in a manner that protects the health of the building's occupants, especially children six (6) years of age and younger. This program requires a person to be licensed by IDEM to perform lead-based paint abatement activities. It establishes fees for the licensing of individuals, contractors, and the approval of training courses and training course providers. This program is similar to the accreditation program for asbestos workers.

On January 5, 2001, the U.S. EPA issued a final regulation under section 403 of the Toxic Substances Control Act (TSCA) as amended by the Residential Lead-Based Paint Hazard Reduction Act of 1992, also known as "Title X", to establish standards for lead-based paint hazards in pre-1978 housing and child occupied facilities. The department has added specific amendments to 326 IAC 23 from this Federal Register (66 FR 1205).

In 2002, the Indiana General Assembly enacted HEA 1171, which amends the Indiana Code under IC 13-17-14 for the lead-based paint program. HEA 1171 requires the air pollution control board to amend 326 IAC 23 by July 1, 2003, to incorporate the new statutory changes. This rulemaking will meet that requirement. HEA 1171 may be reviewed at www.state.in.us/legislative/session/archives.html.

SUMMARY/RESPONSE TO COMMENTS FROM THE FIRST COMMENT PERIOD

IDEM requested public comment from July 1, 2002, through July 31, 2002, on alternative ways to achieve the purpose of the rule and suggestions for the development of draft rule language. IDEM received comments from the following parties by the comment period deadline:

Improving Kids' Environment (IKE)

Environmental Management Institute (EMI)

Following is a summary of the comments received and IDEM's responses thereto:

Comment: The rule must incorporate the work practice requirements in IC 13-17-14-12. The Lead-Safe Task Force participants, those working on lead poisoning prevention, feel it is vital to incorporate these requirements into the rule. A single place to look to for the state's lead-based paint rules is needed. If the work practice provisions are omitted, bid specs and local standards are likely to omit them. (IKE)(EMI)

Response: The department will add the statutory language to 326 IAC 23 as a new rule to provide easy access to remodeling and work practice standards by those to whom they apply and by local health departments. The department notes, however, that the legislature did not give the department the directive or sufficient resources for a program to implement and enforce these standards.

Comment: Add a definition of risk investigation and risk examination to make it equivalent to a risk assessment. Some people are marketing a risk assessment but calling it a risk examination to avoid the specific requirements of a risk assessment. (IKE)

Response: If an activity meets the definition of risk assessment, it must be performed by a licensed contractor regardless of how it is marketed. Additional definitions are not necessary for IDEM to be able to enforce the legal requirements.

Comment: Add "abatement" after lead based paint and delete "activities". (EMI)

Response: The department does not agree with the suggested changes. The current definition of lead paint activities includes abatement as one of several activities. The term will be "lead-based paint activity" throughout the article.

Comment: Under 326 IAC 23-1, add definitions for clearance examiner and clearance examination concerning conducting visual inspection and collection of dust wipe samples according to 326 IAC 23-4-9 at the completion of a lead abatement or interim control project to indicate the project is complete. (IKE)(EMI)

Response: Presently the department is as stringent as federal U.S. EPA procedures. The department has added a definition for "clearance examiner" at 326 IAC 23-1-42.5. We have post-abatement clearance procedures under 326 IAC 23-4-9 and will add a similar new section under 326 IAC 23-5 for nonabatement clearance procedures.

Comment: Under 326 IAC 23-1 add a definition of elevated blood lead level (EBL) investigation to make it clear that it must be conducted by an Indiana licensed risk assessor. (IKE)(EMI)

Response: The definition of elevated blood lead level is in the Indiana Department of Health's rules and is enforced by that state agency. If there is an inspection or risk assessment, risk assessors need to be licensed as defined in 326 IAC 23.

Comment: Under 326 IAC 23-1-4, amend the section to remove the grand fathering clause concerning October 1, 1990. (EMI)

Response: The department agrees and will make the change to the draft rule.

Comment: Under 326 IAC 23-1-10 amend the definition of "completion date" to add "and clearance sampling" and to clarify that dust is "above clearance levels". (EMI)

Response: The department agrees and will make the change to the draft rule.

Comment: Under 326 IAC 23-1-23, delete the definition of "emergency abatement operations" as this is not an issue with lead. (EMI)

Response: The department agrees and will propose to repeal this section of the rules.

Comment: Under 326 IAC 23-1-27 amend the definition of "Facility" to add "facility for purposes of this rule must be target housing and child-occupied facility only" or delete the definition and do not use the term in the rule. (EMI)

Response: The department agrees and will amend the draft rule to specify target housing or child-occupied facility.

Comment: Under 326 IAC 23-1-33 amend the definition of "Lead Inspection" to say "an inspection includes any collection of samples according to 326 IAC 23-4-2 to determine the presence of lead-based paint conducted by persons who, through the person's company name or promotional literature, represent, advertise, or hold themselves out to be in the business of performing LBP inspections." (IKE)(EMI)

Comment: Under 326 IAC 23-1-60(2), modify the definition of "Risk assessment" to include situations where the service is being marketed or sold as a risk assessment. The term needs to be revised to reflect U.S. EPA's current interpretation that taking dust wipe samples is not a risk assessment unless it is promoted or identified as a risk assessment. (IKE)(EMI)

Response: The department does not agree that any collection of samples should be defined as a risk assessment. Licenses are not needed when only taking samples.

Comment: Under 326 IAC 23-1-36 amend the definition of "Lead-based paint activities" by adding "clearance examination and risk investigation" to the list of lead-based paint activities. If a LBP activity is called an inspection, risk-assessment, lead hazard screen, clearance examination, risk investigation, abatement or equivalent term, the person conducting the activity in target housing or a child occupied facility must have an Indiana license. (EMI)(IKE)

Response: The term lead-based paint activity is from U.S. EPA. The department prefers to maintain U.S. EPA's definition to ensure consistency of state rules with federal rules. It is not necessary to add these terms to the list of lead-based paint activities for U.S. EPA program approval.

Comment: Under 326 IAC 23-1-37(b), amend the definition of "Lead-based paint hazard" to allow the handing out of an "equivalent" lead hazard information pamphlet. An equivalent is allowed by U.S. EPA rules. (EMI)

Response: The department prefers to distribute U.S. EPA's pamphlet in order to ensure that appropriate information is properly disseminated.

Comment: Under 326 IAC 23-1-40, drop the definition of "Lead-contaminated waste material". The term is not used consistently throughout the rule. (EMI)(IKE)

Response: The department will delete the word "material" to reflect the term used in the rule.

Comment: Under 326 IAC 23-1-41, amend the definition of "Lead hazard screen" to mean "any collection of samples according to 326 IAC 23-3 to determine the presence of LBP hazards conducted by persons who, through the person's company name or promotional literature represent, advertise or hold themselves out to be in the business of performing a lead hazard screen." (IKE)(EMI)

Response: The department's rules are as stringent as U.S. EPA's regulations and currently meet U.S. EPA Toxic Substances Control Act (TSCA) requirements. No change is necessary.

Comment: Under the definition in 326 IAC 23-1-43, a contractor is not only the abatement contractor but could be an inspector or risk assessor as well. (EMI)

Comment: Change all uses of the word "contractor" to "firm" as in U.S. EPA rules. Do you intend for an abatement contractor only to be a contractor? U.S. EPA uses firm here. (EMI)

Response: The department prefers the word contractor in the rule and has defined the word "contractor" so as not to confuse the individual reading the rule. Under 326 IAC 23-1-43, it is not necessary to have a contractor's license. There is no requirement to be only a contractor.

Comment: Under 326 IAC 23-1-46, amend the definition of "Lead risk assessor" to add "lead-hazard screens, clearance examinations, elevated blood-lead level investigation". A risk assessor also samples for the presence of lead in dust and soil for the purposes of abatement clearance testing. (IKE)(EMI)

Response: The department has added "lead-hazard screens" to the rule.

Comment: Under 326 IAC 23-1-63(2), "Target housing" definition, use zero-bedroom dwelling instead. It is possible for some, but not all dwellings in a building to be zero bedrooms. (EMI)

Response: The department agrees and will make the change to the draft rule.

Comment: Under 326 IAC 23-1-64, amend the definition of "Third-party examination" to add "an initial" before licensure requirement as required under this article for inspectors, risk assessors, and supervisors. (EMI)

Response: The department disagrees. Third-party exams are not only for initial applications.

Comment: Under 326 IAC 23-2-1(a), amend the applicability section by adding "clearance technician." (EMI)

Response: The department has added "clearance examiner" to the list.

Comment: Under 326 IAC 23-2-2(c)(1)(C), amend General provisions to include a time frame such as forty-eight hours. (EMI)

Response: The department does not agree with adding a time frame as it limits our ability to perform inspections.

Comment: Under 326 IAC 23-2-3(a), 326 IAC 23-2-4(a), and 326 IAC 23-3-1(a), add clearance examiner as a new discipline for licensure. (EMI)

Response: The department agrees and will make the changes to the draft rule.

Comment: Under 326 IAC 23-2-3, add a new subdivision to allow for license reciprocity from other states. (EMI)

Response: Reciprocal license procedures will be added to 326 IAC 23-3 under the training course provider rule.

Comment: Under 326 IAC 23-2-3(b)(3) add the following: "Clearance examiner applicants shall take and pass the clearance examiner course and pass all required examinations. No additional experience or education is needed." (EMI)

Response: Rule language concerning clearance examiner has been added under subsection (b)(1).

Comment: Under 326 IAC 23-2-3(c)(6) and (c)(7), delete both subdivisions as there is no air sampling in lead. (EMI)

Response: The department agrees and will propose the changes.

Comment: Under 326 IAC 23-2-3, Licensing; qualifications, add a

new subsection (f) as follows: "(f) The third party examination will be maintained by the department and will cover relevant and current topics and methodologies, as well as current regulations. It shall not contain questions that do not reflect current state and federal guidelines, or are not applicable to the operation of all models of XRFs.(IKE)(EMI)

Response: Under subsection (f), the department prefers to use U.S. EPA's third party exam.

Comment: Under 326 IAC 23-2-3(h), Licensing; qualifications, amend current subsection (h) to extend the time lapse from eighteen (18) months to three (3) years. (EMI)

Response: The department agrees and will propose the change to the draft rule.

Comment: Under 326 IAC 23-2-4(b)(2), the contractor application requirements that are submitted to receive supervisor license are redundant. (EMI)(IKE)

Response: The department needs the copies submitted as required since different staff members review applications for particular disciplines. The license process will be slowed if copies need to be made for every application.

Comment: Under 326 IAC 23-2-4(b)(3), (b)(5), (7)(F), and (8), if this is an initial license, it would be hard to have completed any projects. (EMI)

Response: The department disagrees because the applicant could have worked in other states. Therefore, all information is needed for review.

Comment: Under 326 IAC 23-2-4(b)(6), is the list of any contractual penalties for any contracts or just lead? Add a time frame, such as within the last seven (7) years. (EMI)

Response: The term "lead-based paint" will be added to describe the types of penalties. The department does not want to add a time frame to the rule because we want to know if at any time a penalty was paid. The department needs this information in order to fully evaluate the application.

Comment: Under 326 IAC 23-2-4(e) and 326 IAC 23-2-5(c), change the requirements for two (2) photographs to one (1) photograph to be scanned and placed on the face of the license. (EMI)

Response: The department needs two (2) copies of a picture. The wording will be amended to make it clearer.

Comment: Under 326 IAC 23-2-3 and 326 IAC 23-2-4(f), add the following: "The license or denial of the license application will be sent by the department to the applicant within two (2) weeks of the receipt of a completed application." (EMI)(IKE)

Response: The department disagrees with the suggested changes. The department strives to issue all licenses as quickly as possible. In some cases, however, it takes more than two (2) weeks to verify all information on the application.

Comment: Under 326 IAC 23-2-4, delete subsections (g) concerning grandfathering of requirements and (h) concerning applications received in writing. (EMI)

Response: The department will delete 326 IAC 23-2-4(g). The department requires applications to be submitted in writing as required by 326 IAC 23-2-4(h).

Comment: Under 326 IAC 23-2-5(a), Renewal of lead-based paint license, add "clearance examiner" to the list of disciplines to renew a license. (EMI)

Response: The department agrees and has added the term.

Comment: Under 326 IAC 23-2-5(a), delete (2)(A) and (2)(B) as no other state in Region IV or V requires this. (EMI)

Response: These requirements have been a part of Indiana's license rules since they were adopted in 1999, and the department prefers to retain them because they ensure that the individuals in these disciplines are knowledgeable about the broad range of lead-based paint abatement activities they review.

Comment: Delete the requirements to take and pass a third-party examination in 326 IAC 23-2-5(a)(3) as it sounds like they have to take the test again. Under 326 IAC 23-2-5(a), delete (4)(B) as a person could not have an initial license without this, why should it have to be submitted again? (EMI)

Response: The wording will be rewritten under 326 IAC 23-2-5(a)(3) to be more clear. Different staff within the Asbestos section review the submitted application. If new copies have to be made, it will slow down the review process.

Comment: Under 326 IAC 23-2-5(b) change twelve (12) months to thirty-six (36) months in submitting updated information. Under 326 IAC 23-2-5(e), change eighteen (18) months to thirty-six (36) months time lapse between two (2) classes. (EMI)

Response: The department agrees and will make the change to the draft rule.

Comment: Delete 326 IAC 23-2-6(a)(10) and (11). There are no regulations for this waste and therefore this is not applicable. (EMI)

Response: The department agrees and will delete 326 IAC 23-2-6(a)(10) and (11).

Comment: Under 326 IAC 23-2-7(d), is this section only for a firm or for all lead-based paint activities? If it is only for a abatement firm then change accordingly. (EMI)

Response: It is for all licensed personnel.

Comment: Under 326 IAC 2-3-3(1)(H), delete the reference to OSHA respiratory protection requirement. Risk assessors should not be using respirators in the normal course of their work and if they do, let OSHA handle it. (IKE) (EMI)

Response: The department agrees and has made the change to the draft rule.

Comment: Under 326 IAC 23-3-3(4), delete clause (I). This was covered in the supervisor course which is a requirement. Don't have time to do it again and don't need to. (EMI)

Response: These are U.S. EPA requirements and the department prefers to keep them in the rule to maintain consistency with federal requirements.

Comment: Under 326 IAC 23-3-5, change the number of questions for risk assessors and project designers to fifty (50) questions. (EMI)

Response: This requirement is part of the original program approved by U.S. EPA and the department prefers to not change these requirements at this time.

Comment: Under 326 IAC 23-3-6(f). U.S. EPA allows worker and supervisor to be taught together. If this will encourage more training providers to offer the course, and allow for more workers to find a course, the department should encourage this. (IKE)(EMI)

Response: Separate training courses are part of the original Indiana program approved by U.S. EPA. The department prefers to maintain this aspect of the program to allow for more comprehensive individual courses.

Comment: Under 326 IAC 23-3-7(a), change the expiration of a training course approval from one (1) year to three (3) years just like the individual applicants. Under subsection (b), delete (3) through (9) and subsections (e) and (f) concerning documents to be submitted for reapproval. (EMI)

Response: The department agrees with changing the time extension from eighteen (18) to thirty-six (36) months for consistency within the rule. Amendments have been made to section 7 to remove all but the essential curriculum requirements.

Comment: Under 326 IAC 23-3-11 Course notifications, amend (1)(B) from four (4) to two (2) weeks for submittal of notice of courses. (EMI)

Response: The department needs four (4) weeks' notification in order to assure staff's ability to attend courses for the purpose of audits.

Comment: Under 326 IAC 23-4-1(a) Applicability, amend (a) by adding project designer. (EMI)

Response: The department agrees and will make the change to the draft rule.

Comment: Add to 326 IAC 23-4-2(3) a new subsection as follows: "(k) Include a statement that the property owner must disclose all information found in the report". This U.S. EPA requirement is critical and is often missed. (IKE)

Response: The department agrees and has added a new subdivision (4).

Comment: Under 326 IAC 23-4-3 Lead hazard screens, amend (4) to delete "trough" after window. Protocols are now for sills and the component is not mentioned in U.S. EPA rule. Under (5), after "dust samples" add "or single surface samples". Labs will not analyze composite currently. (EMI)

Response: The department agrees and will make the changes to the draft rule.

Comment: Under 326 IAC 23-4-4(4) change "a" to "the" and under (7), add "(C) bare soil located throughout the yard". (EMI)

Response: The department agrees and will propose the changes.

Comment: Under 326 IAC 23-4-5, add new work practice standards. (EMI)

Response: The department will add the new work practice standards under a new rule, 326 IAC 23-5.

Comment: Under 326 IAC 23-4-5(6)(A) what is the definition of "lead contaminated"? U.S. EPA says four hundred (400) ppm. (EMI)

Response: The department will add U.S. EPA's standard of four hundred (400) ppm to the draft rule.

Comment: Under 326 IAC 23-4-5(9) and 326 IAC 23-4-7, it would be easier to use the same warning sign as HUD and OSHA require. (EMI)

Response: The department agrees and will make the change to the draft rule to use wording that HUD and OSHA require.

Comment: Under 326 IAC 23-4-5, delete (11) as it is a duplicate of 326 IAC 23-4-5(5)(D). (EMI)

Response: The department agrees and will propose the change to the rule.

Comment: Delete 326 IAC 23-4-5(14)(A) concerning HEPA vacuuming. (EMI)

Response: The department agrees the HEPA vacuuming is not required for lead-based paint activities and will propose to delete (A).

Comment: Under 326 IAC 23-4-5(14)(B), lead-contaminated waste shall be stored outside. What is outside? (EMI)

Response: The term "outside" under (B) will be changed to stored "in locked containers, rooms, trucks, or trailers" as in other parts of the rules.

Comment: Under 326 IAC 23-4-5(14)(D) add "or as lead-contaminated waste" to the end as consistent language. (EMI)

Response: Under (D) the term will be changed to "lead contaminated waste".

Comment: Under 326 IAC 23-4-6(A)(iv), add "soil removal" to encapsulation. Under (a)(2)(A) delete items (v) through (ix) and under (D), delete item (i) as not abatement activities. (EMI)

Response: The department will propose the addition of soil removal and will delete items (A)(v) through (ix). Abatement will remain as part of the list.

Comment: Under 326 IAC 23-4-6(a)(2)(G), delete "linear feet" as it is not a lead term. (EMI)

Response: Under 326 IAC 23-4-6(a)(2)(G), a measurement of linear feet is possible when there is lead-based paint on pipes.

Comment: Under 326 IAC 23-4-6(a)(2)(K) define "waste handling emission control procedures". (EMI)

Response: The phrase "waste handling emission control procedures" will be proposed for deletion from 326 IAC 23-4-6(a)(2)(K).

Comment: Delete 326 IAC 23-4-6(a)(2)(M) as this is unnecessary when it is not a regulated waste and can go to a CDD landfill. (EMI)

Response: The department will propose to delete 326 IAC 23-4-6(a)(2)(M).

Comment: Under 326 IAC 23-4-6(a)(2)(N), add "of the facility" after owner or operator. (EMI)

Response: The department will amend 326 IAC 23-4-6(a)(2)(N) with the suggested language.

Comment: Under 326 IAC 24-4-6(a)(2)(O)(ii), is this saying that an inspection or risk assessment is required? Is a LBP activity clearance? Would not have that information prior to, but probably could identify the firm. (EMI)

Response: The department will amend 326 IAC 23-4-6(a)(2)(O) for more clarity.

Comment: Under 326 IAC 23-4-6(a)(3)(A) amend by striking "stripping or removal" and adding "abatement" before "start date". (EMI)

Response: The department disagrees because the department only needs this notification when actual disturbance of the lead-based paint begins for the purpose of inspecting the project. Abatement is a broad term than encompasses many aspects of the project and such notice would not be sufficient to ensure appropriate notice of actual stripping and removal activities.

Comment: Under 326 IAC 23-4-7(3), lead abatement procedures; interior, delete "nonmovable" and add "or covered" after wrapped. (EMI)

Response: The department agrees and will propose the changes.

Comment: Under 326 IAC 23-4-7(8), add "eight (8) hours maximum" on the posted hours. (EMI)

Response: The department does not agree with the addition of a time frame. It is possible for a crew to work longer than eight (8) hours, especially those that work four (4) ten (10) hour days per week.

Comment: Amend 326 IAC 23-4-8(2) by deleting (E). Liquid waste does not have to go to a disposal facility. Under 326 IAC 23-4-8(3), are the procedures allowed as described? (EMI)

Response: The department does not agree to delete clause (E). Dry methods may have to be used on wiring or instances where a water application is not possible. The procedures under this rule are allowed as described and are U.S. EPA approved.

Comment: Under 326 IAC 23-4-9(5), delete "within a minimum" and add "no sooner than". (EMI)

Response: This is approved U.S. EPA language and must remain in the rule to ensure consistency with federal rules.

Comment: Under 326 IAC 23-4-9(6)(A)(ii) delete "no less than four (4) rooms, hallways, or stairwells within the containment area; and" and add a new "(iii) a minimum of four (4) rooms, hallways, or stairwells within the containment area". (EMI)

Response: This is approved U.S. EPA language and it must remain in the rule without change to ensure consistency with federal rules.

Comment: Under 326 IAC 23-4-9(6)(B), delete "two (2) samples shall be taken from no fewer than four (4) rooms" and add a new item " (iv) no fewer than four (4) rooms, hallways, or stairwells in the target housing or cof". Under (iii), delete the rest of the sentence after "floor". (EMI)

Response: This is approved U.S. EPA language and it must remain in the rule without change to ensure consistency with federal rules.

Comment: Under 326 IAC 23-4-9(C) add the word "project" after "Following an exterior paint abatement". (EMI)

Response: The department does not agree with the suggested change, the word project is not necessary in this context.

Comment: Under 326 IAC 23-4-9(6)(C)(iii) delete (BB) as it is not required by U.S. EPA or HUD. Add new paint chip requirements. (EMI)

Response: The department agrees and will delete 326 IAC 23-4-9(6)(C)(iii)(BB). The new paint chip requirements have been added under 326 IAC 23-5.

Comment: Under 326 IAC 23-4-10, change the title of the section from "Lead-based paint sampling procedures" to "Multi-family housing clearing procedures" and delete all of 326 IAC 23-4-10(4) and move to 326 IAC 23-4-5. (EMI)

Response: The department prefers the current title of this section to include lead-based paint sampling. The abatement report shall remain in this section.

Comment: Delete 326 IAC 23-4-11(3) and (4), Lead-based paint abatement disposal procedures. Why is subdivision (4) required when the waste is not regulated? (EMI)

Response: The department disagrees. The language in the rule will be maintained as a safety precaution for children.

Comment: Delete 326 IAC 23-4-13(e)(10) and (11). (EMI)

Response: The department agrees and will propose the change to the draft rule.

REQUEST FOR PUBLIC COMMENTS

This notice requests the submission of comments on the draft rule language, including suggestions for specific revisions to language to be contained in the draft rule. Mailed comments should be addressed to:

#02-189(APCB)Lead-based paint
Suzanne Whitmer
c/o Administrative Assistant, Rules Development Section
Air Programs Branch
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 receptionist on duty at the 10th floor reception desk, Office of Air Quality, 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 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 December 2, 2002.

Additional information regarding this action may be obtained from Suzanne Whitmer, Rule Development Section, Office of Air Quality, (317) 232-8229 or (800) 451-6027 (in Indiana). Technical information may be obtained from David White, Asbestos Section, Office of Air Quality, (317) 232-8219.

DRAFT RULE

SECTION 1. 326 IAC 23-1-4 IS AMENDED TO READ AS FOLLOWS:

326 IAC 23-1-4 "Approved initial training course" defined
Authority: IC 13-17-14-5
Affected: IC 13-11; IC 13-17-14; IC 22-8-1.1

Sec. 4. "Approved initial training course" and "approved refresher training course" means a course approved by the department pursuant to this article for the purposes of providing initial or refresher training to persons to become licensed under 326 IAC 23-2. ~~Between October 1, 1990, and the effective date of this article, an approved initial or refresher training course may include a course:~~

~~(1) approved by the department;~~
~~(2) that has full or contingent approval by the U.S. EPA; or~~
~~(3) that has been approved by a U.S. EPA-authorized state or tribal accredited training curriculum.~~

(Air Pollution Control Board; 326 IAC 23-1-4; filed Jan 6, 1999, 4:28 p.m.: 22 IR 1432; readopted filed Jan 10, 2001, 3:20 p.m.: 24 IR 1477)

SECTION 2. 326 IAC 23-1-4.5 IS ADDED TO READ AS FOLLOWS:

326 IAC 23-1-4.5 "Arithmetic mean" defined
Authority: IC 13-17-14-5
Affected: IC 13-11; IC 13-17-14; IC 22-8-1.1

Sec. 4.5. "Arithmetic mean" means the algebraic sum of data values divided by the number of data values. As an example, the sum of the concentration of lead in several soil samples divided by the number of samples. *(Air Pollution Control Board; 326 IAC 23-1-4.5)*

SECTION 3. 326 IAC 23-1-7.5 IS ADDED TO READ AS FOLLOWS:

326 IAC 23-1-7.5 "Clearance examiner" defined
Authority: IC 13-17-14-5
Affected: IC 13-11; IC 13-17-14; IC 22-8-1.1

Sec. 7.5. "Clearance examiner" means a person who has been trained by an Indiana-approved training course provider and licensed by the department to perform clearance examinations. *(Air Pollution Control Board; 326 IAC 23-1-7.5)*

SECTION 4. 326 IAC 23-1-9 IS AMENDED TO READ AS FOLLOWS:

326 IAC 23-1-9 "Common area group" defined
Authority: IC 13-17-14-5
Affected: IC 13-11; IC 13-17-14; IC 22-8-1.1

Sec. 9. "Common area **group"** means **a group of common areas that are similar in design, construction, and function or** a portion of a building that is generally accessible to all occupants or users. The term includes, but is not limited to, the following:

(1) A hallway.
(2) A stairway.
(3) A laundry room.
(4) A recreational room.
(5) A playground.
(6) A community center.
(7) A garage.
(8) A boundary fence.

(Air Pollution Control Board; 326 IAC 23-1-9; filed Jan 6, 1999, 4:28 p.m.: 22 IR 1433; readopted filed Jan 10, 2001, 3:20 p.m.: 24 IR 1477)

SECTION 5. 326 IAC 23-1-10 IS AMENDED TO READ AS FOLLOWS:

326 IAC 23-1-10 "Completion date" defined
Authority: IC 13-17-14-5
Affected: IC 13-11; IC 13-17-14; IC 22-8-1.1

Sec. 10. "Completion date" means **the date by which** a final visual inspection ~~has~~ **and clearance sampling have** been completed by the Indiana licensed risk assessor or inspector, ~~it is~~ **and the risk assessor or inspector has** determined that no dust, debris, or residue is present in the work area, and warning signs and demarcation can be removed. *(Air Pollution Control Board; 326 IAC 23-1-10; filed Jan 6, 1999, 4:28 p.m.: 22 IR 1433; readopted filed Jan 10, 2001, 3:20 p.m.: 24 IR 1477)*

SECTION 6. 326 IAC 23-1-11 IS AMENDED TO READ AS FOLLOWS:

326 IAC 23-1-11 "Component or building component" defined
Authority: IC 13-17-14-5
Affected: IC 13-11; IC 13-17-14; IC 22-8-1.1

Sec. 11. "Component or building component" means a specific design or structural element or fixture of a building, residential dwelling, or child-occupied facility that is distinguished from each other by form, function, and location, including the following:

(1) The term includes, but is not limited to, the following interior components:
(A) Ceilings.
(B) Crown molding.
(C) Walls.
(D) Chair rails.
(E) Doors and door trim.
(F) Floors.
(G) Fireplaces.
(H) Radiators and other heating units.
(I) Shelves and shelf supports.
(J) Stair treads, stair risers, stair stringers, newel posts, railing caps, and balustrades.
(K) Windows and trim, including sashes, window heads, jambs, sills and stools, and troughs.
(L) Built-in cabinets.
(M) Columns and beams.
(N) Bathroom vanities.
(O) Counter tops.
(P) Air conditioners.
(Q) Baseboards.

(2) The term includes, but is not limited to, the following exterior components:
(A) Painted roofing.
(B) Chimneys.
(C) Flashing.
(D) Gutters and down spouts.
(E) Ceilings.
(F) Soffits, fascias, rake boards, corner boards, and bulkheads.
(G) Doors and door trim.
(H) Fences.
(I) Floors and joists.
(J) Lattice work.
(K) Railings and railing caps, handrails, stair risers, treads, stair stringers, columns, or balustrades.
(L) Window sills or stools, troughs, casings, sashes, and wells.
(M) Siding.
(N) Air conditioners.
(O) Porch floors.

(Air Pollution Control Board; 326 IAC 23-1-11; filed Jan 6, 1999, 4:28 p.m.: 22 IR 1433; readopted filed Jan 10, 2001, 3:20 p.m.: 24 IR 1477)

SECTION 7. 326 IAC 23-1-11.5 IS ADDED TO READ AS FOLLOWS:

326 IAC 23-1-11.5 "Concentration" defined
Authority: IC 13-17-14-5
Affected: IC 13-11; IC 13-17-14; IC 22-8-1.1

Sec. 11.5. "Concentration" means the amount of a specific substance contained within a larger mass. For example, the amount of lead, in micrograms per gram or parts per million by weight, in a sample of dust or soil. *(Air Pollution Control Board; 326 IAC 23-1-11.5)*

SECTION 8. 326 IAC 23-1-11.7 IS ADDED TO READ AS FOLLOWS:

326 IAC 23-1-11.7 "Contractor" defined
Authority: IC 13-17-14-5
Affected: IC 13-11; IC 13-17-14; IC 22-8-1.1

Sec. 11.7. "Contractor" means a:
(1) person;
(2) company;
(3) partnership;
(4) corporation;
(5) sole proprietorship;
(6) association; or
(7) other business entity;
that performs lead-based paint activities to which the department has issued a license under 326 IAC 23-2. *(Air Pollution Control Board; 326 IAC 23-1-11.7)*

SECTION 9. 326 IAC 23-1-17 IS AMENDED TO READ AS FOLLOWS:

326 IAC 23-1-17 "Deteriorated paint" defined
Authority: IC 13-17-14-5
Affected: IC 13-11; IC 13-17-14; IC 22-8-1.1

Sec. 17. "Deteriorated paint" means:
(1) any interior or exterior paint **or other coating** that is **chalking,** cracking, flaking, chipping, **or** peeling; or
(2) any paint or coating located on an interior or exterior surface or fixture;
that is otherwise **damaged or** separating from the substrate of a building component. *(Air Pollution Control Board; 326 IAC 23-1-17; filed Jan 6, 1999, 4:28 p.m.: 22 IR 1434; readopted filed Jan 10, 2001, 3:20 p.m.: 24 IR 1477)*

SECTION 10. 326 IAC 23-1-21.5 IS ADDED TO READ AS FOLLOWS:

326 IAC 23-1-21.5 "Dust-lead hazard" defined
Authority: IC 13-17-14-5
Affected: IC 13-11; IC 13-17-14; IC 22-8-1.1

Sec. 21.5. "Dust-lead hazard" means surface dust in a residential dwelling or child-occupied facility that contains a mass-per-area concentration of lead equal to or exceeding forty (40) milligrams per square foot on floors or two hundred fifty (250) milligrams per square foot on interior window sills based on wipe samples. *(Air Pollution Control Board; 326 IAC 23-1-21.5)*

SECTION 11. 326 IAC 23-1-27 IS AMENDED TO READ AS FOLLOWS:

326 IAC 23-1-27 "Facility" defined
Authority: IC 13-17-14-5
Affected: IC 13-11; IC 13-17-14; IC 22-8-1.1

Sec. 27. "Facility" means any ~~institutional, commercial, public, industrial, or residential building or structure.~~ **target housing or child-occupied facility.** *(Air Pollution Control Board; 326 IAC 23-1-27; filed Jan 6, 1999, 4:28 p.m.: 22 IR 1435; readopted filed Jan 10, 2001, 3:20 p.m.: 24 IR 1477)*

SECTION 12. 326 IAC 23-1-27.5 IS ADDED TO READ AS FOLLOWS:

326 IAC 23-1-27.5 "Friction surface" defined
Authority: IC 13-17-14-5
Affected: IC 13-11; IC 13-17-14; IC 22-8-1.1

Sec. 27.5. "Friction surface" means an interior or exterior surface that is subject to abrasion or friction, including, but not limited to, window, floor, and stair surfaces. *(Air Pollution Control Board; 326 IAC 23-1-27.5)*

SECTION 13. 326 IAC 23-1-32.5 IS ADDED TO READ AS FOLLOWS:

326 IAC 23-1-32.5 "Impact surface" defined
Authority: IC 13-17-14-5
Affected: IC 13-11; IC 13-17-14; IC 22-8-1.1

Sec. 32.5. "Impact surface" means an interior or exterior surface that is subject to damage by repeated sudden force, including parts of door frames. *(Air Pollution Control Board; 326 IAC 23-1-32.5)*

SECTION 14. 326 IAC 23-1-33.5 IS ADDED TO READ AS FOLLOWS:

326 IAC 23-1-33.5 "Inspector" defined
Authority: IC 13-17-14-5
Affected: IC 13-11; IC 13-17-14; IC 22-8-1.1

Sec. 33.5. "Inspector" means a person who has been trained by an Indiana-approved training course provider and licensed by the department to conduct inspections. A licensed inspector also samples for the presence of lead in dust and soil for the purposes of abatement clearance testing. *(Air Pollution Control Board; 326 IAC 23-1-33.5)*

SECTION 15. 326 IAC 23-1-33.7 IS ADDED TO READ AS FOLLOWS:

326 IAC 23-1-33.7 "Interior window sill" defined
Authority: IC 13-17-14-5
Affected: IC 13-11; IC 13-17-14; IC 22-8-1.1

Sec. 33.7. "Interior window sill" means the portion of the horizontal window ledge that protrudes into the interior of the room. *(Air Pollution Control Board; 326 IAC 23-1-33.7)*

SECTION 16. 326 IAC 23-1-34.5 IS ADDED TO READ AS FOLLOWS:

326 IAC 23-1-34.5 "Lead abated waste" defined
Authority: IC 13-17-14-5
Affected: IC 13-11; IC 13-17-14; IC 22-8-1.1

Sec. 34.5. "Lead abated waste" means lead removed from an abatement project. *(Air Pollution Control Board; 326 IAC 23-1-34.5)*

SECTION 17. 326 IAC 23-1-37 IS AMENDED TO READ AS FOLLOWS:

326 IAC 23-1-37 "Lead-based paint hazard" defined
Authority: IC 13-17-14-5
Affected: IC 13-11; IC 13-17-14; IC 22-8-1.1

Sec. 37. (a) "Lead-based paint hazard" means ~~any condition that causes exposure to lead from lead-contaminated dust, lead-contaminated soil, or lead-contaminated paint that is deteriorated or present in accessible surfaces, friction surfaces, or impact surfaces that would result in adverse human health effects as identified by the U.S. EPA under Toxics Substances Control Act (TSCA), Section 403, 15 U.S.C. 2683*.~~ **a paint-lead hazard, a soil-lead hazard, or a dust-lead hazard.**

(b) Effective June 1, 1999, pursuant to Section 406(b) of the TSCA*, persons who perform renovations shall provide a lead hazard information pamphlet "Protect Your Family From Lead in Your Home"** under the following conditions:

(1) The renovation is to target housing.

(2) The renovation is for compensation, including money or services.

(3) The renovation will disturb more than two (2) square feet of paint per component.

Work performed by do-it-yourselfers in their own homes is excluded from the requirements of this subsection.

***This document is incorporated by reference.** Copies ~~of the Toxic Substances Control Act (TSCA)~~ may be obtained from the Government Printing Office, **732 North Capitol Street NW,** Washington, D.C. ~~20402. Copies of pertinent sections~~ **20401 or** are ~~also~~ available for **review and** copying at the Indiana Department of Environmental Management, Office of Air ~~Management,~~ **Quality,** Indiana Government Center-North, **Tenth Floor,** 100 North Senate Avenue, Indianapolis, Indiana 46204.

Copies of the lead hazard information pamphlet, in bulk, may be obtained from the Government Printing Office, **732 North Capitol Street NW, Washington, D.C. ~~20402~~ **20401** or the National Lead Information Center at (800) 424-LEAD. Single copies are also available at the Indiana Department of Environmental Management, Office of Air ~~Management,~~ **Quality,** Indiana Government Center-North, **Tenth Floor,** 100 North Senate Avenue, Indianapolis, Indiana 46204. *(Air Pollution Control Board; 326 IAC 23-1-37; filed Jan 6, 1999, 4:28 p.m.: 22 IR 1436; readopted filed Jan 10, 2001, 3:20 p.m.: 24 IR 1477)*

SECTION 18. 326 IAC 23-1-40 IS AMENDED TO READ AS FOLLOWS:

326 IAC 23-1-40 "Lead-contaminated waste" defined
Authority: IC 13-17-14-5
Affected: IC 13-11; IC 13-17-14; IC 22-8-1.1

Sec. 40. "Lead-contaminated waste" ~~material"~~ means materials that contain lead equal to or in excess of one (1.0) milligram per square centimeter or more than five-tenths percent (0.5%) by weight. *(Air Pollution Control Board; 326 IAC 23-1-40; filed Jan 6, 1999, 4:28 p.m.: 22 IR 1436; readopted filed Jan 10, 2001, 3:20 p.m.: 24 IR 1477)*

SECTION 19. 326 IAC 23-1-48.5 IS ADDED TO READ AS FOLLOWS:

326 IAC 23-1-48.5 "Loading" defined
Authority: IC 13-17-14-5
Affected: IC 13-11; IC 13-17-14; IC 22-8-1.1

Sec. 48.5. "Loading" means the quantity of a specific substance present per unit of surface area. For example, the amount of lead in micrograms contained in the dust collected from a certain surface area divided by the surface area in square feet or square meters. *(Air Pollution Control Board; 326 IAC 23-1-48.5)*

SECTION 20. 326 IAC 23-1-48.6 IS ADDED TO READ AS FOLLOWS:

326 IAC 23-1-48.6 "Mid-yard" defined
Authority: IC 13-17-14-5
Affected: IC 13-11; IC 13-17-14; IC 22-8-1.1

Sec. 48.6. "Mid-yard" means an area of a residential yard approximately midway between the dripline of a residential building and the nearest property boundary or between the driplines of a residential building and another building on the same property. *(Air Pollution Control Board; 326 IAC 23-1-48.6)*

SECTION 21. 326 IAC 23-1-52.5 IS ADDED TO READ AS FOLLOWS:

326 IAC 23-1-52.5 "Paint-lead hazard" defined
Authority: IC 13-17-14-5
Affected: IC 13-11; IC 13-17-14; IC 22-8-1.1

Sec. 52.5. "Paint-lead hazard" means any one (1) of the following:
(1) Any lead-based paint on a friction surface that is subject to abrasion and where the lead dust levels on the nearest horizontal surface underneath the friction surface, including the interior window sill or floor, are equal to or greater than the dust-lead hazard levels identified in this rule.
(2) Any damaged or otherwise deteriorated lead-based paint on an impact surface that is caused by impact from a related building component including a door knob that knocks into a wall or a door that knocks against its door frame.
(3) Any chewable lead-based painted surface on which there is evidence of teeth marks.
(4) Any other deteriorated lead-based paint in any residential building or child-occupied facility or on the exterior of any residential building or child-occupied facility.
(Air Pollution Control Board; 326 IAC 23-1-52.5)

SECTION 22. 326 IAC 23-1-54.5 IS ADDED TO READ AS FOLLOWS:

326 IAC 23-1-54.5 "Play area" defined
Authority: IC 13-17-14-5
Affected: IC 13-11; IC 13-17-14; IC 22-8-1.1

Sec. 54.5. "Play area" means an area of frequent soil contact by children of less than six (6) years of age as indicated by, but not limited to, such factors as the presence of play equipment, including sandboxes, swing sets, and sliding board, toys, or other children's possessions, observations of play patterns, or information provided by parents, residents, care givers, or property owners. *(Air Pollution Control Board; 326 IAC 23-1-54.5)*

SECTION 23. 326 IAC 23-1-55.5 IS ADDED TO READ AS FOLLOWS:

326 IAC 23-1-55.5 "Project designer" defined
Authority: IC 13-17-14-5
Affected: IC 13-11; IC 13-17-14; IC 22-8-1.1

Sec. 55.5. "Project designer" means a person who has been trained by an Indiana-approved training course provider and licensed by the department to prepare abatement project designs, occupant protection plans, and abatement reports. *(Air Pollution Control Board; 326 IAC 23-1-55.5)*

SECTION 24. 326 IAC 23-1-59.5 IS ADDED TO READ AS FOLLOWS:

326 IAC 23-1-59.5 "Residential building" defined
Authority: IC 13-17-14-5
Affected: IC 13-11; IC 13-17-14; IC 22-8-1.1

Sec. 59.5. "Residential building" means a building containing one (1) or more residential dwellings. *(Air Pollution Control Board; 326 IAC 23-1-59.5)*

SECTION 25. 326 IAC 23-1-60.5 IS ADDED TO READ AS FOLLOWS:

326 IAC 23-1-60.5 "Risk assessor" defined
Authority: IC 13-17-14-5
Affected: IC 13-11; IC 13-17-14; IC 22-8-1.1

Sec. 60.5. "Risk assessor" means a person who has been trained by an Indiana-approved training course provider and licensed by the department to conduct inspections, lead-hazard screens, and risk assessments. A risk assessor also samples for the presence of lead in dust and soil for the purposes of abatement clearance testing. *(Air Pollution Control Board; 326 IAC 23-1-60.5)*

SECTION 26. 326 IAC 23-1-60.6 IS ADDED TO READ AS FOLLOWS:

326 IAC 23-1-60.6 "Room" defined
Authority: IC 13-17-14-5
Affected: IC 13-11; IC 13-17-14; IC 22-8-1.1

Sec. 60.6. "Room" means a separate part of the inside of a building, including a bedroom, living room, dining room, kitchen, bathroom, laundry room, or utility room. To be considered a separate room, the room must be separated from adjoining rooms by built-in walls or archways that extend at least six (6) inches from an intersecting wall. Half walls or bookcases are room separators, if built-in. Movable or collapsible partitions or partitions consisting solely of shelves or cabinets are not considered built-in walls. A screened in porch that is used as a living area is a room. *(Air Pollution Control Board; 326 IAC 23-1-60.6)*

SECTION 27. 326 IAC 23-1-60.7 IS ADDED TO READ AS FOLLOWS:

326 IAC 23-1-60.7 "Soil-lead hazard" defined
Authority: IC 13-17-14-5
Affected: IC 13-11; IC 13-17-14; IC 22-8-1.1

Sec. 60.7. "Soil-lead hazard" means bare soil on residential real property or on the property of a child-occupied facility that contains total lead equal to or exceeding four hundred (400) parts per million in a play area or average of one thousand two hundred

(1,200) parts per million of bare soil in the rest of the yard based on soil samples. *(Air Pollution Control Board; 326 IAC 23-1-60.7)*

SECTION 28. 326 IAC 23-1-61.5 IS ADDED TO READ AS FOLLOWS:

326 IAC 23-1-61.5 "Soil sample" defined
Authority: IC 13-17-14-5
Affected: IC 13-11; IC 13-17-14; IC 22-8-1.1

Sec. 61.5. "Soil sample" means a sample collected in a representative location using ASTM E 1727 "Standard Practice for Field Collection of Soil Samples for Lead Determination by Atomic Spectrometry Techniques*", or equivalent method.

***These documents are incorporated by reference. Copies may be obtained from the Government Printing Office, 732 North Capitol Street NW, Washington, D.C. 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 23-1-61.5)*

SECTION 29. 326 IAC 23-1-62.5 IS ADDED TO READ AS FOLLOWS:

326 IAC 23-1-62.5 "Supervisor" defined
Authority: IC 13-17-14-5
Affected: IC 13-11; IC 13-17-14; IC 22-8-1.1

Sec. 62.5. "Supervisor" means a person who has been trained by an Indiana-approved training course provider, licensed by the department to supervise and conduct abatements, and prepares occupant protection plans and abatement reports. *(Air Pollution Control Board; 326 IAC 23-1-62.5)*

SECTION 30. 326 IAC 23-1-63 IS AMENDED TO READ AS FOLLOWS:

326 IAC 23-1-63 "Target housing" defined
Authority: IC 13-17-14-5
Affected: IC 13-11; IC 13-17-14; IC 22-8-1.1

Sec. 63. "Target housing" means housing constructed before January 1, 1978. The term does not include the following:

(1) Housing for the elderly or individuals with disabilities that is not occupied by or expected to be occupied by a child six (6) years of age or younger.

(2) A ~~building without a bedroom.~~ **zero-bedroom dwelling.**

(Air Pollution Control Board; 326 IAC 23-1-63; filed Jan 6, 1999, 4:28 p.m.: 22 IR 1439; readopted filed Jan 10, 2001, 3:20 p.m.: 24 IR 1477)

SECTION 31. 326 IAC 23-1-69.5 IS ADDED TO READ AS FOLLOWS:

326 IAC 23-1-69.5 "Weighted arithmetic mean" defined
Authority: IC 13-17-14-5
Affected: IC 13-11; IC 13-17-14; IC 22-8-1.1

Sec. 69.5. (a) "Weighted arithmetic mean" means the arithmetic mean of sample results weighted by the number of subsamples in each sample. Its purpose is to give influence to a sample relative to the surface area it represents. Sample results can be as follows:

(1) A single surface sample is comprised of a single subsample.
(2) A composite sample may contain from two (2) to four (4) subsamples of the same area as each other and of each single surface sample in the composite.

(b) The weighted arithmetic mean is obtained by summing, for all samples, the product of the sample's result multiplied by the number of subsamples in the sample, and dividing the sum by the total number of subsamples contained in all samples:

(1) the weighted arithmetic mean of a single surface sample containing sixty (60) milligrams per square foot;
(2) a composite sample of three (3) subsamples containing one hundred (100) milligrams per square foot; and
(3) a composite sample of four (4) subsamples containing one hundred ten (110) milligrams per square foot.

The equation is:

(60 + (3*100) + (4*110)) / 1 + 3 + 4 = 100 milligrams per square foot

(Air Pollution Control Board; 326 IAC 23-1-69.5)

SECTION 32. 326 IAC 23-1-69.6 IS ADDED TO READ AS FOLLOWS:

326 IAC 23-1-69.6 "Window trough" defined
Authority: IC 13-17-14-5
Affected: IC 13-11; IC 13-17-14; IC 22-8-1.1

Sec. 69.6. "Window trough" means for a typical double-hung window, the portion of the exterior window sill between the interior window sill or stool and the frame of the storm window. If there is no storm window, the window trough is the area that receives both the upper and lower window sashes when they are both lowered. The window trough is sometimes referred to as the window well. *(Air Pollution Control Board; 326 IAC 23-1-69.6)*

SECTION 33. 326 IAC 23-1-69.7 IS ADDED TO READ AS FOLLOWS:

326 IAC 23-1-69.7 "Wipe sample" defined
Authority: IC 13-17-14-5
Affected: IC 13-11; IC 13-17-14; IC 22-8-1.1

Sec. 69.7. "Wipe sample" means a sample collected by wiping a representative surface of known area as determined by ASTM E 1728, "Standard Practice for Field Collection of Settled Dust Samples Using Wipe Sampling Methods for Lead Determination by Atomic Spectrometry Techniques*, or equivalent method, with an acceptable wipe material as defined in ASTM E 1792, "Standard Specification for Wipe Sampling Materials for Lead in Surface Dust*".

***These documents are incorporated by reference. Copies may be obtained from the Government Printing Office, 732 North Capitol Street NW, Washington, D.C. 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 23-1-69.7)*

SECTION 34. 326 IAC 23-1-70.5 IS ADDED TO READ AS FOLLOWS:

326 IAC 23-1-70.5 "Worker" defined
Authority: IC 13-17-14-5
Affected: IC 13-11; IC 13-17-14; IC 22-8-1.1

Sec. 70.5. "Worker" means a person who has been trained by an Indiana-approved training course provider and licensed by the department to perform abatements. *(Air Pollution Control Board; 326 IAC 23-1-70.5)*

SECTION 35. 326 IAC 23-2-1 IS AMENDED TO READ AS FOLLOWS:

326 IAC 23-2-1 Applicability
Authority: IC 13-17-14-5
Affected: IC 13-11; IC 13-14-2-2; IC 13-17-14; IC 22-8-1.1

Sec. 1. (a) A person who engages in lead-based paint activities must obtain a license under this article. The department may issue a license for the following disciplines:
(1) Inspector.
(2) Risk assessor.
(3) Project designer.
(4) Supervisor.
(5) Worker.
(6) Contractor.
(7) Clearance examiner.

(b) This article does not apply to the following:
(1) A person conducting an inspection under the authority of IC 22-8-1.1 (the Indiana Occupational, Safety, and Health Act).
(2) A person who performs lead-based paint activities within a residential dwelling that the person owns, unless the residential dwelling is occupied by:
(A) a person, other than the owner or the owner's immediate family, while these activities are being performed; or
(B) a child who:
(i) is six (6) years of age or younger; and
(ii) resides in the building and has been identified as having an elevated blood lead level.

(c) This article may not be construed as requiring the abatement of lead-based paint hazards in a child-occupied facility or target housing.

(d) All persons engaging in lead-based paint activities shall comply with work practice standards as set forth in section 4 of this rule. *(Air Pollution Control Board; 326 IAC 23-2-1; filed Jan 6, 1999, 4:28 p.m.: 22 IR 1440; readopted filed Jan 10, 2001, 3:20 p.m.: 24 IR 1477)*

SECTION 36. 326 IAC 23-2-3 IS AMENDED TO READ AS FOLLOWS:

326 IAC 23-2-3 Licensing; qualifications
Authority: IC 13-17-14-5
Affected: IC 13-11; IC 13-17-14

Sec. 3. (a) To become licensed by the department as an inspector, risk assessor, project designer, supervisor, ~~or~~ worker, **or clearance examiner,** the applicant must do the following:
(1) Successfully complete an Indiana-approved lead-based paint course in the appropriate discipline and receive a certificate of training from an Indiana-approved training course provider.
(2) Meet or exceed the experience and education requirements for each desired discipline as listed in subsection (b).
(3) For inspector, risk assessor, **project designer,** and supervisor applicants, pass the third-party examination in the appropriate discipline offered by the department or its designated representative.

(b) At a minimum, the following experience, education requirements, and course work must be fulfilled for each desired discipline:
(1) Worker **and clearance examiner** applicants have no additional education or experience requirements other than under subsection (a)(1).
(2) Inspector applicants shall have a high school diploma or general equivalency diploma (GED).
(3) Risk assessor applicants shall take and pass the inspector and risk assessor courses and pass all required examinations, including third-party examinations. Applicants must meet any one (1) of the following combinations of education and experience:
(A) Bachelor's degree and one (1) year of experience.
(B) Associate's degree and two (2) years of experience.
(C) A high school diploma or GED and three (3) years of experience.
Required experience must be in a related field, ~~such as~~ **including** lead, asbestos, environmental remediation work, or construction.
(4) Supervisor applicants shall take and pass the supervisor courses and all required examinations, including third-party exams, and meet one (1) of the following:
(A) One (1) year of experience as a certified lead-based paint abatement worker.
(B) Two (2) years of experience in a related field, ~~such as~~ **including** lead, asbestos, environmental remediation, or work in the construction trades.
(5) Project designer applicants are required to take and pass the supervisor and project designer courses and pass all the required examinations, including third party examinations and shall have:
(A) a bachelor's degree in engineering, architecture, or a related profession and one (1) year of experience in building construction design or a related field; or
(B) four (4) years of experience in building construction and design or a related field.

(c) A person who enters into a contract requiring the person to execute lead-based paint activities to be conducted for compensation shall hold a lead-based paint activities contractor license. To become licensed by the department as a lead-based paint activities contractor, the applicant must comply with the following:
(1) The applicant must meet or have a designated representative who meets all of the following:
(A) Successfully complete an approved lead-based paint supervisor course, receive a certificate of training from an Indiana-approved training course provider, and take and pass a third-party examination.
(B) One (1) year of experience as a licensed lead-based paint abatement worker or two (2) years of experience in a related field, ~~such as~~ **to include** lead, asbestos, environmental remediation, or work in the construction trades.
(2) The contractor may not allow an agent or employee of the contractor to:
(A) exercise control over a lead-based paint activities project;
(B) come into contact with lead-based paint in connection with lead-based paint activities; or
(C) engage in lead-based paint activities;
unless the agent or employee is licensed under this rule.
(3) The contractor and all of its agents and employees shall, when performing lead-based paint activities projects, comply with the work practice standards under 326 IAC 23-4 for performing the appropriate lead-based paint activities.
(4) Each contractor is required to have at least one (1) licensed lead-

based paint project supervisor, responsible for direct supervision of workers, in the work area of the lead-based paint activity project. Lead-based paint workers shall have access to the project supervisors throughout the duration of the project.

(5) Each contractor shall ensure that the current lead-based paint program license belonging to each project supervisor and worker is kept on the jobsite during all lead-based paint activities. The lead-based paint licenses shall be kept outside the work area, and shall be available for inspection by the department.

~~(6) For the purpose of fulfilling the requirements of this rule, collecting or analyzing air samples for determining the completion of the lead-based paint project shall not be done by a person employed by the lead-based paint contractor or a partner or subsidiary entity thereof, implementing a lead-based paint project.~~

~~(7) Contractor applicants must themselves have or have a designated representative who has:~~

~~(A) one (1) year of experience as a certified lead-based paint abatement worker; or~~

~~(B) at least two (2) years of experience in a related field, such as lead, asbestos, environmental remediation, or work in the construction trades; and~~

~~(C) successfully completed an approved lead-based paint supervisor course, received a certificate of training from an Indiana-approved training course provider, and taken and passed a third-party examination.~~

(d) The following documents shall be submitted to the department to demonstrate compliance with the requirements of this section:

(1) Official academic transcripts or diplomas to demonstrate compliance with the education requirements.

(2) Resumes, letters of reference, or documentation of work experience to demonstrate compliance with the work experience requirements.

(3) Certificates of training from lead-specific or other related training courses, issued by approved training course providers, to demonstrate compliance with the training requirements.

(e) To take the third-party examination, a person shall:

(1) successfully complete an Indiana-approved training course in the appropriate discipline;

(2) receive a certificate of training from an approved training course provider; and

(3) meet or exceed the education and experience requirements in subsections (b) and (c).

(f) An applicant may take the third-party examination, if required, no more than three (3) times within six (6) months of receiving a certificate of training.

(g) If a person does not pass the third-party examination and receive a license within six (6) months of receiving his or her certificate of training, the person must retake the appropriate initial course from an Indiana-approved training course provider before reapplying for a license from the department.

(h) Any individual who has had ~~an eighteen (18)~~ **a thirty-six (36)** month time lapse between any two (2) training courses of the same discipline shall:

(1) be required to attend an initial training course for the discipline in which he or she is seeking licensing; **and**

(2) take the third-party examination required for the discipline in which he or she is seeking licensure.

(Air Pollution Control Board; 326 IAC 23-2-3; filed Jan 6, 1999, 4:28 p.m.: 22 IR 1441; readopted filed Jan 10, 2001, 3:20 p.m.: 24 IR 1477)

SECTION 37. 326 IAC 23-2-4, AS AMENDED AT 25 IR 3108, SECTION 95, IS AMENDED TO READ AS FOLLOWS:

326 IAC 23-2-4 License; application

Authority: IC 13-17-14-5
Affected: IC 13-17-14

Sec. 4. (a) Any person applying for an initial lead-based paint license from the department as a lead-based paint inspector, a risk assessor, a project designer, a supervisor, a worker, **a clearance examiner,** or a contractor shall do the following:

(1) Submit a completed application on forms provided by the department.

(2) Submit a copy of all required documents, as provided in section 3(d) of this rule, that the person meets the experience, education, and training requirements in section 3 of this rule, including that the applicant successfully completed the approved initial and any requisite refresher training courses.

(3) Receive passing scores on all written examinations for the courses.

(4) Pay the license application fee specified in section 8 of this rule.

(5) For persons applying for inspector, risk assessor, or supervisor licenses, provide proof of passing the third-party examination.

(b) Any person applying for an initial license from the department to conduct lead-based paint activities as a contractor shall do the following:

(1) Submit a completed application on forms provided by the department, which shall include a signed statement that the person has read and understands this rule and 40 CFR 745 "Lead; Requirements for Lead-Based Paint Activities in Target Housing and Child-Occupied Facilities; Final Rule"*.

(2) Submit a copy of all required documents, as provided in section 3(d) of this rule, indicating that the applicant or the applicant's designated representative meets the experience, education, and training requirements in section 3 of this rule, including having successfully completed the approved initial and any requisite refresher training courses for lead-based paint project supervisor and received passing scores on all written examinations for such courses, including third-party examinations.

(3) Submit a complete list of contracts for the prior ~~twelve (12)~~ **thirty-six (36)** months for lead-based paint projects, including names, addresses, and telephone numbers of persons for whom projects were performed.

(4) Submit an up-to-date copy of the contractor's written standard operating procedures that include current compliance procedures.

(5) Submit a description of any lead-based paint projects that the contractor conducted that were prematurely terminated or not completed, including the circumstances surrounding the termination or failure to complete.

(6) Submit a list of any **lead-based paint** contractual penalties that the contractor has paid for noncompliance with contract specifications.

(7) Submit copies of any and all:

(A) warning letters;

(B) notices and orders of the commissioner;

(C) agreed orders;

(D) citations;

(E) notices of violation; or
(F) findings of violation;
levied against the contractor by any federal, state, or local government agency for violations of regulations or other laws pertaining to lead-based paint activities, including names and locations of the projects, the dates, and a description of how the allegations were resolved.
(8) Submit a description detailing all legal proceedings, lawsuits, warning letters to supervisors from the department, or claims that have been filed or levied against the contractor or any of the contractor's past or present employees, while employed by the contractor, for lead-based paint related activities.
(9) Submit documentation of the contractor's financial responsibility with a current certificate of insurance with at least five hundred thousand dollars ($500,000) of liability insurance. The company offering the insurance coverage must be recognized or licensed by the Indiana department of insurance.
(10) Pay the license application fee specified in section 8 of this rule.

(c) If the department determines the information on the application to be incomplete, the department shall request in writing that the applicant submit the missing information. If the information is not submitted within one (1) year of the department's receipt of the application, the application will expire and the fee is not transferable.

(d) In addition to the requirements of subsections (a) through (b), the department may require an applicant or a designated representative of a contractor, in the case of subsection (b), to take an examination administered by the department. The examination shall cover only the discipline for which the applicant is seeking a license. The commissioner shall deny the application if the applicant does not receive a passing score of seventy percent (70%). If the department denies the application, the certificate of training is invalid and the applicant must retake and pass the initial training course for the discipline for which the applicant is seeking a license, and any subsequent third-party examination.

(e) The applicant shall provide two (2) copies of a clear and recent one and one-half (1½) inch by one and one-half (1½) inch identifying color photograph at the time of application. ~~to be attached to the face of the lead-based paint license prior to issuance of the license by the department.~~

(f) The department shall review the application and shall make a determination as to the eligibility of the person. The department shall issue a lead-based paint program license to any person who fulfills the requirements established by this rule. The department may deny an application for a lead-based paint program license based on any of the applicable criteria listed in section 6 of this rule or for failure to comply with any other provision of this rule.

~~(g) Individuals who have received lead-based paint activities training between October 1, 1990, and March 1, 1999, shall be eligible for licensing under the following alternative procedures:~~
~~(1) Applicants for license as an inspector, risk assessor, or supervisor shall:~~
~~(A) demonstrate that the applicant has successfully completed training or on-the-job training in the conduct of a lead-based paint activity;~~
~~(B) demonstrate that the applicant meets or exceeds the education and experience requirements in section 3 of this rule;~~
~~(C) successfully complete an Indiana-approved refresher training course for the appropriate discipline;~~
~~(D) pass a third-party examination administered by the department or its designated representative for the appropriate discipline;~~
~~(E) submit a completed application on forms provided by the department; and~~
~~(F) pay the license application fee specified in section 8 of this rule.~~
~~(2) Applicants for licensure as an abatement worker or project designer shall:~~
~~(A) demonstrate that the applicant has successfully completed training or on-the-job training in the conduct of a lead-based paint activity;~~
~~(B) demonstrate that the applicant meets the education and experience requirements in section 3 of this rule;~~
~~(C) successfully complete an Indiana-approved refresher training course for the appropriate discipline;~~
~~(D) submit a completed application on forms provided by the department; and~~
~~(E) pay the license application fee specified in section 8 of this rule.~~
~~(3) This subsection remains in effect for twelve (12) months from the date that this rule becomes effective. After that date, all applicants under this rule must comply with all other provisions of this rule.~~

~~(h)~~ **(g)** Applications must be completed in writing and submitted for processing. The department shall not process applications on a walk-in basis or process applications over the telephone. If the license is approved, the license will be sent to the applicant via the U.S. Postal Service to the address listed on the application.

~~*These documents are~~ ***This document is** incorporated by reference. Copies may be obtained from the Government Printing Office, 732 North Capitol Street NW, Washington, D.C. 20401 or are available for review and copying at the Indiana Department of Environmental Management, Office of Air Quality, Tenth Floor, 100 North Senate Avenue, Indianapolis, Indiana 46204. *(Air Pollution Control Board; 326 IAC 23-2-4; filed Jan 6, 1999, 4:28 p.m.: 22 IR 1442; readopted filed Jan 10, 2001, 3:20 p.m.: 24 IR 1477; filed May 21, 2002, 10:20 a.m.: 25 IR 3108)*

SECTION 38. 326 IAC 23-2-5 IS AMENDED TO READ AS FOLLOWS:

326 IAC 23-2-5 Renewal of lead-based paint license
Authority: IC 13-17-14-5
Affected: IC 13-17-14

Sec. 5. (a) Any person seeking to renew a license as a lead-based paint inspector, risk assessor, project designer, supervisor, worker, **clearance examiner,** or contractor shall meet the following requirements:
(1) Have possessed a valid license in the same discipline in which renewal is being sought within the previous six (6) months.
(2) Have attended, within the previous twelve (12) months, an approved refresher training course for the discipline in which the person was previously licensed. The following disciplines have additional requirements:
(A) A risk assessor shall take both the inspector refresher course and the risk assessor refresher course.
(B) A project designer shall take both the supervisor refresher course and the project designer refresher training course.

(3) Have taken and passed a third-party examination **and maintained all required refresher training since initial licensure,** as required for inspector, risk assessor, or project supervisor.
(4) Submit a completed application on forms provided by the department and include a copy of:
(A) the certificates of training indicating that the person successfully completed the refresher training course and passed the written examination; and
(B) for inspectors, risk assessors, and supervisors, provide proof of having passed the third-party examination.
(5) Pay the license application fee as specified in section 8 of this rule.

(b) Any person seeking to renew a lead-based paint license as a contractor shall include updated information in the application if any information has changed during the previous ~~twelve (12)~~ **thirty-six (36)** months. The contractor shall routinely examine and update the standard operating procedures manual to reflect the compliance assurance methodologies that meet current federal, state, and local regulations or other laws pertaining to lead-based paint.

(c) The applicant shall provide two (2) copies of a clear and recent one and one-half (1½) inch by one and one-half (1½) inch identifying color photograph at the time of application. ~~to be attached to the face of the lead-based paint license prior to issuance of the license by the department.~~

(d) The department shall review the application and shall make a determination as to the eligibility of the person. The department shall issue a lead-based paint license renewal to any person who fulfills the requirements established in this rule. However, the department may deny an application for renewal of a lead-based paint license based on any of the criteria listed in section 6 of this rule, as applicable, or for failure to comply with any other provision of this rule.

(e) Any individual who has had ~~an eighteen (18)~~ **a thirty-six (36)** month time lapse between any two (2) training courses of the same discipline shall:
(1) be required to attend an initial training course for the discipline to which they are seeking to be licensed; **and**
(2) take the third-party examination required for the discipline in which he or she is seeking licensure.
(Air Pollution Control Board; 326 IAC 23-2-5; filed Jan 6, 1999, 4:28 p.m.: 22 IR 1444; readopted filed Jan 10, 2001, 3:20 p.m.: 24 IR 1477)

SECTION 39. 326 IAC 23-2-6 IS AMENDED TO READ AS FOLLOWS:

326 IAC 23-2-6 Compliance requirements for lead-based paint contractors
Authority: IC 13-17-14
Affected: IC 13-17

Sec. 6. (a) A lead-based paint activities contractor licensed under this rule shall compile records concerning each lead-based paint activities project performed by the lead-based paint activities contractor. The records must include the following information on each lead-based paint activities project:
(1) The name, address, and proof of license of the following:
(A) The person who supervised the lead-based paint activities project for the lead-based paint activities contractor.
(B) Each employee or agent of the lead-based paint activities contractor that worked on the project.
(2) The name, address, and signature of each licensed risk assessor or inspector conducting clearance sampling and the date of clearance testing.
(3) The site of the lead-based paint activities project.
(4) A description of the lead-based paint activities project.
(5) The date on which the lead-based paint activities project was started, and the date on which the lead-based paint activities project was completed.
(6) A summary of procedures that were used in the lead-based paint activities project to comply with applicable federal and state standards for lead-based paint activities projects.
(7) A detailed written description of the lead-based paint activities, including the following:
(A) Methods used.
(B) Locations of rooms or components where lead-based paint activities occurred.
(C) Reasons for selecting particular lead-based paint activities methods for each component.
(D) Any suggested monitoring of encapsulants or enclosures.
(8) The occupant protection plan.
(9) The results of clearance testing and all soil analysis, if applicable, and the name of each federally-recognized laboratory that conducted the analysis. The laboratory **that conducted the analysis** must be recognized by U.S. EPA, pursuant to Section 405(b) of TSCA*, as being capable of performing analyses for lead compounds in paint chips, dust, and soil samples. ~~that conducted the analysis.~~
~~(10) The amount of material containing lead-based paint that was removed from the site of the project.~~
~~(11) The name and address of each disposal site used for the disposal of lead-based paint containing material that was disposed of as a result of the lead-based paint activities project.~~
~~(12)~~ **(10)** A copy of each receipt issued by a disposal site.

(b) A lead-based paint activities contractor shall retain the records compiled under this section concerning a particular lead-based paint activities project for at least three (3) years after the lead-based paint activities project is concluded.

(c) A lead-based paint activities contractor shall make records available to the department upon request.

(d) A lead-based paint activities contractor shall provide a copy of all reports or plans to the building owner who contracted for the services.

***This document is incorporated by reference. Copies may be obtained from the Government Printing Office, 732 North Capitol Street NW, Washington, D.C. 20401 or are available for review and copying at the Indiana Department of Environmental Management, Office of Air Quality, Tenth Floor, 100 North Senate Avenue, Indianapolis, Indiana 46204.** *(Air Pollution Control Board; 326 IAC 23-2-6; filed Jan 6, 1999, 4:28 p.m.: 22 IR 1444; readopted filed Jan 10, 2001, 3:20 p.m.: 24 IR 1477)*

SECTION 40. 326 IAC 23-2-8 IS AMENDED TO READ AS FOLLOWS:

326 IAC 23-2-8 Fees
Authority: IC 13-17-14-5
Affected: IC 13-11; IC 13-17-14

Sec. 8. (a) ~~Upon application~~ **The applicant** for a lead-based paint ~~program~~ license ~~a person~~ shall ~~pay a fee~~ **submit the appropriate nonrefundable fees** as follows:

(1) Inspector, one hundred fifty dollars ($150).
(2) Risk assessor, one hundred fifty dollars ($150).
(3) Project designer, one hundred **fifty** dollars ~~($100).~~ **($150).**
(4) Supervisor, one hundred fifty dollars ($150).
(5) Worker, **one hundred** fifty dollars ~~($50).~~ **($150).**
(6) Clearance examiner, one hundred fifty dollars ($150).
~~(6)~~ **(7)** Contractor, one hundred fifty dollars ($150).

(b) Fees paid by mail shall be paid by check or money order and shall be made payable to the lead trust fund and sent to the Cashier, Indiana Department of Environmental Management, P.O. Box 7060, Indianapolis, Indiana 46206-7060.

(c) The application fee shall not be:
(1) transferable from one (1) type of lead-based paint license to another;
(2) transferable from one (1) person to another; **or**
(3) transferable to any other type of license or approval issued by the department; ~~or~~
~~(4) refundable;~~
unless requested by the applicant within three (3) days of submittal to the department or prior to processing by the department, whichever is earlier.

(d) If the department determines the information on the application to be incomplete, the applicant will be requested to submit the missing information. If the information is not submitted within one (1) year of the department's receipt of the application, the application will expire and the fee is not transferable. ~~or refundable.~~ *(Air Pollution Control Board; 326 IAC 23-2-8; filed Jan 6, 1999, 4:28 p.m.: 22 IR 1446; readopted filed Jan 10, 2001, 3:20 p.m.: 24 IR 1477)*

SECTION 41. 326 IAC 23-2-9 IS AMENDED TO READ AS FOLLOWS:

326 IAC 23-2-9 Duplicate lead-based paint program licenses
Authority: IC 13-17-14-5
Affected: IC 13-11; IC 13-17-14

Sec. 9. (a) To replace a lead-based paint program license that has been lost or stolen, a person shall submit a completed application for a duplicate license on a form provided by the department.

(b) The form shall include a statement indicating that the original lead-based paint program license was lost or stolen.

(c) The department shall issue no more than two (2) duplicate licenses to any person in any calendar year.

(d) The application must be submitted in person to the department by the licensee. Two (2) pieces of identification must be shown at the time of application. Acceptable pieces of identification include an Indiana issued driver's license, an Indiana issued identification card, a valid U.S. passport, or a valid Immigration and Naturalization Service (INS) identification, one (1) of which must include a picture of the applicant. *(Air Pollution Control Board; 326 IAC 23-2-9; filed Jan 6, 1999, 4:28 p.m.: 22 IR 1446; readopted filed Jan 10, 2001, 3:20 p.m.: 24 IR 1477)*

SECTION 42. 326 IAC 23-3-1 IS AMENDED TO READ AS FOLLOWS:

326 IAC 23-3-1 Applicability
Authority: IC 13-17-14-5
Affected: IC 13-11-2-158; IC 13-17-14; IC 36-1-2-10; IC 36-1-2-23

Sec. 1. (a) A person may apply to the department to be an approved training course provider to offer lead-based paint activities initial or refresher courses in any of the following disciplines:
(1) Inspector.
(2) Risk assessor.
(3) Project designer.
(4) Supervisor.
(5) Worker.
(6) Clearance examiner.

(b) Training course providers may apply to the department for approval of their lead-based paint activities courses or refresher courses pursuant to this rule on or after the effective date of this rule.

(c) A training course provider shall not provide, offer, or claim to provide approved lead-based paint activities courses without applying for and receiving approval from the department as required under this rule.

(d) Section 12 of this rule does not apply to a training course provider that is:
(1) a state;
(2) a unit as defined in IC 36-1-2-23;
(3) a municipal corporation as defined in IC 36-1-2-10; or
(4) an exempt organization under 26 U.S.C. 501(a)*.

***This document is incorporated by reference.** Copies ~~of the United States Code (U.S.C.) are available~~ **may be obtained** from the Government Printing Office, **732 Capitol Street NW,** Washington, D.C. ~~20402. Copies of pertinent sections~~ **20401 or** are available for **review and** copying from Indiana Department of Environmental Management, Office of Air ~~Management,~~ **Quality,** 100 North Senate Avenue, Indianapolis, Indiana 46204. *(Air Pollution Control Board; 326 IAC 23-3-1; filed Jan 6, 1999, 4:28 p.m.: 22 IR 1446)*

SECTION 43. 326 IAC 23-3-3 IS AMENDED TO READ AS FOLLOWS:

326 IAC 23-3-3 Initial training course requirements
Authority: IC 13-17-14-5
Affected: IC 13-11; IC 13-17-14

Sec. 3. To offer lead-based paint course instruction in any one (1) or all of the disciplines, training course providers must ensure that their courses of study meet, at a minimum, the following training hour requirements and hands-on activities:
(1) The course of study for an inspector must last a minimum of twenty-four (24) training hours. This course of study shall include a minimum of eight (8) hours of hands-on training and shall contain the following course topics:
(A) Role and responsibilities of an inspector.
(B) Background information on lead and its adverse health effects.
(C) Lead-based paint inspection methods, including selection of rooms and components for sampling or testing. This course of study shall include hands-on activities.
(D) Paint, dust, and soil sampling methodologies. This course of study shall include hands-on activities.
(E) Clearance standards and testing, including random sampling. This course of study shall include hands-on activities.

(F) Preparation of the final inspection report. This course of study shall include hands-on activities.

(G) Record keeping.

~~(H) Employee respiratory protection and personal protective equipment to include the following:~~

~~(i) Classes and characteristics of respirator types.~~

~~(ii) Limitations of respirators.~~

~~(iii) Proper selection, inspection, donning, use, maintenance, and storage procedures for respirators.~~

~~(iv) Methods for field testing of the face piece-to-mouth seal (positive and negative pressure fitting tests).~~

~~(v) Qualitative and quantitative fit testing procedures.~~

~~(vi) Variability between field and laboratory protection factors.~~

~~(vii) Factors that alter respirator fit, for example, facial hair.~~

~~(viii) The components of a proper respiratory protection program.~~

~~(ix) Selection and use of personal protective clothing.~~

~~(x) Use, storage, and handling of nondisposable clothing.~~

~~(I)~~ **(H)** Regulatory review to include the following:

(i) TSCA Title IV*.

(ii) Occupational Safety and Health Administration (OSHA) respirator requirements found at 29 CFR 1926.62**.

(iii) Applicable local, state, and federal regulations and guidance that pertain to lead-based paint and lead-based paint activities.

(2) The course of study for a risk assessor must last a minimum of sixteen (16) training hours and shall include a minimum of four (4) hours of hands-on training and contain the following course topics:

(A) Role and responsibilities of a risk assessor.

(B) Collection of background information to perform a risk assessment.

(C) Sources of environmental lead contamination, ~~such as~~ **including** paint, surface dust and soil, water, air, packaging, and food.

(D) Visual inspection for the purposes of identifying potential sources of lead-based paint hazards. The course of study includes hands-on activities.

(E) Lead hazard screen protocol.

(F) Sampling for other sources of lead exposure. The course of study includes hands-on activities.

(G) Interpretation of lead-based paint and other lead sampling results, including all applicable state or federal guidance or regulations pertaining to lead-based paint hazards. The course of study includes hands-on activities.

(H) Development of hazard control options, the role of interim controls, and operations and maintenance activities to reduce lead-based paint hazards.

(I) Preparation of a final risk assessment report.

(J) Regulatory review, including, at minimum, the following:

(i) OSHA lead construction standard found at 29 CFR 1926.62**.

(ii) U.S. EPA Lead-Based Paint Poisoning Prevention rule found at 40 CFR 745**.

(iii) All applicable local, state, and federal regulations.

(3) The course of study for a supervisor must last a minimum of thirty-two (32) training hours, and shall include a minimum of eight (8) hours of hands-on training, and contain the following course topics:

(A) Role and responsibilities of a supervisor.

(B) Background information on lead and its adverse health effects.

(C) Regulatory review to include, at minimum, the following:

(i) OSHA lead construction standard found at 29 CFR 1926.62**. (Occupational Safety and Health Administration, Occupational Exposure to Lead).

(ii) U.S. EPA Lead-Based Paint Poisoning Prevention rule found at 40 CFR 745**.

(iii) All applicable local, state, and federal regulations.

(D) Liability and insurance issues relating to lead-based paint abatement.

(E) Risk assessment and inspection report interpretation. This course of study includes hands-on activities.

(F) Development and implementation of an occupant protection plan and abatement report.

(G) Lead-based paint hazard recognition and control. This course of study includes hands-on activities.

(H) Lead-based paint abatement and lead-based paint hazard reduction methods, including restricted practices. This course of study includes hands-on activities.

(I) Interior dust abatement and cleanup or lead-based paint hazard control and reduction methods. This course of study includes hands-on activities.

(J) Soil and exterior dust abatement or lead-based paint hazard control and reduction methods. This course of study includes hands-on activities.

(K) Clearance standards and testing.

(L) Cleanup and waste disposal.

(M) Record keeping.

(N) Employee personal respiratory protection and personal protective equipment, including the following:

(i) Classes and characteristics of respirator types.

(ii) Limitations of respirators.

(iii) Proper selection, inspections, donning, use, maintenance, and storage procedures for respirators.

(iv) Methods for field testing of the face piece-to-mouth seal (positive and negative pressure fitting tests).

(v) Qualitative and quantitative fit testing procedures.

(vi) Variability between field and laboratory protection factors.

(vii) Factors that alter respirator fit, for example, facial hair.

(viii) The components of a proper respiratory protection program.

(ix) Selection and use of personal protective clothing.

(x) Use, storage, and handling of nondisposable clothing.

(xi) Regulations covering personal protective equipment.

(O) Respiratory protection programs and medical surveillance programs.

(4) The course of study for a project designer must last a minimum of eight (8) training hours and contain the following course topics:

(A) Role and responsibilities of a project designer.

(B) Development and implementation of an occupant protection plan for large scale abatement projects.

(C) Lead-based paint abatement and lead-based paint hazard reduction methods, including restricted practices for large-scale abatement projects.

(D) Interior dust abatement and cleanup or lead hazard control and reduction methods for large-scale abatement projects.

(E) Clearance standards and testing for large-scale abatement projects.

(F) Integration of lead-based paint abatement methods with modernization and rehabilitation projects for large-scale abatement projects.

(G) OSHA requirements for lead sites.

(H) Relevant federal, state, and local regulatory requirements with a discussion of procedures and standards.

(I) Employee personal protective equipment, including the following:

(i) Classes and characteristics of respiratory types.

(ii) Limitations of respirators.

(iii) Proper selection, inspection, donning, use, maintenance, and storage procedures.
(iv) Methods for field testing of the face piece-to-mouth seal (positive and negative pressure fitting tests).
(v) Qualitative and quantitative fit testing procedures.
(vi) Variability between field and laboratory protection factors.
(vii) Factors that alter fit, for example, facial hair.
(viii) Components of a proper respiratory protection program.
(ix) Selection and use of personal protective clothing.
(x) Use, storage, and handling of nondisposable clothing.

(5) The course of study for an abatement worker must last a minimum of sixteen (16) training hours. This course of study includes a minimum of eight (8) hours of hands-on activities and contain the following course topics:

(A) Role and responsibilities of an abatement worker.
(B) Background information on lead and its adverse health effects.
(C) Background information on federal, state, and local regulations and guidance that pertain to lead-based paint abatement.
(D) Lead-based paint hazard recognition and control. This course of study includes hands-on activities.
(E) Lead-based paint abatement and lead-based paint hazard reduction methods, including restricted practices, with hands-on activities.
(F) Interior dust abatement methods and cleanup or lead-based paint hazard reduction, with hands-on activities.
(G) Soil and exterior dust abatement methods or lead-based paint hazard reduction, with hands-on activities.
(H) Employee personal protective equipment, including the following:
(i) Classes and characteristics of respirator types.
(ii) Limitations of respirators and their proper selection, inspection, donning, use, maintenance, and storage procedures.
(iii) Methods for field testing of the face piece-to-mouth seal (positive and negative pressure fitting tests).
(iv) Qualitative and quantitative fit testing procedures.
(v) Variability between field and laboratory protection factors.
(vi) Factors that alter respirator fit, for example, facial hair.
(vii) The components of a proper respiratory protection program.
(viii) Selection and use of personal protective clothing, use, storage, and handling of nondisposable clothing.
(ix) Regulations covering personal protective equipment.
(I) Hazards encountered during abatement activities and how to deal with them, including the following:
(i) Electrical hazards.
(ii) Heat stress.
(iii) Air contaminants other than lead.
(iv) Fire and explosion hazards.
(v) Scaffold and ladder hazards.
(vi) Slips, trips, and falls.
(vii) Confined spaces.
(J) Applicable federal, state, and local regulations and guidance that pertains to lead-based paint and lead-based paint activities.

(6) The course of study for a clearance examiner must last a minimum of five (5) training hours. This course of study shall follow the U.S. EPA approved Lead Sampling Technician Training Course, including the use of all guidelines, manuals, and appendices and contain the following course topics:

(A) Introduction and background shall contain the following topics:
(i) A brief overview to the course.
(ii) Introduction of course objectives and general background on the health risks of lead and the purpose of lead sampling.
(B) Skills shall contain the following topics:
(i) How to perform a visual assessment.
(ii) Preparation for and collection of dust wipe samples.
(iii) Selection of an accredited lab, sample submission, and interpretation of acceptable results.
(C) Application shall contain the following topics:
(i) Overview of federal, state, and local regulations applying to lead sampling.
(ii) How to perform lead samples in post-renovation clearance, HUD-required clearance, and other lead sampling examinations.
(D) Writing and delivering reports shall include the following:
(i) The preparation of reports.
(ii) The procedures for explaining results to clients.

*/**Copies of pertinent sections of the Toxic Substances Control Act (TSCA), ~~and~~ the United States Code (U.S.C.), **and the Code of Federal Regulations (CFR)** are available from the Government Printing Office, **732 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 ~~Management,~~ **Quality,** Indiana Government Center-North, 100 North Senate Avenue, **Tenth Floor,** Indianapolis, Indiana 46204.

~~**Copies of pertinent sections of the Code of Federal Regulations (CFR) are available from the Government Printing Office, Washington, D.C. 20402 or are available for copying at the Indiana Department of Environmental Management, Office of Air Management, Indiana Government Center-North, 100 North Senate Avenue, Indianapolis, Indiana 46204.~~ *(Air Pollution Control Board; 326 IAC 23-3-3; filed Jan 6, 1999, 4:28 p.m.: 22 IR 1448)*

SECTION 44. 326 IAC 23-3-4.5 IS ADDED TO READ AS FOLLOWS:

326 IAC 23-3-4.5 Training course reciprocity
Authority: IC 13-17-14-5
Affected: IC 13-11; IC 13-17-4

Sec. 4.5. The following procedures shall be followed by a training course provider to receive training course reciprocity approval by the department for the purpose of offering initial or refresher lead-based paint activities courses:

(1) A training course provider seeking approval or reapproval of a training course shall submit one (1) written application, per discipline, for each initial and refresher training course on forms available from the department. The application for approval or reapproval shall contain the following information:
(A) The training course provider's name, address, telephone number, and primary contact person.
(B) The name of the training course.
(C) The course agenda or curriculum.
(D) A copy of the training course examination.
(E) A list of and proof of all U.S. EPA authorized and nonapproved states in which the course has received full or contingent U.S. EPA approval. Also provide a list and proof of courses directly approved by the U.S. EPA.
(F) The names and qualifications of the course instructors, including guest instructors, to include academic credentials and field experience.
(G) An example of the numbered certificates issued to students who complete the course and pass the examination, with the following information:

(i) Name and address of the accredited person.
(ii) Discipline of the training course completed.
(iii) Dates of the training course.
(iv) Date of the examination.
(v) An expiration date not to exceed one (1) year after the date upon which the person successfully completed the course and passed the examination.
(vi) The name, address, and telephone number of the training course provider who issued the certificate.
(vii) A statement that the person receiving the certificate has completed the requisite training for lead-based paint accreditation.
(viii) A statement that the training course meets the requirements as outlined by Indiana under this rule.

(H) A detailed statement of how the training course provider ensures that all requirements for training students be met in the event that:
(i) the instructor does not speak a language understood by all students; or
(ii) the course materials are not in a language understood by all students.

(I) A written statement indicating how the training course curriculum for each discipline approval is being sought.

(2) A training course provider seeking reciprocity shall pay the application fee in section 12 of this rule.

(3) A training course provider may apply for reciprocity approval to offer initial courses or refresher courses in as many disciplines as it chooses. A training course provider may seek reciprocity approval for additional courses at any time as long as the training course provider can demonstrate that it meets the requirements of this rule.

(4) Application for reciprocity will be approved if the application meets all of the requirements of this section and the training course provider holds a certificate of training approval issued by U.S. EPA or by a state that has a U.S. EPA authorized lead-based paint program.

(5) If the department determines the information on the application to be incomplete, the applicant will be requested to submit the missing information. If the information is not submitted within one (1) year of the department's receipt of the application, the application will expire and the application fee will not be transferred.

(Air Pollution Control Board; 326 IAC 23-3-4.5)

SECTION 45. 326 IAC 23-3-5 IS AMENDED TO READ AS FOLLOWS:

326 IAC 23-3-5 Examination requirements
Authority: IC 13-17-14-5
Affected: IC 13-11; IC 13-17-14

Sec. 5. (a) Each initial and refresher training course shall include a closed-book written examination at the conclusion of each course.

(b) Each individual must successfully complete the hands-on skills assessment and receive a passing score on the course test to pass any course.

(c) The training manager is responsible for maintaining the validity and integrity of the hands-on skills assessment to ensure that it accurately evaluates the trainees' performance of the work practices and procedures associated with the course of study contained in section 3 of this rule.

(d) The training manager is responsible for maintaining the validity and integrity of the written examination to ensure that it accurately evaluates the trainees' knowledge and retention of the course of study.

(e) Each examination shall adequately cover the course of study included in the training course for that discipline.

(f) The written examination shall be developed in accordance with the test blue print submitted with the training approval application.

(g) Written examinations shall have a passing score of at least seventy percent (70%) and shall consist of multiple-choice questions for each respective discipline. In addition, the training course provider shall include a hands-on skill assessment if applicable to the requirements for that discipline. The following number of questions shall be required for each respective discipline:
(1) Inspector, fifty (50) questions.
(2) Risk assessor, one hundred (100) questions.
(3) Project designer, one hundred (100) questions.
(4) Supervisor, one hundred (100) questions.
(5) Worker, fifty (50) questions.
(6) Clearance examiner, fifty (50) questions.

(h) No two (2) training course examinations, initial or refresher, may contain more than ten percent (10%) of the same questions.
(Air Pollution Control Board; 326 IAC 23-3-5; filed Jan 6, 1999, 4:28 p.m.: 22 IR 1451)

SECTION 46. 326 IAC 23-3-7 IS AMENDED TO READ AS FOLLOWS:

326 IAC 23-3-7 Expiration of course approval; reapproval
Authority: IC 13-17-14-5
Affected: IC 13-11; IC 13-17-14

Sec. 7. (a) Unless reapproved, a training course approval, including refresher training approval, shall expire ~~one (1) year~~ **thirty-six (36) months** from the date of issuance. A training course provider seeking reapproval of each training course shall submit one (1) written application per discipline for each initial and each refresher training course on forms ~~provided by~~ **available from** the department no later than ninety (90) days before its current approval expires. The department cannot guarantee that a determination on the application will be made before the end of the current approval period if a training course provider does not submit a timely, complete application for reapproval.

(b) The training course provider's application for reapproval shall contain the following information:
(1) ~~The training course provider's name, address, telephone number, and primary contact person.~~ **A completed and signed application form for lead-based paint training courses.**
~~(2) The name of the training course.~~
~~(3) The course agenda or curriculum.~~
~~(4) A letter from the training course provider that clearly indicates how the course meets the applicable requirements of this rule, including the following information:~~
~~(A) Length of training in days.~~
~~(B) A description of the facilities and equipment to be used for lecture and hands-on training.~~
~~(C) A description concerning any changes to the training facility, equipment, or course materials since the last application was approved that adversely affects students' ability to learn.~~
~~(D) Amount and type of hands-on training.~~

~~(E) Description of the examinations, including the length, format, and passing score.~~
~~(F) A description of the activities and procedures that will be used for conducting the assessment of hands-on skills for each course.~~
~~(G) Topics covered in the course.~~
~~(H) A copy of the quality control plan.~~
~~(5) A detailed statement about the development of the examinations and a copy of the examinations used in the course.~~
~~(6)~~ **(2)** The names and qualifications of the course instructors, including guest instructors ~~to include~~ **and** academic credentials and field experience.
~~(7) A description and an example of numbered certificates issued to students who complete the course and pass the examination, with the following information:~~
~~(A) Name and address of the accredited person.~~
~~(B) Discipline of the training course completed.~~
~~(C) Dates of the training course.~~
~~(D) Date of the examination.~~
~~(E) An expiration date not to exceed one (1) year after the date upon which the person successfully completed the course and passed the examination.~~
~~(F) The name, address, and telephone number of the training course provider who issued the certificate.~~
~~(G) A statement that the person receiving the certificate has completed the requisite training for lead-based paint accreditation.~~
~~(H) A statement that the training course meets the requirements as outlined by Indiana under this rule.~~
~~(8) A list of both U.S. EPA approved and nonapproved states in which the course has received full or contingent approval. Also provide a list of courses directly approved by the U.S. EPA.~~
~~(9) A detailed statement of how the training course provider ensures that all requirements for training students be met in the event that:~~
~~(A) the instructor does not speak a language understood by all students; or~~
~~(B) the course materials are not in a language understood by all students.~~
~~(10) A list of courses for which the training course provider is applying for reapproval.~~
~~(11)~~ **(3)** A description of any changes to the training facility, equipment, or course ~~materials~~ **curriculum** since its last application was approved that adversely affects the students' ability to learn.
~~(12)~~ **(4)** A statement signed by the program manager stating that
~~(A)~~ the training course provider complies at all times with:
(A) all requirements in this rule as applicable; and
(B) the record keeping and reporting requirements of this section shall be followed.

(c) Upon request, the training course provider shall allow the department to audit the training curriculum to verify the contents of the application for reapproval.

(d) A training course provider may apply for reapproval to offer initial courses or refresher courses in as many disciplines as it chooses. A training course provider may seek approval for additional courses at any time as long as the training course provider can demonstrate that it meets the requirements of this rule.

~~(c) If a training course provider's training course materials are based on U.S. EPA-recommended model training materials or training materials approved by Indiana, another approved state or Indian tribe, the training course manager shall include a statement certifying that the recommended version will be used.~~

~~(f) If a training course provider's training course materials are not based on U.S. EPA-recommended model training materials or training materials approved by an EPA-approved state or Indian tribe, the training course provider's application for approval shall include the following for each course:~~
~~(1) A copy of the student and instructor manuals.~~
~~(2) A copy of the course agenda.~~
(Air Pollution Control Board; 326 IAC 23-3-7; filed Jan 6, 1999, 4:28 p.m.: 22 IR 1451)

SECTION 47. 326 IAC 23-3-12 IS AMENDED TO READ AS FOLLOWS:

326 IAC 23-3-12 Application fee
Authority: IC 13-17-14-5
Affected: IC 13-11; IC 13-17-14; IC 36-1-2-10; IC 36-1-2-23

Sec. 12. (a) Upon application for initial or refresher lead-based paint activities course approval, **initial or refresher training course reapproval, or reciprocity approval or reapproval,** a training course provider shall pay a one (1) time, **nonrefundable** application fee of one thousand dollars ($1,000) for each of the following disciplines:
(1) Inspector.
(2) Risk assessor.
(3) Project designer.
(4) Supervisor.
(5) Worker.
(6) Clearance examiner.

~~(b) Upon application for initial or refresher training course reapproval, a training course provider shall pay an annual application fee of five hundred dollars ($500) for each of the following disciplines:~~
~~(1) Inspector.~~
~~(2) Risk assessor.~~
~~(3) Project designer.~~
~~(4) Supervisor.~~
~~(5) Worker.~~

~~(c)~~ **(b)** Fees paid by mail shall be paid by check or money order and shall be made payable to the lead trust fund.

~~(d)~~ **(c)** The application fee is not:
(1) transferable from one (1) type of discipline to another;
(2) transferable from one (1) training course provider to another; **or**
(3) transferable to any other type of license or approval issued by the department; ~~or~~
~~(4) refundable;~~
unless requested by the applicant within three (3) days of submittal to the department or prior to the processing of the application by the department, whichever is earlier.

(d) The following may request an exemption from the payment of fees established under this section:
(1) A state.
(2) A municipal corporation, as defined in IC 36-1-2-10.
(3) A unit, as defined in IC 36-1-2-23.
(4) An organization exempt from income taxation under 26 U.S.C. 501(a).
Any request for an exemption must include proof as to the qualification of the exemption with the license application. *(Air Pollution Control Board; 326 IAC 23-3-12; filed Jan 6, 1999, 4:28 p.m.: 22 IR 1454)*

SECTION 48. 326 IAC 23-4-1 IS AMENDED TO READ AS FOLLOWS:

326 IAC 23-4-1 Applicability
Authority: IC 13-17-14-5
Affected: IC 13-11; IC 13-17-14

Sec. 1. (a) This rule contains procedures and requirements for work practice standards for conducting lead-based paint activities. Any licensed person or company performing the following activities shall comply with the appropriate work practices as outlined in this rule:

(1) Inspection.
(2) Lead-hazard screening.
(3) Risk assessment.
(4) Abatement.
(5) Project designer.

(b) A political subdivision or a state agency may not accept a bid for a lead-based activities project from a person that does not hold a lead-based paint activities license. *(Air Pollution Control Board; 326 IAC 23-4-1; filed Jan 6, 1999, 4:28 p.m.: 22 IR 1455; readopted filed Jan 10, 2001, 3:20 p.m.: 24 IR 1477)*

SECTION 49. 326 IAC 23-4-2 IS AMENDED TO READ AS FOLLOWS:

326 IAC 23-4-2 Inspections
Authority: IC 13-17-14-5
Affected: IC 13-11; IC 13-17-14

Sec. 2. An inspection for lead-based paint in a child-occupied facility or target housing shall be conducted only by a person licensed by the department as an inspector or risk assessor. The inspection shall include each component with a distinct painting history, except those components that the inspector or risk assessor determines through the examination of receipts for architectural proof to have been replaced after 1978 or do not contain lead-based paint. If conducted, an inspection shall be conducted as follows:

(1) When conducting an inspection, the following locations shall be selected according to documented methodologies and tested for the presence of lead-based paint:
(A) In a residential dwelling and child-occupied facility, each interior component with a distinct painting history and each exterior component with a distinct painting history shall be tested for lead-based paint.
(B) In a multi-family dwelling or child-occupied facility, each component with a distinct painting history in every common area.
(2) Paint shall be sampled in either, or both, of the following ways:
(A) The analysis of paint to determine the presence of lead shall be conducted using documented methodologies that incorporate adequate quality control procedures.
(B) All collected paint chip samples shall be analyzed by a laboratory recognized by U.S. EPA pursuant to TSCA Sec. 405(b) as capable of performing analyses for lead compounds in paint chips, dust, and soil samples to determine if they contain detectable levels of lead that can be quantified numerically.
(3) The licensed inspector or risk assessor shall prepare an inspection report that shall include the following information:
(A) Date of each inspection.
(B) Address of building.
(C) Date of construction.
(D) Apartment number, when applicable.
(E) Name, address, and telephone number of the owner or owners of each residential dwelling or child-occupied facility.
(F) Name, signature, and license number of each licensed inspector or risk assessor conducting testing.
(G) Name, address, and telephone number of the firm employing each inspector or risk assessor, when applicable.
(H) Each testing method and device or sampling procedure employed for paint analysis, including quality control data and, if used, the serial number of any x-ray fluorescence device.
(I) Specific locations of each painted component tested for the presence of lead-based paint.
(J) The results of the inspection, expressed in terms appropriate to the sampling method used.
(4) All property owners, from the date of receipt of the lead-based paint inspection report, must disclose all information contained in the report to potential occupants and buyers of the inspected property prior to occupancy or sale of the property.

(Air Pollution Control Board; 326 IAC 23-4-2; filed Jan 6, 1999, 4:28 p.m.: 22 IR 1455; readopted filed Jan 10, 2001, 3:20 p.m.: 24 IR 1477)

SECTION 50. 326 IAC 23-4-3 IS AMENDED TO READ AS FOLLOWS:

326 IAC 23-4-3 Lead hazard screen
Authority: IC 13-17-14-5
Affected: IC 13-11; IC 13-17-14

Sec. 3. A lead hazard screen shall be conducted only by a person licensed by the department as a risk assessor. A lead hazard screen shall be conducted as follows:

(1) Background information regarding the physical characteristics of the residential dwelling or child-occupied facility and occupant use patterns that may cause lead-based paint exposure to one (1) or more children six (6) years of age or younger shall be collected.
(2) A visual inspection of the residential dwelling or child-occupied facility shall be conducted to:
(A) determine if any deteriorated paint is present; and
(B) locate at least two (2) dust sampling locations.
(3) If deteriorated paint is present, ~~each surface with deteriorated paint which is~~ **the following surfaces that are** determined, using documented methodologies, to be in poor condition and to have a distinct painting history, shall be tested for the presence of lead:
(A) Each friction surface or impact surface with visibly deteriorated paint.
(B) All other surfaces with visibly deteriorated paint.
(4) In residential dwellings, two (2) composite dust samples shall be collected **and analyzed,** one (1) from the floors and one (1) from ~~a~~ **an interior** window ~~trough~~ **sill** in **all living areas, including, but not limited to,** rooms, hallways, or stairwells where ~~one (1) or more children,~~ **any child** six (6) years of age or younger ~~are most~~ **is** likely to come in contact with dust.
(5) In multi-family dwellings and child-occupied facilities, ~~in addition to~~ the ~~floor and window~~ samples required in subdivision ~~(4),~~ **(3) shall be taken in:**
(A) each room, hallway, or stairwell utilized by any child six (6) years of age and under; and
(B) other common areas in the child-occupied facility where any children six (6) years of age and under are likely to come into contact with dust.

In addition, the risk assessor shall also collect **and analyze** at least two (2) composite **or single-surface** dust samples from ~~common areas~~ **interior window sill and floor** where ~~one (1) or more children,~~ **any child,** six (6) years of age or younger, ~~are most~~ **is** likely to come into contact with dust.

(6) Dust samples shall be collected and analyzed in the following manner:

(A) All dust samples shall be taken using documented methodologies that incorporate adequate quality control procedures.

(B) All collected dust samples shall be analyzed to determine if they contain detectable levels of lead that can be quantified numerically.

(7) Paint shall be sampled in either, or both, of the following manners:

(A) The analysis of paint to determine the presence of lead shall be conducted using documented methodologies that incorporate adequate quality control procedures.

(B) All collected paint chip samples shall be analyzed to determine if they contain detectable levels of lead that can be quantified numerically.

(8) The risk assessor shall prepare a lead hazard screen report, which shall include the following information:

(A) Date of assessment.

(B) Address of building.

(C) Date of construction.

(D) Apartment number, if applicable.

(E) Name, address, and telephone number of each owner or owners of each residential dwelling or child-occupied facility.

(F) Name, signature, and license number of each licensed risk assessor conducting the assessment.

(G) Name, address, and telephone number of the firm employing each licensed risk assessor.

(H) Name, address, and telephone number of each recognized laboratory conducting the analysis of the collected samples.

(I) Each testing method and device or sampling procedure employed for paint analysis, including quality control data and, if used, the serial number of any x-ray fluorescence device.

(J) Specific locations of each painted component tested for the presence of lead-based paint.

(K) The results of the assessment including but not limited to visual inspections in terms appropriate to the sampling method used.

(L) All results of laboratory analysis on collected paint, soil, and dust samples.

(M) Any background information collected.

(N) To the extent that they are used as part of the lead-based paint hazard determination, the results of any previous inspections or analyses for the presence of lead-based paint, or other assessments of lead-based paint-related hazards.

(O) A description of the location, type, and severity of lead-based paint hazards and other potential lead hazards.

(P) A description of interim controls and abatement options for each identified lead-based paint hazard and a suggested prioritization for addressing each hazard. If the use of an encapsulant or enclosure is recommended, the report shall recommend a maintenance and monitoring schedule for the encapsulant or enclosure.

(Air Pollution Control Board; 326 IAC 23-4-3; filed Jan 6, 1999, 4:28 p.m.: 22 IR 1456; readopted filed Jan 10, 2001, 3:20 p.m.: 24 IR 1477)

SECTION 51. 326 IAC 23-4-4 IS AMENDED TO READ AS FOLLOWS:

326 IAC 23-4-4 Risk assessment

Authority: IC 13-17-14-5
Affected: IC 13-11; IC 13-17-14

Sec. 4. A risk assessment shall be conducted only by a person licensed by the department as a risk assessor. A risk assessment shall be conducted as follows:

(1) Background information regarding the physical characteristics of the residential dwelling or child-occupied facility and occupant use patterns that may cause lead-based paint exposure to one (1) or more children six (6) years of age or younger shall be collected.

(2) A visual inspection for risk assessment of the residential dwelling or child-occupied facility shall be undertaken to locate the existence of deteriorated paint, assess the extent and causes of the deterioration, and other potential lead-based paint hazards.

(3) Each of the following surfaces determined using documented methodologies to have a distinct painting history shall be tested for the presence of lead:

(A) Deteriorated paint in poor condition.

(B) Paint with a potential health hazard.

(4) In residential dwellings, dust samples (either composite or single-surface samples) from ~~the~~ **a** window and floor shall be collected in all living areas where one (1) or more children, six (6) years of age or younger are most likely to come into contact with dust.

(5) For multi-family dwellings and child-occupied facilities, additional window and floor dust samples (either composite or single-surface samples) shall be collected in the following locations:

(A) Common areas adjacent to the sampled residential dwelling or child-occupied facility.

(B) Other common areas in the building where the risk assessor determines that one (1) or more children, six (6) years of age or younger, are likely to come into contact with dust.

(6) For child-occupied facilities, **interior** window **sill** and floor dust samples (either composite or single-surface samples) shall be collected **and analyzed for lead concentration** in:

(A) each room, hallway, or stairwell used by one (1) or more children, six (6) years of age or younger; and

(B) in other common areas in the child-occupied facility where the risk assessor determines one (1) or more children, six (6) years of age and younger, are likely to come into contact with dust.

(7) Soil samples shall be collected and analyzed for lead concentrations in the following locations:

(A) Exterior play areas where bare soil is present.

(B) Dripline or foundation areas where bare soil is present.

(C) The rest of the yard where bare soil is present, including the nonplay areas.

(8) Any paint, dust, or soil sampling or testing shall be conducted using documented methodologies that incorporate adequate quality control procedures.

(9) Any collected paint chip, dust, or soil samples shall be analyzed to determine if they contain detectable levels of lead that can be quantified numerically.

(10) The licensed risk assessor shall prepare a risk assessment report that shall include the following information:

(A) Date of assessment including visual inspections.

(B) Address of each building.

(C) Date of construction.

(D) Apartment number, if applicable.

(E) Name, address, and telephone number of each owner or owners of each residential dwelling or child-occupied facility.

(F) Name, signature, and license number of the licensed risk assessor conducting the assessment.

(G) Name, address, and telephone number of the firm employing each licensed risk assessor.

(H) Name, address, and telephone number of each recognized laboratory conducting analysis of the collected samples.

(I) Each testing method, device, or sampling procedure employed for paint analysis, including quality control data and, if used, the serial number of any x-ray fluorescence device.

(J) Specific locations of each painted component tested for the presence of lead-based paint.

(K) All results of laboratory analysis on collected paint, soil, and dust samples.

(L) Any background information collected.

(M) To the extent that they are used as part of the lead-based paint hazard determination, the results of any previous inspections or analyses for the presence of lead-based paint, or other assessments of lead-based paint-related hazards.

(N) A description of the location, type, and severity of lead-based paint hazards and other potential lead hazards.

(O) A description of interim controls and abatement options for each identified lead-based paint hazard and a suggested prioritization for addressing each hazard. If the use of an encapsulant or enclosure is recommended, the report shall recommend a maintenance and monitoring schedule for the encapsulant or enclosure.

(P) Results of visual inspections.

(Air Pollution Control Board; 326 IAC 23-4-4; filed Jan 6, 1999, 4:28 p.m.: 22 IR 1456; readopted filed Jan 10, 2001, 3:20 p.m.: 24 IR 1477)

SECTION 52. 326 IAC 23-4-5 IS AMENDED TO READ AS FOLLOWS:

326 IAC 23-4-5 Abatement procedures for all projects

Authority: IC 13-17-14-5
Affected: IC 13-11; IC 13-17-14

Sec. 5. An abatement shall be conducted only by a person licensed by the department to remove lead-based paint. An abatement shall be conducted as follows:

(1) A licensed supervisor is required for each abatement project and shall be on site and responsible for direct supervision of workers during all:

(A) work site preparation;

(B) abatement activities; and

(C) post-abatement cleanup of work areas.

Lead-based paint workers shall have access to the supervisor throughout the duration of the project.

(2) The licensed supervisor and the licensed contractor employing that supervisor shall ensure that all abatement activities are conducted according to the requirements of this section and all other federal, state, and local requirements.

(3) Notification of the commencement of lead-based paint abatement activities in target housing or child-occupied facility or as a result of a federal, state, or local order shall be given to the department prior to the commencement of abatement activities as provided in section 6 of this rule.

(4) A written occupant protection plan shall be developed for all abatement projects and shall be prepared according to the following procedures:

(A) The occupant protection plan shall be unique to each residential dwelling or child-occupied facility and be developed prior to the abatement. The occupant protection plan shall describe the measures and management procedures that will be taken during the abatement to protect the building occupants from exposure to any lead-based paint hazards.

(B) A licensed supervisor or project designer shall prepare the occupant protection plan.

(5) The work practices shall be restricted during an abatement as follows:

(A) Open-flame burning or torching of lead-based paint is prohibited.

(B) Machine sanding or grinding or abrasive blasting or sandblasting of lead-based paint is prohibited unless used with HEPA exhaust control that removes particles of three-tenths (0.3) micron or larger from the air at ninety-nine and ninety-seven hundredths percent (99.97%) or greater efficiency.

(C) Dry scraping of lead-based paint is permitted only in conjunction with heat guns or around electrical outlets or when treating defective paint spots totaling no more than two (2) square feet in any one (1) room, hallway, or stairwell or totaling no more than twenty (20) square feet on exterior surfaces.

(D) Operating a heat gun on lead-based paint is permitted only at temperatures below one thousand one hundred (1,100) degrees Fahrenheit.

(6) If conducted, soil abatement shall be conducted in one (1) of the following ways:

(A) If soil is removed, the lead-contaminated soil shall be replaced with soil ~~that is not lead-contaminated.~~ **with a lead concentration as close to local background as practicable, but not greater than four hundred (400) parts per million.**

(B) The soil that is removed shall not be used as top soil at another residential property or child-occupied facility.

~~(B)~~ **(C)** If soil is not removed, the lead-contaminated soil shall be permanently covered.

(7) When sealing the work area off from the nonwork area, six (6) mil sheeting shall be used and all tears, breaks, cracks, and openings in the containment system shall be repaired as they occur.

(8) All persons entering a work area during a lead-abatement project that involves breaking or disturbing lead-painted surfaces shall wear disposable shoe covers that shall be removed upon leaving the work area and placed with abatement waste. Any persons entering a work area during lead paint removal activity ~~such as~~ using a heat gun, scraping, HEPA sanding, or chemical stripping, or during replacement and during the cleanup process shall also wear appropriate respirator protection in accordance with all OSHA requirements found at 29 CFR 1926.62*. In every abatement activity that results in the disturbance of lead-based paint, polyethylene plastic sheeting shall always be placed directly below the work area.

(9) A supervisor shall post warning signs at all entrances and exits to work area. The warning signs posted shall read ~~"Caution Lead Hazard–Do Not Enter Work Area Unless Authorized".~~ **"Warning Lead Work Area Poison No Smoking or Eating".**

(10) Access of nonworkers to abatement work areas shall be limited. The abatement work crew supervisor is responsible for enforcing this limited access. Only the persons informed by the supervisor of potential lead hazards and who have a direct relationship to the project may enter the work area.

~~(11) Heat guns shall not be operated in excess of one thousand one hundred (1,100) degrees Fahrenheit.~~

~~(12)~~ **(11)** Any surfaces that have been stripped with caustic chemicals or that have come into contact with caustic or solvent-based liquid waste shall be cleaned by wet washing until there is no visible residue.

~~(13)~~ **(12)** Work areas shall be restricted by barrier tape.

~~(14)~~ **(13)** A thorough cleanup of the entire area under active abatement shall occur daily during the entire interior and exterior abatement process. This daily cleanup shall consist of the following:

~~(A) HEPA vacuum all surfaces and place debris into labeled six (6) mil polyethylene sheets.~~

~~(B)~~ **(A)** Lead-contaminated waste shall be stored in an area inside the property line designated and posted as a lead waste storage area, and covered with six (6) mil polyethylene sheeting. Lead-contaminated waste shall be stored ~~outside.~~ **in locked containers, rooms, trucks, or trailers.**

~~(C)~~ **(B)** Small debris shall be swept up using a HEPA vacuum and bagged in a six (6) mil polyethylene or double four (4) mil bags and stored in a designated secure area.

~~(D)~~ **(C)** Consumable and disposable supplies, ~~such as~~ **including** mop heads, plastic sheeting, sponges, and rags shall be treated as **lead** contaminated ~~debris.~~ **waste.**

***This document is incorporated by reference. Copies may be obtained from the Government Printing Office, 732 Capitol Street NW, Washington, D.C. 20401 or are available for review and copying from Indiana Department of Environmental Management, Office of Air Quality, 100 North Senate Avenue, Indianapolis, Indiana 46204.** *(Air Pollution Control Board; 326 IAC 23-4-5; filed Jan 6, 1999, 4:28 p.m.: 22 IR 1457; readopted filed Jan 10, 2001, 3:20 p.m.: 24 IR 1477)*

SECTION 53. 326 IAC 23-4-6 IS AMENDED TO READ AS FOLLOWS:

326 IAC 23-4-6 Lead abatement notification procedures

Authority: IC 13-17-14-5
Affected: IC 13-11; IC 13-17-14

Sec. 6. (a) Each owner or operator of a lead abatement activity site to whom this rule applies shall do the following:

(1) Provide the department with written notice of intention to conduct an activity on a form to be provided by the department and update such notice as necessary, including, but not limited to, the following:

(A) The project start date.

(B) The activity contractor.

(C) An indication of whether the notice is the original, a revised copy, or a canceled copy.

(D) Name, address, and telephone number of both the facility owner and operator and the lead abatement contractor owner or operator.

(2) Postmark or hand deliver the notice as follows:

(A) At least two (2) working days before ~~an~~ **lead-based paint** activity, including:

(i) abatement;

(ii) repair;

(iii) removal; **or**

(iv) **soil removal or** encapsulation;

~~(v) storage;~~

~~(vi) stripping;~~

~~(vii) dislodging;~~

~~(viii) cutting; or~~

~~(ix) drilling;~~

that results in the disturbance of lead-based paint.

(B) If the activity is an emergency abatement operation, notice shall be given as early as possible but not later than the following working day after the activity is started.

(C) Delivery of the notice by the United States postal service, facsimile, commercial delivery service, or hand delivery is acceptable. If the notice is being updated, a copy of the previous notification being updated shall be attached to the new, revised notification.

(D) Include any of the following types of operations in the notification:

(i) Wet or dry stripping.

(ii) Encapsulation.

(iii) Enclosure.

(iv) Emergency abatement.

(v) Soil removal.

(vi) Interior abatement.

(vii) Exterior abatement.

(E) Description of the facility or affected part of the facility, including the following:

(i) Size in square feet.

(ii) Number of floors.

(iii) Age.

(iv) Present and prior use of the facility.

(F) Procedure, including analytical methods, employed to detect the presence and amount of lead-based paint.

(G) An estimate the approximate amount of lead-based paint to be removed in the facility in terms of linear feet or square feet on facility components.

(H) Location and street address, including:

(i) building number, building name, and floor or room number location, if available;

(ii) city;

(iii) county; and

(iv) state;

where the activity is to take place.

(I) Scheduled starting abatement removal date and completion dates as indicated by the posting and removal of lead-based paint hazard demarcations in the work area.

(J) Description of planned activity work to be performed and methods to be employed, including techniques to be used and a description of the affected facility components.

(K) Description of work practices and engineering controls to be used to comply with this rule, including lead removal. ~~and waste handling emission control procedures.~~

(L) Description of procedures to be followed in the event that unexpected lead-based paint becomes a lead-based paint hazard and warrants immediate action.

~~(M) Name and location of the waste disposal site where lead containing waste material will be deposited.~~

~~(N)~~ **(M)** A signed certification from the owner or operator **of the facility** that the information provided in this notification is correct and that only Indiana licensed workers and project supervisors will be used to implement lead abatement activity.

~~(O)~~ **(N)** For lead-based paint activities, the name, address, telephone number, and license number issued to the following, **if applicable:**

(i) The person who inspected the facility for lead-based paint.

(ii) The person who will conduct risk assessment lead abatement activities.

(iii) The contractor who will conduct lead abatement activities.

~~(P)~~ **(O)** For emergency lead abatement activities, the date and hour that the emergency occurred, including a description and an explanation of how the event causes a lead-based paint hazard and warrants immediate action.

~~(Q)~~ **(P)** Name, address, and telephone number of the waste transporter.

(3) When the lead abatement activity will begin:

(A) on a date after the date specified in the original or the most recent revised notification, provide written notice of the new

stripping or removal start date to the department postmarked at least two (2) working days or delivered at least one (1) working day before the start date of the lead abatement activity specified in the notification that is being updated; or

(B) on a date earlier than the date specified in the original or the most recent revised notification, provide written notice of the new activity start date to the department postmarked or delivered at least two (2) working days before the start date of the lead abatement activity begins.

(b) In no event shall lead abatement activities begin on a date other than the date contained in the most recent written notification. *(Air Pollution Control Board; 326 IAC 23-4-6; filed Jan 6, 1999, 4:28 p.m.: 22 IR 1458; readopted filed Jan 10, 2001, 3:20 p.m.: 24 IR 1477)*

SECTION 54. 326 IAC 23-4-7 IS AMENDED TO READ AS FOLLOWS:

326 IAC 23-4-7 Lead abatement procedures; interior

Authority: IC 13-17-14-5
Affected: IC 13-11; IC 13-17-14

Sec. 7. Interior abatement shall include the following procedures:

(1) Post warning signs at entrances and exits to work area and the sign shall read ~~"Caution Lead Hazard–Do Not Enter Work Area Unless Authorized."~~. **"Warning Lead Work Area Poison No Smoking or Eating".**

(2) The department strongly recommends that wall-to-wall carpeting be removed. However, if left in place, it shall be covered with at least two (2) sheets of six (6) mil polyethylene sheeting, secured to the wall or baseboard with masking tape to ensure no contamination by lead dust or other lead-contaminated materials.

(3) ~~Nonmovable~~ Objects remaining in the work area shall be wrapped **or covered** with six (6) mil polyethylene sheeting and sealed with tape.

(4) After all moveable objects have been removed from the work area, the area shall be sealed from nonwork areas.

(5) After sealing off the work area, floors shall be covered with at least two (2) layers of six (6) mil polyethylene sheeting.

(6) Forced-air heating and air conditioning systems shall be shut down, and all air intake and exhaust points of these systems shall be sealed.

(7) If a common area is an abatement work area, and there are no alternative entrances and egresses that are located outside of the work area, a protected passage through the common area shall be erected.

(8) If a safe passage cannot be created and alternative entrances and exits do not exist, then abatement in common areas shall be conducted between established and posted hours and the work area shall be cleaned with a HEPA vacuum at the end of each working day until all surfaces are free of all visible dust and debris.

(Air Pollution Control Board; 326 IAC 23-4-7; filed Jan 6, 1999, 4:28 p.m.: 22 IR 1460; readopted filed Jan 10, 2001, 3:20 p.m.: 24 IR 1477)

SECTION 55. 326 IAC 23-4-9 IS AMENDED TO READ AS FOLLOWS:

326 IAC 23-4-9 Post-abatement clearance procedures

Authority: IC 13-17-14-5
Affected: IC 13-11; IC 13-17-14

Sec. 9. The following post-abatement final visual clearance procedures shall be performed only by a licensed inspector or risk assessor:

(1) Following an abatement and prior to removal of warning signs or other demarcation, a visual inspection shall be completed by an Indiana licensed inspector or risk assessor to determine if deteriorated, painted surfaces or visible amounts of dust, debris, or residue are still present.

(2) If deteriorated painted surfaces or visible amounts of dust debris or residue are present, they must be wet wiped or HEPA vacuumed until such conditions are eliminated prior to the continuation of the clearance procedures.

(3) Following the visual inspection and any post-abatement cleanup required in this rule, clearance sampling for lead-contaminated dust shall be conducted by employing single-surface sampling or composite sampling techniques.

(4) Dust samples on surfaces for clearance purposes shall be taken using documented methodologies that incorporate adequate quality control procedures.

(5) Dust samples for clearance purposes shall be taken within a minimum of one (1) hour after completion of final post-abatement clean-up activities.

(6) The following post-abatement clearance activities shall be conducted as appropriate based upon the extent or manner of abatement activities conducted in or to the target housing or child-occupied facility:

(A) After conducting an abatement with containment between abated and unabated areas:

(i) one (1) dust sample shall be taken from one (1) **interior** window **sill and from one (1) window trough**, if ~~available;~~ **present;**

(ii) one (1) dust sample shall be taken from the ~~floor~~ **floors of each** of no less than four (4) rooms, hallways, or stairwells within the containment area; and

(iii) one (1) dust sample shall be taken from the floor outside the containment area.

If there are fewer than four (4) rooms, hallways, or stairwells within the containment area, then all rooms, hallways, or stairwells shall be sampled.

(B) After conducting an abatement with no containment:

(i) two (2) dust samples shall be taken from **each of** no fewer than four (4) rooms, hallways, or stairwells in the target housing or child-occupied facility;

(ii) one (1) dust sample shall be taken from one (1) **interior** window **sill and window trough**, if ~~available;~~ **present;** and

(iii) one (1) dust sample shall be taken from the floor of each room, hallway or stairwell selected.

If there are fewer than four (4) rooms, hallways, or stairwells within the residential dwelling or child-occupied facility, then all rooms, hallways, or stairwells shall be sampled.

(C) Following an exterior paint abatement, a visible inspection shall be conducted as follows:

(i) All horizontal surfaces in the outdoor living area closest to the abated surface shall be found to be clean of visible dust and debris.

(ii) A visual inspection shall be conducted to determine the presence of paint chips on the dripline or next to the foundation below any exterior surface abated.

(iii) If paint chips are present,

~~(AA)~~ the chips shall be removed from the site and properly disposed of, according to all applicable federal, state, and local requirements. ~~and~~

~~(BB) soil sampling shall be performed by documented methodologies to determine if the lead hazard has been removed.~~

(D) The rooms, hallways, or stairwells selected for sampling shall be selected according to documented methodologies.

(E) The certified inspector or risk assessor shall compare the residual lead level, as determined by the laboratory analysis, from each **single surface** dust sample with applicable clearance levels for lead in dust on floors, **interior window sills,** and ~~windows.~~ **window troughs divided by half the number of subsamples in the composite sample.** If the residual lead ~~levels.~~ **level:**

(i) in a **single surface** dust sample ~~exceed~~ **equals or exceeds** the **applicable** clearance levels; **or**

(ii) in a composite dust sample equals or exceeds the applicable clearance level divided by half the number of subsamples in the composite sample;

all the components represented by the failed sample shall be recleaned and retested until clearance levels are met.

(F) The clearance levels for lead in dust are forty (40) milligrams per square foot for floors, two hundred fifty (250) milligrams per square foot for interior window sills, and forty (40) milligrams per square foot for window troughs.

(Air Pollution Control Board; 326 IAC 23-4-9; filed Jan 6, 1999, 4:28 p.m.: 22 IR 1460; readopted filed Jan 10, 2001, 3:20 p.m.: 24 IR 1477)

SECTION 56. 326 IAC 23-4-13 IS AMENDED TO READ AS FOLLOWS:

326 IAC 23-4-13 Record keeping
Authority: IC 13-17-14-5
Affected: IC 13-11; IC 13-17-14

Sec. 13. (a) All reports or plans required in this rule shall be completed no later than sixty (60) days from the completion of the abatement project.

(b) All reports and plans shall be maintained for no fewer than three (3) years by the licensed person or contractor who prepared the report.

(c) The licensed person or contractor shall provide copies of these reports to the building owner who contracted for services no later than sixty (60) days from the completion of the abatement project.

(d) The licensed person or contractor shall make reports available to the department upon request.

(e) A lead-based paint activities contractor licensed under this rule shall compile records concerning each lead-based paint activities project performed by the lead-based paint activities contractor. The records shall include the following information on each lead-based paint activities project:

(1) The name, address, and proof of license of:

(A) the person who supervised the lead-based paint activities project for the lead-based paint activities contractor; and

(B) each employee or agent of the lead-based paint activities contractor that worked on the project.

(2) The name, address, and signature of each certified risk assessor or inspector conducting clearance sampling and the date of clearance testing.

(3) The site of the lead-based paint activities project.

(4) A description of the lead-based paint activities project.

(5) The date on which the lead-based paint activities project was started and the date on which the lead-based paint activities project was completed.

(6) A summary of procedures that were used in the project to comply with applicable federal, state, and local standards for lead-based paint activities projects.

(7) A detailed written description of the lead-based paint activities, including methods used, locations of rooms or components where lead-based paint activities occurred, reasons for selecting particular lead-based paint activities methods for each component, and any suggested monitoring of encapsulants or enclosures.

(8) The occupant protection plan.

(9) The results of clearance testing and all soil analysis and the name of each federally-approved laboratory that conducted the analysis.

~~(10) The amount of material containing lead-based paint that was removed from the site of the project.~~

~~(11) The name and address of each disposal site used for the disposal of lead-based paint containing material that was disposed of as a result of the lead-based paint activities project.~~

(f) A copy of each receipt issued by a disposal site must be included in the records. *(Air Pollution Control Board; 326 IAC 23-4-13; filed Jan 6, 1999, 4:28 p.m.: 22 IR 1462; readopted filed Jan 10, 2001, 3:20 p.m.: 24 IR 1477)*

SECTION 57. 326 IAC 23-5 IS ADDED TO READ AS FOLLOWS:

Rule 5. Work Practice Standards for Nonabatement Activities

326 IAC 23-5-1 Applicability
Authority: IC 13-17-14-5
Affected: IC 13-11; IC 13-17-14

Sec. 1. (a) This rule applies to:

(1) remodeling, renovation, and maintenance activities at target housing and child occupied facilities built before 1960; and

(2) lead-based paint activities.

(b) This rule does not apply to an individual who performs remodeling, renovation, or maintenance activities within a residential dwelling that the individual owns, unless the residential dwelling is occupied:

(1) while the activities are being performed, by an individual other than the owner or a member of the owner's immediate family; or

(2) by a child who:

(A) is six (6) years of age or younger;

(B) resides in the building; and

(C) has been identified as having an elevated blood lead level.

(Air Pollution Control Board; 326 IAC 23-5-1)

326 IAC 23-5-2 Remodeling, renovation, and maintenance activities
Authority: IC 13-17-5
Affected: IC 13-11; IC 13-17-14

Sec. 2. (a) A person who performs an activity under section 1 of this rule that disturbs:

(1) exterior painted surfaces of more than twenty (20) square feet;

(2) interior painted surfaces of more than two (2) square feet in any one (1) room or space; or

(3) more than ten percent (10%) of the combined interior and exterior painted surface area of components of the building;

shall meet the requirements of subsections (c) through (e).

(b) For purposes of this rule, paint is considered to be lead-based paint unless the absence of lead in the paint has been determined by a lead-based paint inspection conducted under this article.

(c) A person may not use any of the following methods to remove lead-based paint:

(1) Open flame burning or torching.

(2) Machine sanding or grinding without high efficiency particulate air local exhaust control.

(3) Abrasive blasting or sandblasting without high efficiency particulate air local exhaust control.

(4) A heat gun that:

(A) operates above one thousand one hundred (1,100) degrees Fahrenheit; or

(B) chars the paint.

(5) Dry scraping, except:

(A) in conjunction with a heat gun; or

(B) within one (1) foot of an electrical outlet.

(6) Dry sanding, except within one (1) foot of an electrical outlet.

(d) In a space that is not ventilated by the circulation of outside air, a person may not strip lead-based paint using a volatile stripper that is a hazardous chemical under 29 CFR 1910.1200*, as in effect July 1, 2002.

(e) A person conducting activities under this rule on painted exterior surfaces may not allow visible paint chips or painted debris that contains lead-based paint to remain on the soil, pavement, or other exterior horizontal surface for more than forty-eight (48) hours after the surface activities are complete.

***These documents are incorporated by reference. Copies may be obtained from the Government Printing Office, 732 North Capitol Street NW, Washington D.C. 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 23-5-2)*

SECTION 58. THE FOLLOWING ARE REPEALED: 326 IAC 23-1-23; 326 IAC 23-1-42; 326 IAC 23-1-43; 326 IAC 23-1-44; 326 IAC 23-1-45; 326 IAC 23-1-46; 326 IAC 23-1-47.

Notice of First Meeting/Hearing

Under IC 4-22-2-24, IC 13-14-8-6, and IC 13-14-9, notice is hereby given that on February 5, 2003 at 1:00 p.m. at the Indiana Government Center-South, 402 West Washington Street, Conference Center Room A, Indianapolis, Indiana the Air Pollution Control Board will hold a public hearing on amendments to 326 IAC 23.

The purpose of this hearing is to receive comments from the public prior to preliminary 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 Suzanne Whitmer, Rules Section, Office of Air Quality, (317) 232-8229 or (800) 451-6027 (in Indiana). Technical information regarding this action may be obtained from David White, Asbestos Section, Office of Air Quality, (317) 232-8219 or the toll-free number.

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 Office of Air Quality, Indiana Department of Environmental Management, Indiana Government Center-North, 100 North Senate Avenue, 10th Floor, Indianapolis, Indiana and are open for public inspection.

STATE OF INDIANA
EXECUTIVE DEPARTMENT
INDIANAPOLIS

EXECUTIVE ORDER: 02-17

FOR: THE CREATION OF INDIANA HOMELAND DEFENSE SERVICE RIBBON

TO ALL WHOM THESE PRESENTS MAY COME, GREETINGS:

WHEREAS, Members of the Indiana Army and Air National Guard have performed homeland defense services since the tragic events of September 11, 2001; and

WHEREAS, Performance of this duty is worthy of recognition; and

WHEREAS, The Governor of the State of Indiana has authority under Indiana Code sec. 10-2-9-1(f) to establish medals for any campaign or mobilization for which a medal has not been awarded by the federal government;

NOW, **THEREFORE**, I, FRANK O'BANNON, Governor of the State of Indiana, do hereby authorize an Indiana Homeland Defense Service Ribbon, which shall be awarded to members of the Indiana Army and Air National Guard in recognition of homeland defense services performed within the 54 states and territories of the United States for 30 or more duty days on or after September 11, 2001. The duty necessary to qualify for this ribbon shall be military operational duty expressly performed in defense of the state or nation from international or domestic threats, but shall not include service performed during annual training, inactive duty training, or at schools or other training exercises. Service qualifying for this award may include service performed in state active duty, state duty under Title 32 of the United States Code, or federal duty under Title 10 of the United States Code. The Adjutant General shall determine eligibility and shall publish a regulation or directive prescribing details of eligibility. Responsibility for processing the award shall be with the Records and Services Branch of the Army Personnel Directorate.

IN TESTIMONY WHEREOF, I have hereunto set my hand and caused to be affixed, the Great Seal of Indiana on this 28th day of August 2002.

BY THE GOVERNOR: Frank O'Bannon
Governor of Indiana

SEAL
ATTEST: Sue Anne Gilroy
Secretary of State

STATE OF INDIANA
EXECUTIVE DEPARTMENT
INDIANAPOLIS

EXECUTIVE ORDER: 02-18

FOR: THE CREATION OF INDIANA OVERSEAS SERVICE RIBBON

TO ALL TO WHOM THESE PRESENTS MAY COME, GREETINGS:

WHEREAS, Members of the Indiana Army and Air National Guard have performed military service in operational missions overseas since the tragic events of September 11, 2001; and

WHEREAS, Performance of this duty is worthy of recognition; and

WHEREAS, The Governor of the State of Indiana has authority under Indiana Code sec. 10-2-9-1(f) to establish medals for any campaign or mobilization for which a medal has not been awarded by the federal government;

NOW, **THEREFORE**, I, FRANK O'BANNON, Governor of the State of Indiana, do hereby authorize:

an Indiana Overseas Service Ribbon, which shall be awarded to members of the Indiana Army and Air National Guard in recognition of military service in operational missions overseas for 30 or more duty days on or after September 11, 2001. The duty necessary to qualify for this ribbon shall be military operational duty expressly performed in support of United States' efforts to preserve and protect international order, peace, and stability, but shall not include service performed during annual training, inactive duty training, or at schools or other training exercises. Service qualifying for this award may include only federal duty under Title 10 of the United States Code. The Adjutant General shall determine eligibility and shall publish a regulation or directive prescribing details of eligibility. Responsibility for processing the award shall be with the Records and Services Branch of the Army Personnel Directorate.

IN TESTIMONY WHEREOF, I have hereunto set my hand and caused to be affixed, the Great Seal of Indiana on this 28th day of August 2002.

BY THE GOVERNOR: Frank O'Bannon
Governor of Indiana

SEAL
ATTEST: Sue Anne Gilroy
Secretary of State

STATE OF INDIANA
EXECUTIVE DEPARTMENT
INDIANAPOLIS

EXECUTIVE ORDER: 02-19

FOR: DECLARING A DISASTER EMERGENCY IN THE STATE OF INDIANA DUE TO SEVERE STORMS AND TORNADIC ACTIVITY.

TO ALL TO WHOM THESE PRESENTS MAY COME, GREETINGS:

WHEREAS, a series of severe storms swept through Southern and Central Indiana on September 20, 2002; and

WHEREAS, tornadoes and strong wind caused extensive damage to homes, businesses and public facilities throughout a significant portion of the State of Indiana; and

WHEREAS, this event represents the most concentrated outbreak of such violent weather in Indiana in the last 12 years; and

WHEREAS, all state resources available will be directed to assist the victims of the storms; and

NOW, THEREFORE, I Frank O'Bannon, by virtue of the authority vested in me as Governor of the State of Indiana, do hereby

DECLARE a state of disaster emergency exists in Central and Southern Indiana; and

ORDER the State Emergency Management Agency, having already implemented the State Emergency Plan, to provide needed emergency services to the damaged areas of Indiana as a result of the storms on September 20, 2002, and to coordinate assistance with appropriate federal and state agencies.

This declaration of disaster emergency was in effect beginning September 20, 2002, and continues.

IN TESTIMONY WHEREOF, I, Frank O'Bannon, have hereunto set my hand and caused to be affixed the Great Seal of the State of Indiana on this 21st day of September 2002.

BY THE GOVERNOR: Frank O'Bannon
Governor of Indiana

SEAL
ATTEST: Sue Anne Gilroy
Secretary of State

STATE OF INDIANA
EXECUTIVE DEPARTMENT
INDIANAPOLIS

EXECUTIVE ORDER: PROCLAMATION

FOR: PROMULGATION OF THE ACTS OF THE FIRST SPECIAL SESSION OF THE ONE HUNDRED-TWELFTH GENERAL ASSEMBLY OF THE STATE OF INDIANA

TO ALL TO WHOM THESE PRESENTS MAY COME, GREETING:

WHEREAS, It has been made to appear that the Acts of the First Special Session of the One Hundred-Twelfth General Assembly (2002) of the State of Indiana have been transmitted to, received by and filed with the several Clerks of the Circuit Courts of the State of Indiana in fulfillment of the requirements of Article 4, Section 28 of the Constitution of the State of Indiana and in accordance with IC 2-6-1.5-5; and

WHEREAS, It has also been made to appear that the transmittal took place by United States Mail on June 27, 2002, and by private courier on July 17, 2002, with deliveries to the several Clerks of the Circuit Courts of the State of Indiana occurring on or before July 18, 2002; and

WHEREAS, It has also been made to appear that certification has been made, as provided by IC 1-1-3-1, of the receipt of said laws by each of the several Clerks of the Circuit Courts of the State of Indiana, with each certification listing by number all of said laws so received; and

WHEREAS, It has also been made to appear that the final certification of distribution and receipt of said laws was filed with the Governor on the 1st day of August, 2002, at the hour of 12:16 p.m., by the Clerk of the Circuit Court of LaGrange County, Indiana;

NOW, **THEREFORE**, I, Frank O'Bannon, Governor of the State of Indiana, by virtue of the power and authority vested in me by the Constitution and laws of this State, and pursuant to IC 1-1-3-2, do hereby make proclamation announcing the above date and time, to wit:

The 18th day of July, 2002, as the date at which the last distribution of said Acts took place, and the 1st day of August, 2002, at the hour of 12:16 p.m. as the date and hour at which the last certificate of receipt of said Acts was received; and declaring said distribution of said Acts to have been completed thereby, and proclaiming that all such Acts so published and circulated in the several counties of the State, by proper authority, may take effect as provided in IC 1-1-3-3, 1-1-3.1-3, 1-1-3.1-4, and 2-6-1.5-5; that such Acts of the First Special Session containing no effective date shall become effective on September 1, 2002; and that this proclamation supercedes the proclamation dated August 1, 2002.

IN TESTIMONY WHEREOF, I, Frank O'Bannon, have hereunto set my hand and caused to be affixed this great seal of the State of Indiana on this 29th day of August, 2002.

Frank O'Bannon
Governor of the State of Indiana

SEAL
ATTEST: Sue Anne Gilroy
Secretary of State

INDIANA DEPARTMENT OF ENVIRONMENTAL MANAGEMENT

Title: Contained-in Policy Guidance for RCRA
Identification Number: WASTE-0052
Date Originally Effective: October 17, 2002
Dates Revised: None
Other Policies Repealed or Amended: None
Brief Description of Subject Matter: Use of RISC standards to remove contaminated environmental media from regulation as a RCRA hazardous waste or solid waste.
Citations Affected: 40 CFR 268, 329 IAC 10, 329 IAC 3.1

This nonrule policy document is intended solely as guidance and does not have the effect of law or represent formal Indiana Department of Environmental Management (IDEM) decisions or final actions. This nonrule policy document shall be used in conjunction with applicable laws. It does not replace applicable laws, and if it conflicts with these laws, the laws shall control. This nonrule policy document may be put into effect by IDEM thirty days after presentation to the appropriate board and after it is made available for public inspection and comment, pursuant to IC 13-14-1-11.5. If the nonrule policy is presented to more than one board, it will be effective thirty days after presentation to the last. IDEM will submit the policy to the Indiana Register for publication. Revisions to the policy will follow the same procedure of presentation to the board and publication.

SUMMARY

The U.S. EPA "contained-in policy" states that soil and groundwater which does not contain "listed" RCRA hazardous waste, and which is not otherwise hazardous, is not subject to RCRA regulation. A determination as to whether or not "listed" waste is "contained-in" soil or groundwater may be made by authorized states based on whether constituents from listed waste are below health-based levels. It is IDEM's position that contamination levels specified in the *RISC (Risk Integrated System of Closure)* system developed by IDEM represent appropriate health-based levels for determining if soil or groundwater contain "listed" hazardous waste. This NPD is applicable to soil and groundwater which is generated and subsequently managed, and does not replace or alter requirements for closure or clean-ups found in various regulatory authorities. Residential RISC default levels must be used for material that will be managed as non-contaminated (e.g. used as fill, disposed on-site). Industrial default levels may be used for soil which will be managed off-site in a permitted disposal facility (e.g. municipal solid waste) or any unit subject to Clean Water Act regulations. This NPD is not applicable to sediment. This NPD is not applicable to soil or groundwater that will be placed in an ecologically or geologically susceptible area or a wellhead protection area. Consistent with EPA policy, a written "contained-in" determination must be obtained from IDEM. Implementation issues and background are discussed below.

DISCUSSION

This guidance is intended to clarify the application of RCRA hazardous waste regulations to environmental media (i.e. soil and groundwater). Environmental media that has become contaminated with "listed" hazardous wastes must be managed as hazardous wastes when generated (e.g. exhumed for discard during remedial activities) because--and only as long as--they contain "listed" waste(s). EPA Regions and authorized states, including Indiana, may apply the contained-in policy to determine site-specific, media-specific and contaminant-specific health-based levels, such that if the concentration of the hazardous constituents in the environmental media fall below the specified health-based levels, the environmental media may be determined to no longer contain hazardous waste. Such "contained-in determinations" may be made by an authorized state before or after treatment of the contaminated environmental media and may include consideration of site-specific exposure pathways (e.g., potential for human exposure, soil permeability, leaching potential to groundwater). It should be noted that any treatment of hazardous waste might require a permit. For further information on this issue, see the IDEM guidance document *Treatment of Hazardous Waste On-site By Generators* at http://www.IN.gov/idem/land/pubsforms/guidance.html, or contact staff of the RCRA permit or compliance programs at IDEM.

It is IDEM's position that the contaminant levels used in Table A, Default Closure Levels, of the *RISC Technical Resource Guidance Document*, represent an appropriate basis for making risk-based "contained-in determinations for soil and groundwater that will be disposed. Contaminant levels used in Table A were generated using conservative models and default assumptions concerning exposure and site conditions. Because the RISC levels are based only on human health risk, it is not appropriate to use RISC default levels for media that will be placed in ecologically susceptible areas. Karst type geological areas also fall outside RISC default assumptions, as do wellhead protection areas. If applicable, the media must also meet all Land Disposal Restriction (LDR) treatment standards (including treatment of underlying hazardous constituents as defined at 40 CFR § 268.2(i) for material that exhibits a characteristic in addition to containing a listed waste). A discussion of management conditions follows.

CONDITIONS

Use of Residential Default Levels

For generated soil and groundwater which would be considered a "listed" waste and are going to be deposited on-site, used as fill, or managed in any way other than off-site disposal at a permitted facility, the Residential levels in Table A must be used. Contaminated soil and groundwater are not subject to RCRA regulatory management requirements if they have been generated with, or treated to, constituent levels:

(1) below chemical of concern (COC) concentration levels in Table A, Residential Levels;

(2) below characteristic levels;

(3) meeting all LDR requirements when applicable; and

(4) will not be managed in an ecologically or geologically susceptible (e.g. wetlands or karst) area or a wellhead protection area.

Under solid waste rules found at 329 IAC 10, contaminated soil is potentially regulated as a solid waste even if it exits the RCRA hazardous waste regulations. However, using the above criteria for an exit level from hazardous waste regulations, it is also IDEM's position that soil which meets Residential levels in Table A is considered "uncontaminated" for the purposes of 329 IAC 10-3-1 (1), which is an exclusion from regulation under the provisions of the solid waste rule.

Use of Commercial/Industrial Default Levels

Depending on how soil is managed, it is also possible to use the Commercial/Industrial default levels in RISC Table A as an "exit" level from RCRA regulation. If soil is disposed at a permitted facility (Subtitle C or D), it is appropriate to use the "Direct" Commercial/Industrial default levels in Table A as the basis for a contained-in determination. Soil no longer contains hazardous waste and is not subject to RCRA regulatory management requirements if it has been disposed of in a RCRA subtitle C or D landfill cell and has been generated with, or treated to, constituent levels:

(1) below chemical of concern (COC) concentration levels in Table A, Commercial/Industrial Levels;

(2) below Characteristic levels; and

(3) meeting LDR requirements if applicable, including alternative standards established for contaminated soils (40 CFR 268.49).

It is also appropriate to use the groundwater Commercial/Industrial default levels in RISC Table A as an "exit" level for groundwater that is managed in any unit subject to Federal Clean Water Act regulations.

Written Determination Approval Required

Due to the complexity of establishing the appropriate exit level from RCRA regulations, and the need to be consistent with EPA policy, any facility that intends to demonstrate that media no longer contains a listed hazardous waste must obtain a written contained-in determination approval from IDEM. Please contact the staff of the Hazardous and Industrial Waste Compliance Program, Office of Land Quality, at 317-308-3133.

Other Options

On a case-by-case basis, facilities may develop site specific risk analyses to establish non-default exit levels.

REFERENCES

If you need additional information, or have any questions or concerns, please contact the staff of the Hazardous and Industrial Waste Compliance program, Office of Land Quality, at 317-308-3133. The IDEM toll-free telephone number (when calling within Indiana) is 1-800-451-6027. Other references:

RISC (Risk Integrated System of Closure) Technical Resource Guidance Document available at http://www.IN.gov/idem/land/pubsforms/guidance.html

Management of Remediation Waste Under RCRA, EPA Publication Number 530-F-98-026, available at http://www.epa.gov/epaoswer/hazwaste/ca/resource/guidance/remwaste/pspd_mem.pdf

NATURAL RESOURCES COMMISSION
Information Bulletin #34
RESOLUTION OF THE INDIANA NATURAL RESOURCES COMMISSION ENDORSING THE BIODIVERSITY RECOVERY PLAN FOR NORTHWEST INDIANA

WHEREAS, the Biodiversity Recovery Plan is the result of five years of assessment and planning by the Chicago Region Biodiversity Council (Northeastern Illinois, Northwestern Indiana, and Southeastern Wisconsin), also known as Chicago Wilderness; and

WHEREAS, the plan identifies the ecological communities of the region, assesses their condition, identifies the major factors affecting them and provides recommendations for actions needed to restore and preserve them into the future in a sustainable condition; and

WHEREAS, the Biodiversity Recovery Plan is a tool that provides general direction and illustrates the types of actions that can be taken to conserve biodiversity; and

WHEREAS, the Biodiversity Recovery Plan is a blueprint for action and a reference source and not a set of mandates; and

WHEREAS, the Biodiversity Recovery Plan is a representation of a regional consensus on the most important ways to further biodiversity conservation; and

WHEREAS, the Indiana Department of Natural Resources is an essential partner in the effort to protect nature; and

WHEREAS, the Commission and the Department of Natural Resources support the goal of the Biodiversity Recovery Plan, which is, "to protect the natural communities of the Chicago Region and to restore them to long-term viability, in order to enrich the quality of life of its citizens and to contribute to the preservation of global biodiversity.

NOW, THEREFORE BE IT RESOLVED, by the Indiana Natural Resources Commission that the Department of Natural Resources accept the Biodiversity Recovery Plan as a policy tool for protection of biodiversity in the region; and

BE IT FURTHER RESOLVED that the Department of Natural Resources is encouraged to work with the Chicago Region Biodiversity Council and its partner organizations to:

- Develop strategies to help protect our remaining natural heritage
- Help coordinate efforts between government agencies, organizations, and other jurisdictions
- Participate in workshops and other activities to foster the Biodiversity Recovery Plan and to help educate the public on the value of the Biodiversity Recovery Plan as a tool for regional conservation of biodiversity

Duly adopted by the Indiana Natural Resources Commission at South Bend, Indiana on September 24, 2002.

DEPARTMENT OF STATE REVENUE

03980327.LOF

LETTER OF FINDINGS NUMBER: 98-0327
Withholding Tax
For Years 1995 and 1996

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. Adjusted Gross Income Tax – Adequate Documentation

Authority: 45 IAC 15-5-4; IC § 6-8.1-5-1; IC § 6-8.1-5-4

Taxpayer protests the proposed assessments of Indiana's adjusted gross income tax.

STATEMENT OF FACTS

In the course of taxpayer's auction business operations taxpayer retained the services of a bookkeeper. A departmental audit assessed the taxpayer on adjusted gross income tax withholding (hereinafter 'withholding') that should have been withheld from the bookkeeper's wages. The taxpayer protested the audit determination stating the bookkeeper was an independent contractor; however, the taxpayer was unable to produce any documents to support this position. Taxpayer and his representative then filed a protest, claiming the documents would be made available.

I. Adjusted Gross Income Tax – Adequate Documentation

DISCUSSION

Taxpayer protests the proposed assessments of Indiana withholding, arguing that he now has available for inspection documents supporting his contention that the bookkeeper was an independent contractor. Because of taxpayer's reluctance to timely provide the proper documents to the auditor a hearing was set before one of the Legal Division's Hearing Officers. At the hearing, taxpayer's representative stated that records would be made available within a specified time period. Said records were not provided within the time period, nor has taxpayer provided any indication that said records will be produced.

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.

Taxpayer does not cite any statute, regulation, or case law for the proposition that the auditor was required to accept taxpayer's assertions as to the nature of the transactions without any supporting documentation. Pursuant to the above statute and the requirements of IC § 6-8.1-5-1 and 45 IAC 15-5-4, taxpayer has failed to establish a basis for reversal of this assessment.

FINDING

Taxpayer's protest is denied.

DEPARTMENT OF STATE REVENUE

01980331.LOF

LETTER OF FINDINGS NUMBER: 98-0331
Adjusted Gross Income Tax
For Years 1995 and 1996

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. Adjusted Gross Income Tax – Adequate Documentation

Authority: 45 IAC 15-5-4; IC § 6-8.1-5-1; IC § 6-8.1-5-4

Taxpayer protests the proposed assessments of Indiana's adjusted gross income tax.

STATEMENT OF FACTS

In the course of taxpayer's business operations taxpayer received income for the tax years at issued but taxpayer did not file individual returns for these years. A departmental audit assessed the taxpayer on adjusted gross income tax that should have been individually reported by taxpayer. The taxpayer filed late returns for the years in question, which resulted in a reduction in the assessment; however, the taxpayer did not produce any documents or arguments as to the remainder of this assessment. Taxpayer and his representative then filed a protest, claiming the documents and/or taxpayer's position would be presented at the hearing.

I. Adjusted Gross Income Tax – Adequate Documentation

DISCUSSION

At the hearing, taxpayer's representative stated that records would be made available within a specified time period. Said records were not provided within the time period, nor has taxpayer provided any indication that said records will be produced.

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.

Taxpayer does not cite any statute, regulation, or case law for the proposition that the auditor was required to accept taxpayer's assertions as to the nature of the transactions without any supporting documentation. Nor has taxpayer asserted any argument as to why the Department's assessment should be reduced or abated. Pursuant to the above statute and the requirements of IC § 6-8.1-5-1 and 45 IAC 15-5-4, taxpayer has failed to establish a basis for reversal of this assessment.

FINDING

Taxpayer's protest is denied.

DEPARTMENT OF STATE REVENUE

04980387.LOF

LETTER OF FINDINGS NUMBER: 98-0387
For the Period: 1994 through 1996

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. Tax Administration – Payment Application

Authority: IC 6-8.1-8-1.5; 45 IAC 15-8-1

The taxpayer protests the Department's method of "allocating a taxpayer's payment to its tax liability, penalty and interest."

STATEMENT OF FACTS

Taxpayer is a general contractor that installs doors, windows, and gutters. After the taxpayer was audited, the taxpayer made a payment to the Department of Revenue. As will be elaborated below, the taxpayer's protest turns on whether the taxpayer's payment was a "full" payment or a "partial" payment.

I. Tax Administration – Payment Application

DISCUSSION

The taxpayer offers a timeline for the events and issues in the protest. In bullet point, here are the pertinent dates:

- May 1, 1998: The Department of Revenue issues the tax bill for the audit period (AR-80);
- June 25, 1998: Taxpayer files a protest with the Department of Revenue (received by the Department on June 29, 1998);
- July 13, 1998: Department sends out a letter acknowledging that it has received the taxpayer's protest. The letter from the Department contains the following paragraph: "Please be aware that interest will continue to accrue on the assessment until a final disposition of the case is made. In order to avoid the additional interest accrual, a payment in full may be made with the option of requesting a refund for any assessed items not found to be subject to the tax."
- February 4, 2000: Taxpayer sends the Department a letter dated 2/4/00 along with a check in the amount of $25,787.23. The taxpayer states in the letter accompanying the check: "Subtracting [the amount the taxpayer disputed/protested,

namely $1,260.22] from the $27,047.45 [the *principal* tax owed] results in an amount of $25,787.23. A check for that amount is enclosed for your processing which should conclude this matter."

In October of 2000, the Department did a "supplemental audit" which adjusted the taxpayer's principal amount owed from $27,047.45 to $26,169.39.

The Department contends that the payment was a partial payment since it did not cover the full amount owed (*viz.*, penalty, interest, and principal tax liability). Indiana Code 6-8.1-8-1.5 deals with partial payment of tax:

Whenever a taxpayer makes a partial payment on the taxpayer's tax liability, the department shall apply the partial payment in the following order:

(1) To any penalty owed by the taxpayer.

(2) To any interest owed by the taxpayer.

(3) To the tax liability of the taxpayer.

The taxpayer says of the above statute,

[A] **partial payment** on the taxpayer's tax liability will be applied by the department first to penalties, second to interest and third to the tax liability of the taxpayer. … When we made the $25,787.23 payment it was a FULL not a partial payment on the taxpayer's tax liability. The penalty and interest amounts were not paid at that time pending the outcome of the protest. The law itself distinguishes between the tax liability and the interest and penalties associated with a taxpayer's tax liability. (Emphasis in the original)

It is somewhat difficult to understand what the taxpayer could mean by stating "it was a full not a partial payment on the taxpayer's tax liability"—the taxpayer did not issue a check for over a 1½ years after the billing; the taxpayer on its own subtracted out what it did not think it owed from the principal liability, and the taxpayer did not pay the penalty and interest. Yet the taxpayer concludes it paid the "full" amount.

Part of the problem might be confusion over what the term "tax liability" means. The statute, uses the term twice—

Whenever a taxpayer makes a partial payment on the taxpayer's *tax liability*, the department shall apply the partial payment in the following order:

(3) To the *tax liability* of the taxpayer. (Emphasis added)

But the Indiana Administrative Code (45 IAC 15-8-1) clarifies and distinguishes the two meanings of tax liability:

(a) If a taxpayer makes a partial payment of the taxpayer's *tax liability*, the payment shall only be applied first against the penalty, second the interest and third the *principal liability* of the particular billing for a given year and tax. (Emphasis added)

Thus when IC 6-8.1-8-1.5 (3) refers to "tax liability" it means the *principal* tax liability. Taxpayer apparently realizes as much, stating in a letter that "Regulation 45 IAC 15-8-1 basically echoes the law but for the third item of payment designation uses the phrase 'principal liability for income tax.'"

The taxpayer also argues that the letter dated July 13, 1998 from the Department acknowledging receipt of the taxpayer's written protest gave it the impression that it did not have to pay the penalty and interest since the matter was under protest. Here is the paragraph at issue:

Please be aware that interest will continue to accrue on the assessment until a final disposition of the case is made. In order to avoid the additional interest accrual, a payment in full may be made with the option of requesting a refund for any assessed items not found to be subject to the tax.

The paragraph is clear—any confusion in the meaning lies with the taxpayer's desire to read "full" as meaning what it thinks it owes on the principal liability.

To summarize: the Department received a payment from the taxpayer. In line with the statute and the regulation requirements, the Department applied the payment first to the penalty, then to the interest, and lastly to principal tax liability. The taxpayer wants to "direct the application" of the payment it made to the principal liability and call it a "full payment." However the law does not allow the taxpayer to earmark the payment—instead, by statute the order is: penalty, interest, and principal liability.

FINDING

The taxpayer's protest is denied.

DEPARTMENT OF STATE REVENUE

02980523.LOF

LETTER OF FINDINGS NUMBER: 98-0523
Corporate Income Tax
For Tax Periods: 1993-1994

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

1. Adjusted Gross Income Tax – Business Income

Authority: 26 USC Sec.338(h)(10), 26 USC 338(h)(10), IC 6-3-1-20, 45 IAC 3.1-1-29, 45 IAC 3.1-1-30, The May Department Store Company v. Indiana Department of State Revenue, 749 N.E.2d 651 (Ind. Tax 2001)

The taxpayer protests the classification of certain income as business income.

STATEMENT OF FACTS

The taxpayer is an out-of-state-corporation engaged in sales of goods and services in Indiana and several other states. After an audit, the Indiana Department of Revenue, ("department"), assessed the taxpayer additional corporate income taxes. The taxpayer protested the assessment and a hearing was held. More facts will be provided as necessary.

1. Adjusted Gross Income Tax – Business Income

DISCUSSION

In 1994, Corporation A ("actual buyer"), an unrelated taxpayer, acquired the stock of Corporation B, the parent corporation of the taxpayer and a wholly owned subsidiary of Corporation C ("actual seller"). Actual buyer and actual seller entered into a joint federal income tax election under 26 USC Sec.338(h)(10) which allowed the buyer and seller to treat the sale of stock of corporation B as a sale of the assets of corporation B and its subsidiaries for income tax purposes. Under the provisions of 26 USC 338(h)(10), The taxpayer was deemed to have sold all of its assets to the "new target" on the date of acquisition and immediately distribute the proceeds from the deemed asset sale to its parent corporation in complete liquidation. The taxpayer protested the department's recharacterization of this income as business income subject to Indiana taxes.

In The May Department Store Company v. Indiana Department of State Revenue, 749 N.E.2d 651 (Ind. Tax 2001), the Indiana Tax Court determined that IC 6-3-1-20 provides for both a transactional test and a functional test in determining whether income is business or non-business in nature. Id. at 662-3.

The court looks to 45 IAC 3.1-1-29 and 30 for guidance in determining whether income is business or non-business income under the transactional test. These regulations state "... the critical element in determining whether income is 'business income' or 'non-business income' is the identification of the transactions and activity which are the elements of a particular trade or business." Id. at 664. 45 IAC 3.1-1-30 lists several factors in making this determination. These include the nature of the taxpayer's trade or business; substantiality of the income derived from activities and relationship of income derived from activities to overall activities; frequency, number or continuity of the activities and transactions; length of time income producing property was owned; and taxpayer's purpose in acquiring and holding the property producing income. In May, the Court found that the transactional test was not met when a retailer sold a retailing division to a competitor because it was an extraordinary and nonrecurring transaction for the taxpayer. Id. at 664.

The nature of this taxpayer's business included various aspects of the food service business. Almost all of the taxpayer's income derived from transactions associated with these activities. The deemed sale of assets was an extraordinary and nonrecurring transaction for the taxpayer. Therefore, it did not meet the transactional test for classification as business income.

The functional test focuses on the property being disposed of by the taxpayer. Id. at 664. Specifically the functional test requires examining the relationship of the property at issue with the business operations of the taxpayer. Id. at 664. In order to satisfy the functional test the property generating income must have been acquired, managed and disposed of by the taxpayer in a process integral to taxpayer's regular trade or business operations. Id. at 664. The Court in May defined "integral" as part or constituent component necessary or essential to complete the whole. Id. at 664-5. The Court held that the May's sale of one of its retailing division was not "necessary or essential" to May's regular trade or business because the sale was executed pursuant to a court order that benefited a competitor and not May. In essence, the Court determined that because May was forced to sell the division in order to reduce its competitive advantage, the sale could not be integral to May's business operations. Therefore, the proceeds from the sale were not business income under the functional test.

In the taxpayer's situation, the taxpayer disposed of a business selling food. At the taxpayer's election, the funds from the sale were funneled into a related corporation's business selling food. The business decision was made to acquire, manage and dispose of the income to further the corporation's function. Therefore, this sale meets the functional test for classification as business income.

FINDING

The taxpayer's protest is denied.

DEPARTMENT OF STATE REVENUE

02980658.LOF

LETTER OF FINDINGS NUMBER: 98-0658
Corporate Income Tax
For Tax Periods: 1993-October 1, 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

1. Gross Income Tax – Gross Receipts

Authority: IC 6-2.1-2-2, IC 6-2.1-1-2(a)(10)

The taxpayer protests the disallowance of the deduction for receipts from a certain account.

2. Tax Administration – Negligence Penalty

Authority: IC 6-8.1-10-2.1, 45 IAC 15-11-2(b)

The taxpayer protests the imposition of the negligence penalty.

STATEMENT OF FACTS

The taxpayer, a corporation with its commercial domicile in another state, is a food and beverage company. After an audit, the Indiana Department of Revenue (department) assessed the taxpayer additional gross income tax, interest and penalty. The taxpayer protested the assessment and a hearing was held. More facts will be provided as necessary.

1. Gross Income Tax – Gross Receipts

Pursuant to IC 6-2.1-2-2, Indiana imposes a gross income tax on the gross receipts of derived from business activities in Indiana. Gross income is defined at IC 6-2.1-1-2(a)(10) as "all the gross receipts a taxpayer receives... from any other source not specifically described in this subsection." The taxpayer deducted the monies in the "Amount Due From Account" from its gross receipts to report for the gross income tax. The department disallowed this deduction in the audit.

The taxpayer protested the department's disallowance of its deduction of "Amount Due From Account" from the taxpayer's gross receipts. The taxpayer alleged that the "Amount Due From Account" is entitled to deduction because it represents cost reimbursement due from a customer based upon the difference between the taxpayer's actual profit for the period and the agreed upon profit outlined in the contract with the customer. Such a difference may arise, for example, if the customer requests that products sold at the customer's location be sold at a specific price to employees. To the extent this price results in a profit below the agreed upon profit specified in the contract, the customer must reimburse the taxpayer. The taxpayer considered this a cost reimbursement or fee for services entitled to be deducted from the gross income subject to gross income tax.

The law lists the allowable deductions from gross receipts for purposes of the gross income tax at IC 6-2.1-1-2. The taxpayer's fact situation is not one of the allowable deductions.

The monies coming to the taxpayer from the "Amount Due From Account" are additional receipts from the taxpayer's business activities in Indiana. The cost reimbursement provisions merely guarantee that the taxpayer will receive income to equal a certain profit margin. It makes no difference whether the monies are paid by the customer directly to the taxpayer or by the employer who subsidizes the customer's purchases. The end result is the taxpayer receives income not qualifying for any of the deductions allowed by the statute. These receipts are, therefore, subject to the gross income tax.

FINDING

The taxpayer's protest is denied.

DISCUSSION

2. Tax Administration – Negligence Penalty

DISCUSSION

The taxpayer also protested 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. Negligence shall be determined on a case by case basis according to the facts and circumstances of each taxpayer.

The taxpayer is a major corporation with an extensive tax and accounting department. Even so, it failed to report the clearly taxable income from the sales of tangible personal property. The taxpayer's failure to report this income was a failure "to use such reasonable care, caution or diligence as would be expected of an ordinary reasonable taxpayer." This breach of its duty constitutes negligence.

FINDING

The taxpayer's protest is denied.

DEPARTMENT OF STATE REVENUE

04980749.LOF

LETTER OF FINDINGS NUMBER: 98-0749
Sales and Use Tax
For Tax Periods: 1994-1996

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

Sales and Use Tax – Exemption Certificates

Authority: IC 6-2.5-2-1(a), IC 6-8.1-5-1(b), IC 6-2.5-3-7(a)

The taxpayer protests the assessment of sales tax on certain unreported sales.

STATEMENT OF FACTS

The taxpayer corporation is a retailer, installer and repairman of restaurant equipment and supplies. After an audit, the Indiana Department of Revenue, hereinafter referred to as the "department," imposed additional sales and use tax, interest and penalty. The taxpayer protested a portion of the assessment and several hearings were scheduled. Since the taxpayer did not to appear for any of the scheduled hearings, the decision was based upon the documentation in the file.

Sales and Use Tax – Exemption Certificates

DISCUSSION

Indiana imposes a sales tax on the sale of tangible personal property at retail. IC 6-2.5-2-1(a). All retail transactions are presumed to be taxable and either the seller or purchaser can rebut that presumption. IC 6-2.5-3-7(a). Retail merchants need not prove nontaxability if they receive and retain a valid exemption certificate from the purchaser. IC 6-2.5-3-7(b). All department assessments are presumed to be correct and taxpayers bear the burden of proving that any assessment is incorrect. IC 6-8.1-5-1(b)

In performing the audit, the department's auditor examined the taxpayer's sales journals, purchase invoices, sales invoices and other workpapers. The auditor determined that the taxpayer collected but failed to remit sales tax for many transactions. The taxpayer argued that it initially billed but never collected sales tax in sales to exempt organizations. The taxpayer alleged that it had exemption certificates to prove that it had no responsibility to collect or remit sales tax on those transactions.

Although the taxpayer was given ample opportunity during the audit, review, and hearing procedures, it never produced any exemption certificates. The taxpayer did not sustain its burden of proving that the sales tax was improperly imposed.

FINDING

The taxpayer's protest is denied.

DEPARTMENT OF STATE REVENUE

04990219.LOF

LETTER OF FINDINGS NUMBER: 99-0219
State Gross Retail Tax
For Years 1995, 1996, and 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 – Adequate Documentation

Authority: 45 IAC 15-5-4; IC § 6-8.1-5-1; IC § 6-8.1-5-4

Taxpayer protests the proposed assessments of Indiana's State Gross Retail tax.

STATEMENT OF FACTS

In the course of taxpayer's auction business operations taxpayer conducted auctions both at its main location and at its customer's premises. When audited, taxpayer informed the auditor that all auctions occurred at the customer's premises, thus sales tax was not collected. The auditor determined, based on review of existing documentation- including advertising for auctions at the taxpayer's location- that 37% of taxpayer's auction business was conducted onsite and thus subject to Indiana's Gross Retail tax. The departmental audit assessed the taxpayer Gross Retail tax on 37% of its sales. The taxpayer protested the audit determination stating documentation would be provided to counter the audit's determination. Taxpayer and his representative then filed a protest, claiming the documents would be made available.

I. State Gross Retail Tax – Adequate Documentation

DISCUSSION

Taxpayer protests the proposed assessments of Indiana Gross Retail tax arguing that he now has available for inspection documents supporting his contention that the percentage of sales conducted at taxpayer's premises was not 37% as determined in the audit. Because of taxpayer's reluctance to timely provide the proper documents to the auditor a hearing was set before one of the Legal Division's Hearing Officers. At the hearing, taxpayer's representative stated that records would be made available within a specified time period. Said records were not provided within the time period, nor has taxpayer provided any indication that said records will be produced.

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.

Taxpayer does not cite any statute, regulation, or case law for the proposition that the auditor was required to accept taxpayer's assertions as to the nature of the transactions without any- and in fact, contrary to- supporting documentation. Pursuant to the above statute and the requirements of IC § 6-8.1-5-1 and 45 IAC 15-5-4, taxpayer has failed to establish a basis for reversal of this assessment.

FINDING

Taxpayer's protest is denied.

DEPARTMENT OF STATE REVENUE

1820000194.LOF

LETTER OF FINDINGS NUMBER: 00-0194
Financial Institutions Tax
For the 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. Combining Taxpayer's Bank Group and Financial Group Into a Single Unitary Return – Financial Institutions Tax

Authority: IC 6-5.5-1-18; IC 6-5.5-6-1; 45 IAC 17-2-1(a); 45 IAC 17-3-5(a); 45 IAC 17-3-5(c)

Taxpayer maintains that the audit erred in requiring that its bank group and financial group file a single unitary return. Taxpayer argues that the two groups operate independently of each other and are entitled to file two combined unitary returns.

II. Calculation of Taxpayer's Foreign Source Income – Exclusion of Related Expenses

Authority: IC 6-5.5-1-2(a); IC 6-5.5-1-2(a)(2)(B); IC 6-8.1-5-1(b)

Taxpayer argues that expenses related to the acquisition of its foreign source income should not be deducted from that foreign source income.

III. Calculation of Taxpayer's Receipts Factor

Authority: IC 6-5.5-2-4; 45 IAC 17-3-5(a), (c)

Taxpayer maintains that the audit erred in making adjustments to the numerator and denominator of its receipts factor. Taxpayer requests that the Department restore the separate apportionment factor calculation for its bank group and financial group and that the Department eliminate the receipts factor adjustments which result – according to taxpayer – in a double-counting of certain receipts factor items.

IV. Neighborhood Assistance Credit Carryforward

Authority: IC 6-3.1-9 et seq.; IC 6-3.1-9-6

Taxpayer argues that the Department erred when it denied permission for the taxpayer to carry forward a neighborhood assistance credit, approved in 1994, but claimed by the taxpayer in 1995.

V. Disallowance of Enterprise Zone Loan Interest Credit

Authority: IC 6-3.1-10 et seq.

According to taxpayer, the Department erred in disallowing Enterprise Zone Loan Interest Credits on the ground that the taxpayer had provided insufficient detail to substantiate that the interest was obtained from qualifying loans made within a state enterprise zone.

VI. 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 argues that the Department was not justified in assessing the ten percent negligence penalty. Accordingly, the taxpayer requests that the Department exercise its discretion to abate that penalty.

STATEMENT OF FACTS

Taxpayer is a diversified financial services company operating what it identifies as a "corporate group" and a "financial group." The corporate group (hereinafter "bank group") provides traditional bank services, is insured by the FDIC, and is subject to oversight by the Office of the Comptroller of the Currency. The financial group provides similar services to those consumers who may not be qualified to obtain those services from a traditional banking institution.

Taxpayer provides its subsidiaries various services including planning, asset management, investment administration, advertising, and certain personnel services. Taxpayer derives its income from investments in, and advances to, these and other subsidiaries. For federal purposes, the taxpayer filed a consolidated return which included all its subsidiaries.

For purposes of Indiana's Financial Institutions Tax, the bank group and the financial group filed two combined unitary returns. During the audit, an adjustment was made to combine both the bank group and the financial group. Taxpayer disagreed with that particular adjustment and with certain other audit adjustments. Taxpayer submitted a protest, an administrative hearing was conducted, and this Letter of Findings followed as a result.

DISCUSSION

I. Combining Taxpayer's Bank Group and Financial Group Into a Single Unitary Return – Financial Institutions Tax

Indiana imposes an excise tax known as the Financial Institutions Tax (FIT) on all entities determined to be "transacting the business of a financial institution in Indiana." 45 IAC 17-2-1(a). The taxpayer subject to the FIT must adopt the combined/unitary reporting method unless the taxpayer is not a member of a unitary group. In such an instance, a separate (single-entity) reporting method is required. For those taxpayer which are members of a unitary group, the combined return must cover "all the operations of the unitary business and including all taxpayer members of the unitary group." 45 IAC 17-3-5(a).

The audit determined that taxpayer's commonly owned bank group and financial group were required to file a single unitary return. The audit based that decision on the fact that taxpayer owned more than 50 percent of its subsidiaries' stock.

The audit's decision was predicated upon IC 6-5.5-6-1, which states that "taxpayer members of a unitary group are required to file only one (1) return covering all members of the unitary group." The resolution of taxpayer's first protest item rests on whether taxpayer's bank group and financial group were members of a unitary business.

45 IAC 17-3-5(c) states that, "A 'unitary business' means business activities or operations that are of mutual benefit, dependent upon, or contributing to one another, individually as a group, in transacting the business of a financial institution." The regulation explains that, "Unity is presumed whenever there is a unity of ownership, operation, and use evidenced by centralized management or executive force, centralized purchasing, advertising, accounting, or other controlled interaction among entities that are members of a unitary group." Id.

Taxpayer bases its protest on the regulation cited above in particular, "Unity is presumed whenever there is a unity of ownership, operation, *and* use...." 45 IAC 17-3-5(c) (*Emphasis added*) *See also* IC 6-5.5-1-18. Taxpayer readily admits that the bank group and the financial group exhibit unity of ownership because both groups are owned by the taxpayer. However, taxpayer maintains that the conjunctive "and" requires that a "three-unities" test be met in order to establish that the bank group and financial group are members of the same "unitary business." Therefore, according to taxpayer, because the Department has failed to establish that there is anything more than common ownership between the two entities, the bank group and financial group are entitled to file separate FIT returns.

To that end, taxpayer presents much evidence purportedly establishing that the bank group and the financial group are identifiably distinct and operationally independent of one another. The financial group maintains a separate out-of-state headquarters. The financial group is independent and self-supporting because it has its own corporate staff. The financial group has its own staff of attorneys to address its unique legal needs. The financial group has its own human resources group, treasury management staff, information services division, printing and shipping facilities, and its own marketing department. According to taxpayer, there is no flow of assets between the bank group and the financial group. Therefore, in the absence of operational integration, flow of value, or common management, the groups are entitled to file submit separate FIT returns.

However, taxpayer ignores the unrefuted conclusions set out in the audit report. That report stated that taxpayer provided each of its subsidiaries various services including strategic planning, asset and liability management, investment administration, portfolio planning, tax planning, new product and business development, advertising, administrative and audit services, employee services and payroll management. Taxpayer's 1996 annual report stated that taxpayer received 23 percent of its earnings from the financial group. Taxpayer's 1996 and 1997 corporate reports both emphasize that its diversified business structure – including both the bank group and financial group – enables it to meet the changing needs of its customers while simultaneously preserving the taxpayer's overall financial condition despite fluctuations in earnings amongst its different groups.

Even granting the legitimacy of taxpayer's "three-unities" test, a cursory examination of taxpayer's business operations provides sufficient indicia to establish "a unity of ownership, operation, and use." 45 IAC 17-3-5(c). Although the bank group and

the financial may be distinct branches, they are nonetheless branches of the same tree. The bank group and the financial group together contribute to taxpayer's overall financial well-being and are each dependent upon and sustained by that well-being. As taxpayer succinctly puts it, "The diversity of our business enables us to rely on different streams of earnings as economic cycles and customer preferences change. Our goal is simple: earn 100 percent of every creditworthy customer's business." Taxpayer's 1997 Annual Report.

Taxpayer views the bank group and the financial group as operating in a vacuum each entirely independent of one another. However, the evidence indicates that the two entities operate to sustain and preserve the taxpayer's common economic well-being. Hence, the two entities function to "contribut[e] to one another, individually as a group, in transacting the business of a financial institution." 45 IAC 17-3-5(c).

FINDING

Taxpayer's protest is respectfully denied.

II. Calculation of Taxpayer's Foreign Source Income – Exclusion of Related Expenses

Taxpayer protests the audit's decision to reduce the taxpayer's amount of taxpayer's foreign source income exclusion.

In calculating the amount of foreign source dividends taxpayer was entitled to deduct from its federal adjusted gross income, the audit reduced the amount of foreign source dividends by 15 percent. The 15 percent deduction represented an estimate of the expenses taxpayer incurred in acquiring the foreign source dividends.

In calculating taxpayer's state FIT liability, the starting point is the taxpayer's federal adjusted gross income. IC 6-5.5-1-2(a) states that, "Except as provided in subsections (b) through (d), 'adjusted gross income' means income as defined in Section 63 of the Internal Revenue Code...."

However, the taxpayer is entitled to exclude certain income from the amount of its federal adjusted gross income. Specifically, IC 6-5.5-1-2(a)(2)(B) permits the taxpayer to subtract "Income that is derived from sources outside the United States, as defined by the Internal Revenue Code."

Therefore, the taxpayer does not have to pay the FIT on "foreign source income." However, the amount of "foreign source income" the taxpayer may subtract from its federal adjusted gross income is not unrestrained. The Department requires the taxpayer to add back to its "foreign source income" those expenses related to obtaining that "foreign source income." The Department's rationale for doing so is plain; if Indiana starts with federal taxable income – an amount arrived at by deducting all relevant business expenses – but allows a straightforward deduction of the taxpayer's foreign source income, then the taxpayer, in effect, is receiving a double deduction of the expenses related to that foreign source income.

Taxpayer challenges the audit's deduction of the expenses on two grounds: First, taxpayer argues that there is no statutory or regulatory basis on which to permit an expense adjustment in tandem with the exclusion for foreign income and that the audit's proposed adjustment goes beyond the scope of the statute; Second, taxpayer maintains that even if some expense disallowance were appropriate, the method used by the audit overstates the amount of the expenses.

The taxpayer's facial challenge to the Department's practice of deducting from its "foreign source income" those expenses related to the acquisition of that income, does not survive close scrutiny. In calculating – for purposes of the FIT – taxpayer's adjusted gross income, the taxpayer has provided no justification for allowing it to effectively "deduct" its expenses two times over. Such a proposed methodology finds no basis either in law or common sense.

Taxpayer's secondary argument must also be rejected. Taxpayer maintains that the 15 percent estimate "is not a reasonable allocation of expense deductions to the income that the expense generates [and that] it constitutes impermissible taxation of income and should be thrown out." Even if taxpayer is correct, it has offered nothing specific to refute the audit's conclusion that the 15 percent figure reasonably reflects expenses related to acquiring the foreign source income. "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 done nothing to meet that burden.

FINDING

Taxpayer's protest is respectfully denied.

III. Calculation of Taxpayer's Receipts Factor

In reviewing taxpayer's FIT calculations, the audit adjusted the numerator of the receipts factor to include the financial group. The audit also adjusted the denominator of the receipts factor to include the financial group and to include various other adjustments.

The taxpayer has challenged these audit adjustments. Specifically, taxpayer disagreed with the decision combining the bank group and financial group receipts into a single apportionment factor.

As already determined within this Letter of Findings, it was entirely appropriate, under 45 IAC 17-3-5(a), (c), for the audit to require that the bank group and the financial group submit a single combined return. Having correctly made that determination, there is nothing to indicate that the audit erred in designating and apportioning taxpayer's receipts according to the dictates of IC 6-5.5-2-4.

However, the taxpayer also challenges the audit adjustments citing what it refers to as inadvertent "double-account[ing] for a few items." In particular, taxpayer asserts that a mortgage adjustment to the financial group's numerator double-counts receipts already accounted for in the bank group's factor.

To the extent that taxpayer maintains that the audit made computational errors, taxpayer's protest is sustained. The supplemental audit is requested to verify and, if necessary, to make the necessary corrections.

FINDING

Taxpayer's protest is denied in part and – subject to verification by the supplemental audit – is sustained in part.

IV. Neighborhood Assistance Credit Carryforward

One of taxpayer's banks was approved for a $750 Neighborhood Assistance Credit in 1994. The bank group was unable to use the $750 credit in 1994 because the bank group reported a net operating loss. In 1995, the bank was approved for an additional $5,000 in Neighborhood Assistance Credits. The taxpayer "carried over" the unused $750 credit to 1995 and claimed $5,750 in credits. The audit disallowed $750 of that credit because taxpayer had only received approval for the $5,000 1995 credit.

Taxpayer argues that it should be allowed to carry over the unused $750 credit to 1995.

There is no provision in the relevant law, IC 6-3.1-9 et seq., permitting a Neighborhood Assistance Credit grantee to carry forward the credit to a succeeding year. The taxpayer was granted permission to claim a $750 credit during 1994, but 1994 passed and the taxpayer had failed to claim the credit. For all practical purposes, the $750 credit expired on December 31, 1994. IC 6-3.1-9-6 specifically states that "[a] tax credit shall be allowable under this chapter only for the taxable year of the taxpayer in which the contribution qualifying for the credit is paid or permanently set aside in a special account for the approved program or purpose."

As set out in Information Bulletin Number 22, September 1997, "There is no provision for carry back, carry forward, or refund of the credit."

FINDING

Taxpayer's protest is respectfully denied.

V. Disallowance of Enterprise Zone Loan Interest Credit

The audit disallowed the Enterprise Zone Loan Interest Credits claimed by one of taxpayer's banks. The audit disallowed the credits on the ground that it could not verify that the loans were made to entities located within the Ft. Wayne Enterprise zone. In its protest, taxpayer disagreed with the disallowance of the credits.

Taxpayer presented a list of entities having Ft Wayne addresses. According to taxpayer, this list represents "most of the claimed enterprise zone loans."

Under the assumption that taxpayer can directly relate the claimed credits to individual enterprises located within the Ft. Wayne enterprise zone, and that the loans represent a "qualified investment" under IC 6-3.1-10 et seq., taxpayer's protest is sustained subject to the findings of the supplemental audit.

FINDING

Taxpayer's protest is sustained subject to the determinations of the supplemental audit.

VI. Abatement of the Ten Percent Negligence Penalty

Taxpayer protests the assessment of the ten percent negligence penalty on the amount of tax deficiency determined by the Department. Taxpayer maintains that any errors it made in determining its state tax liabilities was not due to willful neglect.

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 has presented information sufficiently adequate to support its contention that any errors it made in determining its FIT liabilities were not due to willful neglect.

FINDING

Taxpayer's protest is sustained.

DEPARTMENT OF STATE REVENUE

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LETTER OF FINDINGS NUMBER: 00-0467
State Use Tax – Rental of Tangible Personal Property
For Tax Years 2000-2002

NOTICE: Under Indiana 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.

ISSUE

I. State Use Tax – Rental of Tangible Personal Property

Authority: IC § 6-2.5-3-1; 45 IAC 2.2-3-4; IC § 6-2.5-3-2; 45 IAC 2.2-3-18; IC § 6-2.5-3-6; 45 IAC 2.2-3-19; IC § 6-6-8.1-5-1(b); 45 IAC 2.2-4-27

Taxpayer protests proposed assessments of the state's use tax on rentals of equipment necessary to remediate contaminated groundwater, pursuant to regulations promulgated by the Indiana Department of Environmental Management.

STATEMENT OF FACTS

Taxpayer is a full service "convenience" store and gas station located in extreme southern Indiana. During the tax years at issue, the manager of taxpayer's business, Ms. D, had numerous responsibilities, including ordering, monitoring customer fill-ups, bank deposits, accounting functions, financial reports, payroll, and filing returns for federal, state, and local taxes. Ms. D was involved in all aspects of taxpayer's business operations, which included movie rentals, deli service, gasoline service, and selling many specialty items for rural farmers and hunters. Ms. D. became closely involved with the gasoline leak problem from its discovery. Although she is currently employed elsewhere, Ms. D continues to provide taxpayer with help with reports required to be sent to the Indiana Department of Environmental Management (IDEM) and the tax audit at issue in this protest.

As thoroughly documented and explained in the written materials Ms. D provided to the Department, the following sequence of events led to the eventual tax assessments at issue.

The owners of a home located directly across the street from taxpayer's store/gas station noticed a strong odor of gasoline in their basement in April of 1995. When shown a vial of contaminated water from their basement, Ms. D contacted taxpayer and the investigation began. Members of the emergency response division from IDEM were called in as well as the State Fire Marshall.

The homeowners had to vacate their home. Emergency abatement processes began. Ms. D hired an environmental services company (ESC) to find the source of the leak, determine how gasoline migrated to the homeowner's basement, and devise a plan to rehabilitate contaminated ground water once the source of the leak was identified and neutralized. IDEM supervised the abatement and remediation project and exercised control over the actions taken by the environmental services company, taxpayer, and Ms. D.

The source of the leak was identified and plugged. The ESC installed monitoring wells in IDEM-approved locations on the property, checking for levels of BTEX, MTBE, and other gasoline additives.

The next step was IDEM approval of a corrective action plan (CAP). The CAP essentially contains IDEM's expectations of what a "polluter" must do to eliminate contamination; IDEM must approve every step of every CAP proposed in the State of Indiana. IDEM did approve taxpayer's CAP, which was developed by the ESC. Because of the geological structure taxpayer's store/gas station sits on, the company suggested, and IDEM approved, using and Air Sparge Unit to remediate the contaminated groundwater. This unit was installed in the monitoring wells. The unit blows oxygen and ozone into contaminated water; bubbles form; the hydrocarbons begin breaking down; a vacuum then removes the air.

The unit is completely automatic and works off a timer set by the ESC. The unit runs for a few hours at a time at different times of the day. If the system shuts itself off, taxpayer must call the environmental services company to start it again. The company asked Ms. D several times to read a few display numbers over the telephone. The ESC checks on the system frequently and moves the unit from well to well for even remediation of the contaminated groundwater. The company also takes quarterly samples and produces the reports required to be sent to IDEM. Taxpayer does nothing to operate this system; it needs no operator because it is automated, and required for a long-term groundwater remediation project.

I. State Use Tax – Rentals of Tangible Personal Property

DISCUSSION

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." In order to prevail in this protest, taxpayer must show that under all the relevant facts, statutes, regulations, and case law, if any, that the protest should be sustained.

IC § 6-2.5-3-1 defines "use" as "the exercise of any right or power of ownership over tangible personal property." IC § 6-2.5-3-2 imposes the use tax "on the storage, use, or consumption of tangible personal property in Indiana if the property was acquired in a retail transaction. 45 IAC 2.2-3-4 states that tangible personal property purchased in Indiana, or elsewhere, "and stored, used, or otherwise consumed in Indiana is subject to Indiana use tax... unless the Indiana state gross retail tax has been collected at the point of purchase. Liability for the tax rests with "the person who stores, uses, or consumes such property. 45 IAC 2.2-3-18. The retail merchant collects the tax as "agent for the state of Indiana." 45 IAC 2.2-3-19. *See also*, IC § 6-2.5-3-6.

45 IAC 2.2-4-27 speaks directly to the renting and leasing of tangible personal property: "In general, the gross receipts from renting or leasing tangible personal property are taxable. This regulation only exempts from tax those transactions which would have been exempt in an equivalent sales transaction." The ESC fits squarely within the definitions contained in this regulation, and under normal circumstances, would have collected and remitted to the Department the state gross retail tax on the rental transactions between ESC and taxpayer. The ESC did not, thereby subjecting taxpayer to use tax liability.

However, the circumstances surrounding the rental of the Air Sparge Units to taxpayer certainly were not normal, nor do the

transactions fit neatly into those situations covered by 45 IAC 2.2-4-27. The ESC, relying on Information Bulletin # 42, did not charge taxpayer sales tax pursuant to 45 IAC 2.2-4-27(d)(3)(B): "The rental of tangible personal property together with an operator as part of a contract to perform a specific job in a manner to be determined by the owner of the property or the operator shall be considered a service rather than a rental or lease provided the lessee cannot exercise control over such property and operator."

The ESC provides a service to taxpayer; it "performs a specific job," i.e., remediation of contaminated groundwater, "in a manner to be determined by the owner of the property," i.e., the ESC pursuant to the CAP developed in conjunction with IDEM. Taxpayer does not and "cannot exercise control" over the Sparge units. In this case, the fact that the operator is infrequently there is immaterial. The equipment is automated, and any adjustments to the equipment are performed, when necessary, by the ESC. The equipment does not require an operator to be present in order to function, but the equipment is effectively operated by the lessor, the environmental services company.

FINDING

Taxpayer's protest regarding the proposed assessment of use tax is sustained.

DEPARTMENT OF STATE REVENUE

0220010026.LOF

LETTER OF FINDINGS NUMBER: 01-0026
Corporate Adjusted Gross Income – Combined Filing
Corporate Adjusted Gross Income – Unitary Filing
Tax Administration – Penalty
For Tax Year 1998

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. Corporate Adjusted Gross Income – Combined Filing: Substantive Requirements

Authority: IC § 6-3-2-2; 45 IAC 3.1-1-38; IC § 6-3-4-14; Public Law 86-272; 15 USCS § 381

Taxpayer protests the Department's finding that taxpayer may not include a related company in its consolidated return for the tax year at issue.

II. Corporate Adjusted Gross Income – Procedural Requirements for Unitary Filing

Authority: IC § 6-3-2-2(q)

Taxpayer argues that the taxpayer's two subsidiaries meet the standards for filing a combined return.

III. Tax Administration – Penalty

Authority: IC § 6-8.1-10-2.1; 45 IAC 15-11-2

Taxpayer protests the 10% negligence penalty added to the proposed assessment.

STATEMENT OF FACTS

Taxpayer is a holding company, incorporated in Indiana in 1998. Taxpayer's only income is from management fees from two subsidiaries, one located in Oklahoma, one in Indiana. The Oklahoma subsidiary manufactures curb and air handling units that are then attached to HVAC units. The Oklahoma subsidiary ships the units to the Indiana subsidiary, which is basically a sheet metal shop; it then manufactures parts for commercial HVAC units that are then sold to commercial distributors. Taxpayer filed a consolidated adjusted gross income tax return for all three entities. The Audit Division disallowed the combined filing based on the Oklahoma subsidiary's lack of income derived from sources within Indiana. More facts will be added as required.

I. Corporate Adjusted Gross Income – Combined Filing: Substantive Requirements

DISCUSSION

Taxpayer protests the Department's finding that taxpayer's Oklahoma subsidiary may not be part of taxpayer's consolidated filing. The applicable statute is IC § 6-3-4-14. Section (a) provides that affiliated groups of corporations "shall have the privilege of making a consolidated return" for taxes imposed by Indiana's Adjusted Gross Income Tax Act. However, there are certain statutorily required conditions that must be met before the Department grants the privilege. First, all the corporations must consent to "all of the provisions of this section including all provisions of the consolidated return regulations" of Section 1502 of the Internal Revenue Code, "and all regulations promulgated by the department implementing this section." Consent is not an issue in this protest; consequently, the relevant regulations apply. *See* discussion, *infra*.

Section (b) of IC § 6-3-4-14 defines affiliated groups in conjunction with Section 1504 of the Internal Revenue Code, with one salient exception: "the affiliated group shall not include any corporation which does not have adjusted gross income derived

from sources within the state of Indiana." The Audit Division determined that the Oklahoma subsidiary did not have adjusted gross income "derived from sources within Indiana." IC § 6-3-2-2(a) defines adjusted gross income derived from sources within Indiana as follows:

With regard to corporations and nonresident persons, "adjusted gross income derived from sources within Indiana", for the purposes of this article, shall mean and include:

(1) income from real or tangible personal property located in this state;

(2) income from doing business in this state;

(3) income from a trade or profession conducted in this state;

(4) compensation for labor or services rendered within this state; and

(5) income from stocks, bonds, notes, bank deposits, patents, copyrights, secret processes and formulas, good will, trademarks, trade brands, franchises, and other intangible personal property if the receipt from the intangible is attributable to Indiana under section 2.2 of this chapter.

45 IAC 3.1-1-38 defines a taxpayer as doing business in a state "if it operates a business enterprise or activity in such state including, but not limited to:

(1) Maintenance of an office or other place of business in the state

(2) Maintenance of an inventory of merchandise or material for sale distribution, or manufacture, or consigned goods

(3) Sale or distribution of merchandise to customers in the state directly from company owned or operated vehicles where title to the goods passes at the time of sale or distribution

(4) Rendering services to customers in the state

(5) Ownership, rental or operation of a business or of property (real or personal) in the state

(6) Acceptance of orders in the state

(7) Any other act in such state which exceeds the mere solicitation of orders so as to give the state nexus under Public Law 86-272 to tax its net income.

The Oklahoma subsidiary manufactures custom "curbs"--the metal sheds HVAC's sit in--; the Indiana subsidiary orders the curbs exclusively from the Oklahoma subsidiary, as well as ordering standard curbs. The Oklahoma subsidiary ships its entire production of curbs by common carrier to the Indiana subsidiary. The president of the Oklahoma flies to Indiana once a year to negotiate a sales contract. The Indiana subsidiary relies on sales projections in crafting the contract. For custom curbs, employees from the Oklahoma subsidiary go to the Indiana subsidiary to learn exact specifications. All engineering and quality control occurs in Indiana; Indiana employees of the Indiana subsidiary inform "several" Oklahoma employees of the Oklahoma subsidiary, in training sessions, of the required curb specifications. The Oklahoma employees then return to Oklahoma where all manufacturing takes place.

The Oklahoma subsidiary's activities do not fall within the definitions set forth in the applicable statutes and regulations. It has no income from doing business in the state of Indiana; there are only receipts from sales of units manufactured in Oklahoma by Oklahoma employees to the Indiana subsidiary. The Oklahoma subsidiary does not maintain an office or other place of business in Indiana, nor does it maintain any inventory for sale, distribution, or manufacture. There are no consigned goods within the state. Subsection (3) above is not satisfied. The Oklahoma subsidiary renders no services to its only customer within the state, taxpayer's Indiana subsidiary. The Oklahoma subsidiary does not own, rent, or operate a business or property in Indiana. None of the Oklahoma's subsidiary's in-state activities exceed "the mere solicitation of orders" so as to give Indiana nexus with the Oklahoma subsidiary under Public Law 86-272, 15 USCS § 381. Indiana does not have the power to tax the Oklahoma subsidiary for labor conducted in Oklahoma.

FINDING

Taxpayer's protest concerning the Department's finding that taxpayer's Oklahoma subsidiary may not be part of taxpayer's consolidated filing is denied.

II. Corporate Adjusted Gross Income Tax – Procedural Requirements for Filing a Combined Return

DISCUSSION

Secondly, taxpayer argues it should be able to file a combined return. This argument rests on the contention that the Oklahoma subsidiary and the Indiana subsidiary meet the standards for a finding that they are in a unitary relationship. Taxpayer's failure to request the statutorily required permission to file a combined return was based on their mistaken belief taxpayer could file as a small business corporation. Taxpayer admitted this was a mistake, and did not protest that part of the assessment. Taxpayer is now requesting that they be allowed to file a combined return for the tax year at issue because the Oklahoma subsidiary cannot operate without the Indiana subsidiary and its cash flowing to it. Taxpayer essentially argues that both subsidiaries are really one company.

Despite taxpayer's arguments, the Department cannot grant permission for taxpayer to file unitary. Pursuant to IC § 6-3-2-2(q), taxpayer should have petitioned the Department "thirty (30) days after the end" of its taxable year "for permission to file a combined income tax return fro a taxable year." The statute is clear about the thirty-day requirement to file a petition for permission to file a combine return. Taxpayer did not meet its statutory obligation.

FINDING

Taxpayer's protest concerning the procedural requirements for filing a combined return is denied.

III. Tax Administration – Penalty

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 and regulations.

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.

Taxpayer has failed to set forth a basis whereby the Department could conclude taxpayer exercised the degree of care statutorily imposed upon an ordinarily reasonable taxpayer. Although some of the questions raised by taxpayer involve technical issues of interpretation and applicability, given the totality of the circumstances, waiver of the penalty is inappropriate in this instance.

FINDING

Taxpayer's protest concerning the abatement of the 10% negligence penalty is denied.

DEPARTMENT OF STATE REVENUE

0220010076.LOF

LETTER OF FINDINGS NUMBER: 01-0076
Corporate Income Tax
For the Fiscal Years Ending March 31, 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 the 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 – Disallowance of "Special Corporation" Status

Authority: 45 IAC 1.1-2-12

The taxpayer protests the auditor's disallowance of its "special corporation" status and the imposition of the gross income tax.

II. Tax Administration – Auditor's Reliance on Auditing Technique in the Absence of Relevant Financial Records

Authority: IC 6-8.1-5-1; IC 6-8.1-4-2

The taxpayer protests the auditor's use of departmental audit experience to arrive at a standard division of income between service and sale of tangible personal property**.**

III. Tax Administration – Penalty

Authority: IC 6-8.1-10-2.1; 45 IAC 15-11-2

The taxpayer protests the penalty assessed.

STATEMENT OF FACTS

The taxpayer is a contractor engaged in constructing bulk materials handling facilities. The taxpayer is a wholly owned subsidiary of another regular corporation. During the years of the audit period the taxpayer considered itself to be a qualified subchapter S subsidiary (QSUB) because its parent corporation presumably met the qualifications to elect S corporation status. Based upon this belief, the taxpayer filed its Indiana income tax returns as a special corporation, i.e., one exempt from the gross income tax.

The department audited the taxpayer. The auditor disallowed the taxpayer's special corporation status and imposed the gross income tax. At the time of the examination, the taxpayer could not provide the auditor with a division of income between higher rate and lower rate receipts. Based upon departmental audit experience, the auditor assessed 60% of the taxpayer's total Indiana receipts at the higher gross income tax rate and 40% at the lower rate.

The taxpayer protested the imposition of the gross income tax and the imposition of penalty. Further, the taxpayer protested

the auditor's use of a standard 60% / 40% division of gross receipts, submitting an amended return for fiscal year ending March 31, 1998 in support of its protest. This amended return presumably reflects the actual division of higher rate and lower rate receipts for this year.

In a letter dated March 6, 2002, the taxpayer conceded its liability for the gross income tax. However, the taxpayer continued to assert the accuracy of the figures contained in the amended return for fiscal year ending March 31, 1998 and continued to protest the imposition of penalty.

I. Gross Income Tax – Disallowance of "Special Corporation" Status

The taxpayer protested the auditor's disallowance of its "special corporation" status and the imposition of the gross income tax. Following review and discussion, the department and the taxpayer resolved this matter. In a letter dated March 6, 2002, the taxpayer conceded its liability for the gross income tax.

FINDING

The taxpayer has withdrawn its protest of this issue.

II. Tax Administration – Auditor's Reliance on Auditing Technique in the Absence of Relevant Financial Records

The taxpayer protests the auditor's use of departmental audit experience to arrive at a standard division of income between service income and income derived from the sale of tangible personal property. IC 6-8.1-4-2 (a) (6) states:

The division of audit may: … employ the use of such devices and techniques as may be necessary to improve audit practices.

Hence, given the absence of financial records during the audit examination, the auditor was justified in employing a standard approach to the division of income. However, in the interim, the taxpayer has submitted an amended return for fiscal year ending March 31, 1998 that purports to contain the actual division of income. The department has determined that the figures contained in it are reasonable, and, accordingly, a supplemental audit has been prepared. In a letter dated March 6, 2002 the taxpayer withdrew its protest of this issue based on the proposed supplemental audit adjustments.

FINDING

The taxpayer has withdrawn its protest of this issue.

III. Tax Administration – Penalty

Prior to being audited by the department, the taxpayer considered itself to be a QSUB for the years of the audit period. Hence, the taxpayer believed it met the qualifications for being an S corporation and filed its income tax returns as a "special corporation." The auditor determined that the taxpayer was not a QSUB for the years in question and assessed Indiana gross income tax. While the taxpayer has conceded its liability for the gross income tax, it continues to protest the imposition of the negligence penalty.

Administrative Rule 45 IAC 15-11-2 (b) states the following:

"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. Negligence shall be determined on a case by case basis according to the facts and circumstances of each taxpayer.

In a letter dated February 15, 2001, the taxpayer asserted that it researched the Indiana Code, regulations, rulings, and form instructions, and found only the following statement:

A Company is eligible to file Form IT-20SC if they would be eligible to be an S-Corporation under Federal law pursuant to IRC Section 1361 (b).

The taxpayer does not cite the source of this statement. However, the taxpayer was not eligible to be an S corporation during the years of the audit. Section 1361 (b) (1) (B) of the Internal Revenue Code (IRC) states in pertinent part:

Small business corporation –

(1) In general – For purposes of this subchapter, the term "small business corporation" means a domestic corporation which is not an ineligible corporation and which does not - …

(B) have as a shareholder a person … who is not an individual.

The fact that the taxpayer's sole shareholder was a regular corporation makes the taxpayer ineligible for S corporation status.

Regarding the taxpayer's argument that it was a QSUB during the audit period because its parent corporation could have elected to be an S corporation, IRC § 1361 (b) (3) states in part,

(A) In general. Except as provided in regulations prescribed by the Secretary, for purposes of this title –

(i) a corporation which is a qualified subchapter S subsidiary shall not be treated as a separate corporation, and

(ii) all assets, liabilities, and items of income, deduction, and credit of a qualified subchapter S subsidiary shall be treated as assets, liabilities, and such items (as the case may be) of the S corporation.

There is no indication that the parent corporation ever treated all assets, liabilities, etc. of the taxpayer as its own. The fact that the taxpayer filed its own income tax returns for the years of the audit clearly indicates that it was not a QSUB. The taxpayer failed to familiarize itself with those sections of the Internal Revenue Code that provide the qualifications for status as an S corporation

or a QSUB. The taxpayer has not established that its failure to timely pay the full amount of tax due was due to reasonable cause and not due to negligence.

FINDING

The taxpayer's protest is denied.

DEPARTMENT OF STATE REVENUE

1820010121.LOF

LETTER OF FINDINGS NUMBER: 01-0121
Financial Institutions Tax
For the Tax Years 1994, 1995, and 1996

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. Date Upon Which Taxpayer Entered Into a Unitary Relationship with Its Out-of-State Banking Group

Authority: IC 6-5.5-1-18(a); IC 6-5.5-1-18(b); 45 IAC 17-3-5(c)

Taxpayer argues that the date upon which the audit determined that taxpayer entered into a unitary relationship with its out-of-state banking group – May 2, 1996 – was incorrect. Taxpayer maintains that the particular facts surrounding the acquisition of the out-of-state banking group establish that the unitary relationship was not established until approximately January 1, 1997.

II. Calculation of Taxpayer's Foreign Source Income – Exclusion of Related Expenses in Determining Taxpayer's Adjusted Gross Income

Authority: IC 6-5.5-1-2(a); IC 6-5.5-1-2(a)(2)(B); IC 6-8.1-5-1(b)

Taxpayer argues that expenses related to the acquisition of its foreign source income should not be deducted from that foreign source income. In the alternative, taxpayer asserts that the audit calculated the foreign source income expenses based upon incomplete information and that the correct calculation of those expenses would reduce the amount of expenses.

III. Enterprise Zone Loan Interest Credit – Credit on Interest Taxpayer Derived from Loans to Churches and Not-for-Profit Organizations

Authority: IC 6-3.1-7-1 to -6; IC 6-3.1-7-1; IC 6-3.1-7-2

Taxpayer argues that it is entitled to a credit for enterprise zone loan interest derived from loans made to churches and not-for-profit organizations located within "enterprise zones."

IV. 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 argues that audit's imposition of the ten percent negligence penalty against the additional assessment for calendar year 1996, was in error because any tax deficiency was not due to negligence. Alternatively, taxpayer argues that the negligence penalty should be apportioned – i.e. taxpayer was "negligent" on issue number one and not "negligent" for issue number two.

STATEMENT OF FACTS

Taxpayer is a diversified financial institution incorporated and domiciled in Indiana. Taxpayer provides financial services including commercial and retail banking, trust, investment, item processing, mortgage banking, and credit card processing. Taxpayer is subject to the state's Financial Institutions Tax (FIT). The Department conducted an audit of taxpayer's records for the calendar years 1994, 1995, and 1996. The audit determined that taxpayer owed additional taxes and assessed the ten percent negligence penalty against the taxes attributable to the calendar year 1996. The taxpayer protested certain portions of the assessment, an administrative hearing was held, and this Letter of Findings results.

DISCUSSION

I. Date Upon Which Taxpayer Entered Into a Unitary Relationship with Its Out-of-State Banking Group

For the tax years at issue, taxpayer determined that it was part of a unitary group. On May 2, 1996, taxpayer completed the purchase of an out-of-state banking group. The audit determined that the out-of-state banking group was assimilated into taxpayer's business such that the out-of-state banking group should have been included with taxpayer's unitary filing for calendar year 1996. The taxpayer included the out-of-state banking group within its federal 1996 consolidated return.

The audit came to this conclusion based, in part, on a statement included within taxpayer's 1996 Annual Report. The Annual Report statement on which the audit relied reads as follow:

> The reported numbers include the results of [out-of-state banking group].... which merged with [taxpayer] in a pooling-of-interests transaction consummated in May. As of June 1996, less than 30 days after closing, the new [out-of-state banking

group] made its debut, with all systems and procedures of the former [of-of-state banking group] converted to [taxpayer's] single operating system. While the cost saving achieved from merger integration enhance the initial return from this transaction, the real payoff is the opportunity for revenue growth – marketing [taxpayer] products and services in [out-of-state banking group's location]. It is clear that our earnings, and our growth rate, will benefit from this acquisition for years to come.

Taxpayer maintains that the audit's determination was erroneous. According to taxpayer, the assimilation of out-of-state banking group should not be based upon the date upon which the acquisition was consummated. Rather, taxpayers' assimilation of the out-of-state banking group – for purposes of determining the taxpayer's adjusted gross income – was an on-going process. Certain steps toward assimilation of the out-of-state banking group – presumably to assure continuity of services to out-of-state banking group's customers – took place before May 2. Other steps in this on-going assimilation process took place subsequent to the May 2 date.

Essentially, argues that a unitary relationship was not established with the out-of-state banking group until January 1, 1997. The statutory definition of a "unitary business" is found at IC 6-5.5-1-18(a), (b).

"Unitary business" means business activities or operations that are of mutual benefit, dependent upon, or contributory to one another, individually or as a group, in transacting the business of a financial institution. The term may be applied within a single legal entity or between multiple entities and without regard to whether each entity is a corporation, a partnership, a limited liability company, or a trust, provided that each member is either a holding company, a regulated financial corporation, or a subsidiary of either, a corporation that conducts the business of a financial institution under IC 6-5.5-1-17(d)(2), or any other entity, regardless of its form, that conducts activities that would constitute the business of a financial institution under IC 6-5.5-1-17(d)(2) if the activities were conducted by a corporation. The term "unitary group" includes those entities that are engaged in a unitary business transacted wholly or partially within Indiana.

Unity is presumed whenever there is unity of ownership, operation, and use evidenced by centralized management or executive force, centralized purchasing, advertising, accounting, or other controlled interaction among entities that are members of the unitary group, as described in subsection (a). However, the absence of these centralized activities does not necessarily evidence a nonunitary business. *See also* 45 IAC 17-3-5(c).

The taxpayer asks the Department to adopt an elastic standard for marking the onset of a unitary relationship in which "ownership" is simply one factor in determining the existence of that relationship. However, there are few compelling reasons for adopting such an amorphous standard. IC 6-5.5-1-18(b) states that a unitary relationship is presumed "whenever there is unity of ownership, operation, and use...." Obviously, the precise exigencies surrounding the acquisition of a fully function banking operation will vary widely depending on the acquiring entity's specific intentions. In some circumstances, the acquiring entity will act to entirely subsume the acquired banking operation; thereafter, the acquired banking operation will lose all vestiges of individual identity and operation. In other circumstances, the acquiring entity will permit the acquired banking operation to retain its individual identity and freedom of operation; even after the formal acquisition has been full consummated, the acquiring entity will exercise only the most tenuous control over the acquired banking operation. Under either set of circumstances, the one objectively certain factor is "ownership." The remaining two factors – "use" and "operation" are less quantifiably precise but, nonetheless, inexorably follow the acquisition of the target banking operation.

Under any reasonable interpretative application of IC 6-5.5-1-18(a), (b), taxpayer entered into a unitary relationship with the out-of-state banking group on the date taxpayer acquired ownership of the group.

FINDING

Taxpayer's protest is respectfully denied.

II. Calculation of Taxpayer's Foreign Source Income – Exclusion of Related Expenses in Determining Taxpayer's Adjusted Gross Income

Taxpayer protests the audit's decision to reduce the taxpayer's amount of taxpayer's foreign source income exclusion.

In calculating the amount of foreign source dividends taxpayer was entitled to deduct from its federal adjusted gross income, the audit reduced the amount of foreign source by the amount of expenses taxpayer stated on its Federal Form 1118.

In calculating taxpayer's state FIT liability, the starting point is the taxpayer's federal adjusted gross income. IC 6-5.5-1-2(a) states that, "Except as provided in subsections (b) through (d), 'adjusted gross income' means income as defined in Section 63 of the Internal Revenue Code...."

However, the taxpayer is entitled to exclude certain income from the amount of its federal adjusted gross income. Specifically, IC 6-5.5-1-2(a)(2)(B) permits the taxpayer to subtract "Income that is derived from sources outside the United States, as defined by the Internal Revenue Code."

Therefore, the taxpayer does not have to pay the FIT on "foreign source income." However, the amount of "foreign source income" the taxpayer may subtract from its federal adjusted gross income is not unrestrained. The Department requires the taxpayer to add back to its "foreign source income" those expenses related to obtaining that "foreign source income." The Department's rationale for doing so is plain; if Indiana starts with federal taxable income – an amount arrived at by deducting all relevant business expenses – but allows a straightforward deduction of the taxpayer's foreign source income, then the taxpayer, in effect, is receiving a double deduction of the expenses related to that foreign source income.

Taxpayer challenges the audit's deduction of the expenses on two grounds: First, taxpayer argues that there is no statutory or regulatory basis on which to permit an expense adjustment in tandem with the exclusion for foreign income and that the audit's proposed adjustment goes beyond the scope of the statute; Second, taxpayer maintains that even if some expense disallowance were appropriate, the method used by the audit to determine the amount of expenses overstates the actual amount of expenses.

The taxpayer's facial challenge to the Department's practice of deducting from its "foreign source income" those expenses related to the acquisition of that income, does not survive close scrutiny. In calculating – for purposes of the FIT – taxpayer's adjusted gross income, the taxpayer has provided no justification for allowing it to effectively "deduct" its expenses two times over. Such a proposed methodology finds no basis either in law or common sense.

The audit referenced taxpayer's Federal Form 1118 to determine the amount of expenses related to the acquisition of its foreign source income. However, according to taxpayer, "Use of the Form 1118 as the basis for the adjustments results in the disallowance of expenses which insufficiently related to the [foreign source income] to justify the adjustment." Taxpayer argues that Federal Form 1118 is a blunt instrument which substantially overstates the actual amount of foreign source income expenses. Taxpayer maintains that the federal system of calculating foreign source income expenses, arbitrarily allocates a raw percentage of its *total* expenses as expenses related to the foreign source income whether or not that allocation to foreign source income is based in financial reality. For example, taxpayer offers the hypothetical example of a Singapore treasury bond purchase. Taxpayer's actual expenses related to this essentially passive investment are insubstantial yet – according to taxpayer – the Federal Form 1118 arbitrarily attributes a certain percentage of its total expenses toward the maintenance of this investment.

Taxpayer's secondary argument must also be rejected. Even if taxpayer is entirely correct in asserting that the Federal Form 1118 is an inexact instrument for calculating its foreign income expenses, the alternative information it has provided is insufficient to overcome the presumption of correctness which attaches to the audit's original calculation. As set out in IC 6-8.1-5-1(b), "The notice of proposed assessment is prima facie evidence that the department's claim for the unpaid tax is valid." There is no basis for substituting the equally imprecise supplementary information for the audit's original calculation based upon the taxpayer's own Federal Form 1118. "The burden of proving that the proposed assessment is wrong rests with the person against whom the proposed assessment is made." Id.

FINDING

Taxpayer's protest is respectfully denied.

III. Enterprise Zone Loan Interest Credit – Credit on Interest Taxpayer Derived from Loans to Churches and Not-for-Profit Organizations

The audit determined that taxpayer was not entitled to a credit for interest received on certain loans made within an "Enterprise Zone." Specifically, the audit disallowed the credit for loans made to churches and not-for-profit organizations. The audit reasoned that the churches and not-for-profit organizations lacked a qualifying business purpose.

The statutory scheme, IC 6-3.1-7-1 to -6, permits taxpayer to claim a credit against its state FIT liability if it receives interest on a "qualifying loan" made to an organization located within an enterprise zone.

IC 6-3.1-7-1 states in part as follows:

"Qualified loan" means a loan made to an entity that uses the loan proceeds for: (1) a purpose that is directly related to a business located in an enterprise zone; (2) an improvement that increases the assessed value of real property located in an enterprise zone; or (3) rehabilitation, repair, or improvement of a residence.

The credit which taxpayer seeks to obtain is defined in IC 6-3.1-7-2 which reads:

(a) A taxpayer is entitled to a credit against his state tax liability for a taxable year if he receives interest on a qualified loan in that taxable year.

(b) The amount of the credit to which a taxpayer is entitled under this section is five percent (5%) multiplied by the amount of interest received by the taxpayer during the taxable year from qualified loans.

The audit was correct in concluding that a church or not-for-profit organization is not a "business" in the conventional sense of that word. After all, a church or not-for-profit organization does not manufacture widgets, sell groceries, provide dry-cleaning services, or perform any of the activities that one would readily associate with having a "business purpose." However, the language found within IC 6-3.1-7-1 does not impose such a restraint on a "qualifying loan." The statute plainly allows the taxpayer to claim the interest credit for loans made to an enterprise zone "entity" which uses the loan proceeds for "an improvement that increases the value of real property in an enterprise zone." IC 6-3.1-7-1.

FINDING

Taxpayer's protest is sustained.

IV. Abatement of the Ten Percent Negligence Penalty

Of the three years considered by the audit, the ten percent negligence penalty was assessed against the additional assessment for 1996. The additional assessment is attributed largely to taxpayer's failure to include the out-of-state banking group within its unitary return. Taxpayer asks the Department to exercise its discretion to abate the ten percent negligence penalty. Taxpayer argues that its positions concerning the state's Financial Institutions Tax were based upon good faith interpretations of the relevant statutes,

Indiana case law, and Department policy; were not due to negligence or intentional disregard of the law; and that the original determination of its tax liability had a reasonable basis.

In the alternative, taxpayer argues that assessment of the ten percent negligence paints with too broad a brush. Taxpayer argues that the Department should wend its way through the additional assessments, determine which of those additional assessments can be attributed to a particular "negligent" act, and then assess the penalty against only those portions of the additional assessments directly attributable to the particular negligent act.

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 was assessed the ten percent negligence penalty primarily based on its failure to include the newly acquired out-of-state banking entity in its 1996 Indiana FIT return while simultaneously including the entity in its federal consolidated return for that same year. Taxpayer has provided sufficient indicia to establish the failure to include the entity in FIT was due to "reasonable cause."

FINDING

Taxpayer's protest is sustained.

DEPARTMENT OF STATE REVENUE

0420010352.LOF

LETTER OF FINDINGS NUMBER: 01-0352
State Gross Retail Tax
For Tax 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. State Gross Retail Tax – Public Transportation Exemption

Authority: IC 6-2.5-5-27; 45 IAC 2.2-5-61(b), (g)

Taxpayer protests the assessment of tax on various purchases of equipment and supplies that taxpayer believes were used to administer the business of public transportation.

II. Tax Administration – Abatement of Penalty

Authority: IC 6-8.1-10-2.1(d); 45 IAC 15-11-2(c)

Taxpayer protests imposition of a ten percent (10%) negligence penalty.

STATEMENT OF FACTS

Taxpayer is in the business of rendering public transportation and warehousing perishable food products by means of its "cold" transportation equipment and facilities. Taxpayer uses refrigerated trucks that are owned by taxpayer to transport the frozen food products from a location designated by taxpayer to its cold storage facilities. At a later date, upon receipt of further shipping instructions, taxpayer transports the goods from its storage facilities to the location designated by the customer. The customer pays an arranged fee for the transportation services.

Taxpayer's cold storage facilities are used to warehouse the customer's goods. Just as the perishable goods must be carried in temperature-controlled refrigerated trucks, so too must the goods be maintained in temperature controlled facilities at taxpayer's cold storage facilities during the storage, handling, and transfer phase of the transportation journey. Warehousing of specific goods is usually for no longer than one to two weeks; however, some contracts with customers provide that taxpayer will warehouse certain seasonal goods for a few months. A special warehousing fee is charged to storage customers who contract for the warehousing of seasonal goods. From time-to-time, a transportation customer may incur an additional separately stated storage surcharge if its goods remain within taxpayer's cold storage facility for longer than the normal period of transfer and handling time.

The Department agreed that taxpayer is engaged in public transportation. However, the Department assessed tax on items used by taxpayer in its cold storage facility because the Department found that the cold storage area is used for warehousing goods and

not for the temporary storage of goods in public transportation. These items included utilities, forklift trucks and various repair parts for the forklift trucks, handheld computers that verify the receipt of shipments and keep inventory, and various office supplies. Taxpayer argues that whereas it does provide storage service to certain storage customers, the storage service is temporary in nature.

I. State Gross Retail Tax – Public Transportation Exemption

DISCUSSION

The definition of public transportation is found at 45 IAC 2.2-5-61(b) as follows:

Public transportation shall mean and include the movement, transportation, or carrying of persons and/or property for consideration by a common carrier, contract carrier, household goods carrier, carriers of exempt commodities, and other specialized carriers performing public transportation service for compensation by highway, rail, air or water, which carriers operate under authority issued by, or are specifically exempt by statute or regulation from economic regulation of, the public service commission of Indiana, the Interstate Commerce Commission, the aeronautics commission of Indiana, the U.S. Civil Aeronautics Board, the U.S. Department of Transportation, or the Federal Maritime Commissioner; however, the fact that a company possesses a permit or authority issued by the P.S.C.I., I.C.C., etc., does not of itself mean that such a company is engaged in public transportation unless it is in fact engaged in the transportation of persons or property for consideration as defined above.

If a person acquiring tangible personal property or services directly uses or consumes the property or services in providing public transportation for persons or property, the transactions involving the tangible personal property and services are exempt from the state gross retail tax. *See* IC 6-2.5-5-27. "Property directly used for temporarily storing persons or property being transported is exempt from tax because temporary storage is considered to be an integral part of rendering transportation." 45 IAC 2.2-5-61(g).

Here, taxpayer is a public transportation company that transports frozen foods for customers. Taxpayer picks up the goods at the customer's location and delivers them to taxpayer's cold storage facilities. Taxpayer imposes a separately stated "storage surcharge" in addition to the transportation/cartage charges if, for any reason, the customer's goods are held at taxpayer's cold storage facility for longer than the normal period of transfer and handling time. Upon receipt of further shipping instructions from the customer, the goods are delivered by the taxpayer to the customer's designated final destination. Based upon the facts of the instant case, the question before us becomes whether or not taxpayer's storage (*i.e.*, warehousing) activities constitute the temporary storage of property in transit such that the equipment and supplies consumed in maintaining the storage facility are exempt from sales tax because they are an integral part of taxpayer's public transportation service.

45 IAC 2.2-5-61(g) gives several examples of temporary storage facilities which would qualify for exemption from the gross retail tax. Some of these examples include facilities to store airline passengers' luggage until it can be loaded on a plane, and a carrier temporarily storing property until it can be loaded for further shipment.

The Department defines "temporary storage of persons or property in transit" as that storage required by the public transportation company to facilitate the routine transfer of persons or property between public transportation carriers or equipment or as required by unanticipated delays. The Department does not consider storage that is requested by the person for whom public transportation is performed (*i.e.*, taxpayer's customers) to be temporary storage of persons or property in transit. Such storage is a service performed for the customer after public transportation has ceased. Subsequent shipment begins the public transportation activity anew.

In the instant case, the storage provided by taxpayer is requested by taxpayer's customers for the customers' own convenience. As such, the storage service performed by taxpayer is not "temporary storage of persons or property in transit", but instead constitutes storage unrelated to the public transportation business. Therefore, the cold storage facility including the equipment and supplies consumed in maintaining it are subject to sales or use tax.

FINDING

Taxpayer's protest is denied.

II. Tax Administration – Abatement of Penalty

DISCUSSION

The Department determined that a ten percent (10%) negligence penalty should be imposed upon taxpayer. Taxpayer disagrees with the imposition of said penalty.

Under IC 6-8.1-10-2.1(d), the Department is empowered to waive the ten-percent negligence penalty if the taxpayer can establish that its failure to pay the tax deficiency was due to reasonable cause and not due to willful neglect. Under 45 IAC 15-11-2(c), 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. Ignorance of the listed tax laws, rules, and/or regulations is treated as negligence. Factors which may be considered to determine reasonable cause include the nature of the tax involved, judicial precedents set by Indiana courts, judicial precedents established by jurisdictions outside Indiana, published Department instructions, information bulletins, letters of findings, rulings, and letters of advice. 45 IAC 15-11-2(c).

Taxpayer was the subject of a prior audit by the Department in 1997 that addressed whether or not taxpayer was entitled to the public transportation exemption. Following taxpayer's protest of the issues of the prior audit, and a subsequent hearing, a letter

of findings was issued stating that taxpayer was not entitled to the public transportation exemption. Thereafter, taxpayer chose to discount the Department's determination and continued to make purchases for its cold storage facility in adherence with its previous interpretation of the tax laws and regulations (*i.e.*, no sales or use tax was paid on the purchases). Although taxpayer chose not to appeal the Department's finding, it undoubtedly realized that something was amiss. However deeply felt its position may have been, taxpayer's decision to ignore the results of the prior audit takes that decision out of the "ordinary business care" standard necessary for the Department to grant the taxpayer's request to waive the penalty.

FINDING

Taxpayer's protest is respectfully denied.

DEPARTMENT OF STATE REVENUE

0220020019.LOF
0220020122.LOF

LETTER OF FINDINGS NUMBER: 02-0019 and 02-0122
Adjusted Gross Income Tax
For Tax Year 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. Adjusted Gross Income Tax – Unitary (Combined) Filing Status

Authority: *Mobil Oil Corporation v. Commissioner of Taxes of Vermont*, 445 U.S. 425, 100 S.Ct. 1223 (1980); *Exxon Corp. v. Department of Revenue of Wisconsin*, 447 U.S. 207, 100 S.Ct. 2109 (1980); *ASARCO, Inc. v. Idaho State Tax Commission*, 458 U.S. 307, 102 S.Ct. 3103 (1982); *F.W. Woolworth v. Taxation and Revenue Department of New Mexico*, 458 U.S. 354, 102 S.Ct. 3128 (1982); *Allied-Signal, Inc. v. Director, Division of Taxation*, 504 U.S. 768, 112 S.Ct. 2251 (1992); *Container Corp. V. Franchise Tax Board*, 463 U.S. 159, 103 S.Ct. 2933; 35 ILCS 5/1501(a)(27) and Tenn.Code Ann. § 67-4-2004(25)(B)

Taxpayers protest the auditor's determination that because the parent corporation's ownership of its subsidiary was less than 80%, the subsidiary should not have been included in the combined tax returns with the parent corporation.

II. Adjusted Gross Income Tax – Throwback Sales

Authority: IC 6-3-2-2; 45 IAC 3.1-1-64; Indiana Dept. of State Revenue Information Bulletin #12

Taxpayers protest the inclusion of sales to Illinois in the Indiana apportionment sales factor.

STATEMENT OF FACTS

The taxpayers in the instant case are a parent corporation and its subsidiary. The two entities chose to file a joint-protest. Within this Letter of Findings, the entities will be addressed separately as "Parent" and "Subsidiary" and together as "taxpayers".

Subsidiary

Subsidiary is a manufacturer and marketer of specialty engineered products used primarily in the automotive after-market industry. Subsidiary is an out-of-state company but conducts virtually all of its business operations from its Indiana location. At the time of the audit, Subsidiary filed combined tax returns with its parent corporation (hereinafter referred to as "Subsidiary's parent"), Parent, and other affiliates. At the time of the audit, Subsidiary's parent owned (55%) of Subsidiary.

Pursuant to the audit, the auditor determined that because Subsidiary's parent's ownership of Subsidiary was less than 80%, Subsidiary should not have been included in the combined tax returns with Parent. Based upon this finding, the auditor recomputed Subsidiary's taxable gross income on a separate basis.

Parent

Parent is a global manufacturer of energy absorption and power transmission products as well as custom engineered components. At the time of the audit, the Parent's business group was comprised of Parent and seven wholly-owned subsidiaries (an eighth was added in tax year ending December 31, 1997). Parent operates primarily as a strategic management company for its subsidiaries.

Since 1987, Parent has filed on a consolidated basis for gross income tax purposes, and on a combined basis for adjusted gross income tax purposes. All of the companies included in the returns were 100% owned, either directly or indirectly, by Parent, with the exception of Subsidiary. During the audit period, Subsidiary was 55% owned by Subsidiary's parent. (Subsidiary's parent is a subsidiary of Parent.)

Based upon the auditor's belief that there must be 80% ownership for an entity to be included in a combined filing, the auditor excluded Subsidiary from the combined filing for adjusted gross income tax purposes. For the same reason, the auditor also excluded Subsidiary from the consolidated filing, for gross income tax purposes.

I. Adjusted Gross Income Tax – Unitary (Combined) Filing Status

DISCUSSION

Taxpayers protest the auditor's determination that Subsidiary should be excluded from the combined filing returns with Parent because Subsidiary was only 55% owned by Subsidiary's parent. The determination was made based upon the auditor's belief that there must be 80% ownership for an entity to be included in a combined filing.

The Supreme Court over the years has developed a three-part test in determining whether a unitary relationship exists: common ownership, common management, and common use or operation. *See*, *e.g.*, *Mobil Oil Corporation v. Commissioner of Taxes of Vermont*, 445 U.S. 425, 100 S.Ct. 1223 (1980); *Exxon Corp. v. Department of Revenue of Wisconsin*, 447 U.S. 207, 100 S.Ct. 2109 (1980); *ASARCO, Inc. v. Idaho State Tax Commission*, 458 U.S. 307, 102 S.Ct. 3103 (1982); *F.W. Woolworth v. Taxation and Revenue Department of New Mexico*, 458 U.S. 354, 102 S.Ct. 3128 (1982); *Allied-Signal, Inc. v. Director, Division of Taxation*, 504 U.S. 768, 112 S.Ct. 2251 (1992). The first item to be considered under this three-part test is common ownership. As a general rule, *at least* fifty percent (50%) of a corporation's stock must be commonly owned (either directly or indirectly) in order for a corporation to be considered part of a unitary business. *See*, *i.e.*, 35 ILCS 5/1501(a)(27) and Tenn.Code Ann. § 67-4-2004(25)(B).

The information and documentation available shows that during the audit period Parent (*i.e.*, Parent through Subsidiary's parent) owned fifty-five percent (55%) of the stock of Subsidiary. The evidence of file is sufficient to establish common ownership.

There is also sufficient evidence to find common management and common use or operation. Common management is shown when the parent corporation provides a management role that is grounded in the parent's own operation expertise and overall operational strategy. *See*, *e.g.*, *Container Corp. v. Franchise Tax Board*, 463 U.S. 159, 180, n. 19, 103 S.Ct. 2933, 2948, n. 19 (1983). Evidence of a common operation exists where certain functions are performed for the group by the parent (such as purchasing, financing, advertising, marketing, research, tax compliance, insurance, and pension plan management) which independent companies would perform for themselves.

The evidence on file shows that Parent operated as a management company for its subsidiaries and exercised control and influence over them. Officers and directors of Parent held officer positions and directorships within the subsidiaries (*e.g.*, Parent's president also served as the director of Subsidiary). Parent was responsible for the strategic management of the subsidiaries, including the overall approval of the subsidiaries' budgets, and final authority over funding and financing decisions. Furthermore, many of the administrative, management, and financing functions for the subsidiaries were centralized. For example, income tax filing services, legal support, human resources and insurance coverage for each of the subsidiaries was centralized at the level of Parent. Parent also secured third party financing, and provided pension plans, post-retirement, self-insured health care and life insurance benefits for the active and retired employees of the subsidiaries.

On the basis of the facts, it appears that Parent and Subsidiary enjoyed a unitary relationship. Subsidiary should not have been excluded from the combined filing returns with Parent.

FINDING

Taxpayers' protest is sustained.

II. Adjusted Gross Income Tax – Throwback Sales

DISCUSSION

Subsidiary argues that the auditor erred in including its sales to Illinois in the combined filing Indiana sales factor. According to Subsidiary, because it is subject to income tax in Illinois and was included in a combined Illinois income tax return with Parent, Subsidiary's Illinois sales should have been excluded from the numerator of the Indiana sales factor.

Sales made by Indiana corporations to out-of-state purchasers must be apportioned, as income, to Indiana, if the state in which the purchaser resides is without legal authority to claim such income as its own. *See* IC 6-3-2-2(e) and 45 IAC 3.1-1-64. Specifically, if interstate sales are "taxable in another state" - *i.e.*, the state of the purchaser - the sales are not includible in the numerator of the Indiana sales factor. Such sales are defined as throwback sales.

According to IC 6-3-2-2(n):

For purposes of allocation and apportionment of income under this article, a taxpayer is taxable in another state if:

(1) in that state the taxpayer is subject to a net income tax, a franchise tax measured by net income, a franchise tax for the privilege of doing business, or a corporate stock tax; or

(2) that state has jurisdiction to subject the taxpayer to a net income tax regardless of whether, in fact, the state does or does not.

Indiana's regulatory language further defines "taxable in another state." 45 IAC 3.1-1-64 states in part: "A corporation is 'taxable in another state' under the Act when such state has jurisdiction to subject it [the corporation] to a net income tax."

It is well-settled that the basic premise in filing a combined return is that all activities carried on by separate entities are part of a single unitary business (*i.e.*, one taxpayer). *See Indiana Dept. of State Revenue Information Bulletin #12*, page 11. Under the "Finnigan" concept (set forth in *Appeal of Finnigan Corporation*, Cal. St. Board of Equal., Jan. 24, 1990 (88-SBE-022A) and adopted by the Department in *Indiana Dept. of State Revenue Information Bulletin #12*), a "taxpayer" for combined filing purposes is defined to mean all corporations (*i.e.*, members) of a unitary group. *See Indiana Dept. of State Revenue Information Bulletin #12*, page 11.

In the instant case, the evidence of file establishes that Subsidiary is part of a unitary group that filed a combined Illinois corporation income tax return for the tax year in question. A review of the Illinois tax return evinces that Subsidiary was not the only entity within the unitary group with activities in Illinois. Another member of the unitary group reported property, payroll, and sales from activities within Illinois. Because this entity was clearly taxable in Illinois, and because Subsidiary and the entity were both members of the Indiana and Illinois unitary groups, and because for purposes of determining throwback or a sales factor calculation the meaning of the term "taxpayer" includes all members of the unitary group, the throwback of Subsidiary's Illinois sales was improper.

FINDING

Taxpayers' protest is sustained.

DEPARTMENT OF STATE REVENUE

2820020081.LOF

LETTER OF FINDINGS NUMBER: 02-0081 CSET
Controlled Substance Excise Tax
For Tax Period: 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

Controlled Substance Excise Tax – Imposition

Authority: IC 6-7-3-19(2), IC 6-8.1-3-1, IC 6-7-3-5, IC 6-7-3-13, Fifth Amendment to the United States Constitution, Bryant v. State, 660 N.E. 2d 290 (Ind. 1995)

The taxpayer protests the imposition of the controlled substance excise tax.

STATEMENT OF FACTS

On August 17, 2001, the taxpayer picked up a box of controlled substances at the post office. The taxpayer's county prosecutor sent the Indiana Department of Revenue, hereinafter the "department", a letter requesting that the department institute a controlled substance excise tax investigation. The Indiana Department of Revenue issued a Record of Jeopardy Finding, Jeopardy Assessment, Notice and Demand on January 7, 2002 in a base tax amount of $170,236.00. The taxpayer protested the assessment. At the request of the taxpayer's representative, the Letter of Findings was based upon the documentation in the file. Further facts will be provided as necessary.

Controlled Substance Excise Tax – Imposition

DISCUSSION

The department can only commence an investigation into and collection of controlled substance excise tax after it is notified pursuant to the terms of IC 6-7-3-19(2) as follows:

> ... in writing by the prosecuting attorney of the jurisdiction where the offense occurred that the prosecuting attorney does not intend to pursue criminal charges of delivery, possession, or manufacture of the controlled substance that may be subject to the tax required by this chapter.

In this case, the department received this notification in writing from the taxpayer's county prosecutor in the following words:

> This letter is a request for you to continue the investigation of the above entitled cases for the Indiana State Department of Revenue. Both of our cases have been closed. Attached, you will find a copy of the plea agreement in these cases.

Pursuant to IC 6-8.1-3-1, the department's receipt of the prosecutor's request for an investigation transferred to the department the "primary responsibility for the administration, collection, and enforcement of the listed taxes."

After receipt of the prosecutor's letter, the department investigated the taxpayer's case. As a result of the investigation, the department imposed controlled substance excise tax on the taxpayer's possession of anabolic steroids in Indiana pursuant to IC 6-7-3-5. The assessment was issued as a jeopardy assessment as required at IC 6-7-3-13.

The department later received a second letter from the county prosecutor requesting that the department discontinue the collection of the controlled substance excise tax from the taxpayer. The department considered the prosecutor's request and determined to proceed with the collection of the tax.

The prosecutor and the taxpayer negotiated another plea agreement after the issuance of the jeopardy assessment. Pursuant to the new plea agreement, the defendant pled guilty on April 26, 2002 to each of the counts of possession of anabolic steroids. That agreement reads in part as follows, "no further jeopardy shall attach to the defendant in this case, under counts 1,2,3,4,5 and 6. Including but not limited to the tax typically applied in these cases."

The taxpayer argues that the department's continued efforts to collect the controlled substance excise tax violates the taxpayer's constitutional protection against double jeopardy guaranteed in the Fifth Amendment to the United States Constitution.

The Indiana Supreme Court considered this double jeopardy issue in Bryant v. State, 660 N.E. 2d 290 (Ind. 1995). In that case, the police searched Bryant's home and found a marijuana growing operation. The department issued a jeopardy assessment of the controlled substance excise tax in August 1992. Bryant was convicted of growing, cultivating and possession of marijuana in criminal court in April 1993. This conviction placed Bryant in criminal jeopardy based upon the same possession of the marijuana as the jeopardy assessment.

The Fifth Amendment to the United States Constitution prohibits the placing of any person in jeopardy twice for the same offense. The issue the Court had to decide was which jeopardy would be effective and which jeopardy would be vacated. The Court decreed that it must be determined based on a calendar determination of which jeopardy came first. In the Bryant case, the controlled substance excise tax jeopardy was previous in time to the criminal jeopardy. Therefore the criminal court incorrectly convicted Bryant and the criminal conviction was vacated.

This is identical to the taxpayer's situation. The controlled substance excise tax jeopardy assessment was issued prior in time to the plea bargain wherein the taxpayer pled guilty and was placed in jeopardy for the criminal actions. The first jeopardy, the controlled substance excise tax jeopardy, was the constitutionally allowed jeopardy. The criminal jeopardy, the April 26, 2002 plea agreement, was barred by the Fifth Amendment to the United States Constitution because it placed the taxpayer in jeopardy a second time for the same offense.

The prosecutor and judge had no further authority over the matter after the department issued the jeopardy assessment.

The taxpayer clearly possessed the box of anabolic steroids when he picked it up at the post office. Therefore, the controlled substance excise tax was properly imposed.

FINDING

The taxpayer's protest is denied.

DEPARTMENT OF STATE REVENUE

2820020089.LOF

LETTER OF FINDINGS NUMBER: 02-0089 CSET
Controlled Substance Excise Tax
For Tax Periods: 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

Controlled Substance Excise Tax – Imposition

Authority: IC 6-7-3-19 (2), IC 6-8.1-3-1, IC 6-7-3-5, IC 6-7-3-13, IC 6-8.1-5-1 (b), Hurst v. Department of Revenue, 720 N.E.2d 370 (Ind. Tax. 1999), Hall v. Department of Revenue, 720 N.E.2d 1287 (Ind. Tax 1999)

The taxpayer protests the imposition of the controlled substance excise tax.

STATEMENT OF FACTS

On August 17, 2001, controlled substances were found in the home of the taxpayer. The taxpayer's county prosecutor sent the Indiana Department of Revenue, hereinafter the "department," a letter requesting that the department institute a controlled substance excise tax investigation. The Indiana Department of Revenue issued a Record of Jeopardy Finding, Jeopardy Assessment, Notice and Demand on January 7, 2002 in a base tax amount of $191,872.00. The taxpayer protested the assessment. At the request of the taxpayer's representative, the Letter of Findings was based upon the documentation in the file. Further facts will be provided as necessary.

Controlled Substance Excise Tax – Imposition

DISCUSSION

The department can only commence an investigation into and collection of controlled substance excise tax after it is notified pursuant to the terms of IC 6-7-3-19 (2) as follows:

> ... in writing by the prosecuting attorney of the jurisdiction where the offense occurred that the prosecuting attorney does not intend to pursue criminal charges of delivery, possession, or manufacture of the controlled substance that may be subject to the tax required by this chapter.

In this case, the department received this notification by letter from the taxpayer's county prosecutor in the following words:

> This letter is a request for you to continue the investigation of the above entitled cases for the Indiana State Department of Revenue. Both of our cases have been closed. Attached, you will find a copy of the plea agreement in these cases.

Pursuant to IC 6-8.1-3-1, the department's receipt of the prosecutor's request for an investigation transferred to the department the "primary responsibility for the administration, collection, and enforcement of the listed taxes."

After receipt of the prosecutor's letter, the department investigated the taxpayer's case and imposed the controlled substance excise tax on the taxpayer's possession of anabolic steroids in Indiana pursuant to IC 6-7-3-5. The assessment was issued as a jeopardy assessment as required at IC 6-7-3-13.

The department later received a second letter from the county prosecutor requesting that the department discontinue the collection of the controlled substance excise tax from the taxpayer. The department considered the prosecutor's request and determined to proceed with the collection of the tax.

Department assessments are presumed to be correct and the taxpayer bears the burden of proving that an assessment is incorrect. IC 6-8.1-5-1 (b).

Possession of the controlled substances can be either actual or constructive. Hurst v. Department of Revenue, 720 N.E.2d 370 (Ind. Tax. 1999), Hall v. Department of Revenue, 720 N.E.2d 1287 (Ind. Tax 1999). Although both direct and circumstantial evidence may prove constructive possession, proof of presence in the vicinity of controlled substances, presence on property where controlled substances are located, or mere association with the possessor is not sufficient. Hurst at 374-375. To prove constructive possession, there must be a showing that the taxpayer had not only the requisite intent but also the capability to maintain dominion and control over the substance. Hurst at 374.

In the Hall case, the department assessed controlled substance excise tax against a husband and wife. The couple owned and lived together in a residence. The wife testified that she had no knowledge of the presence of a controlled substance in the house. Marijuana, a controlled substance, was grown in a basement room with a locked door. Only the husband had a key to the room. The Court found that the wife did not have the capability to maintain dominion and control over the marijuana since she had no capability of entering the locked room containing the marijuana to exert any control over the growing operation. Therefore she did not constructively possess the marijuana and the controlled substance excise tax was improperly imposed against the wife.

There are significant differences between the Hall case and the taxpayer's situation. The taxpayer is assessed tax on the anabolic steroids found in an unlocked closet in her bedroom. At the time of the arrest, the taxpayer told the police that she knew of the shipments of anabolic steroids received by her husband, knew of the controlled substances stored in her residence and used some of the controlled substances herself. Those self-incriminating statements made at the time of her arrest are more credible than the contradicting statements in taxpayer's May 2, 2002 affidavit or her husband's May 2, 2002 affidavit. The facts of this situation indicate that the taxpayer did intend to possess the anabolic steroids. The taxpayer had access to the anabolic steroids and the capability to maintain dominion and control over them. Thus, the taxpayer had constructive possession of the controlled substances found in her residence. The taxpayer failed to sustain her burden of proof that the controlled substance excise tax was improperly imposed.

FINDING

The taxpayer's protest is denied.

DEPARTMENT OF STATE REVENUE

0120020199.LOF

LETTER OF FINDINGS NUMBER: 02-0199 AGI
Adjusted Gross Income Tax
For Tax Period: 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.

ISSUES

1. Adjusted Gross Income Tax – Human Services Tax Deduction

Authority: IC 6-3-2-1, IC 6-3-1-3.5 (a) (14), Income Tax Information Bulletin #80, April 1997

The taxpayer protests the disallowance of the human services tax deduction.

2. Tax Administration – Negligence Penalty

Authority: IC 6-8.1-10-2.1, 45 IAC 15-11-2(b)

The taxpayer protests the imposition of the negligence penalty.

STATEMENT OF FACTS

The taxpayer filed a 2000 Indiana Income tax return, form IT-40EZ. The taxpayer, a quadriplegic, lived in a nursing home paid for by medicaid and was gainfully employed by an Indiana business during the tax period. The taxpayer had taxable wages in 2000

and had a total tax liability per his original return of $1,285.00. The taxpayer had total credits, from withholding of state and local tax by his employer in the amount of $1,329.00. The taxpayer requested and received a $44.00 refund.

The taxpayer later filed an amended return for 2000 claiming all income was exempt under the human service deduction. The taxpayer was issued a refund of all taxes paid. Later, the Indiana Department of Revenue, hereinafter referred to as the "department," adjusted the return to disallow the human service deduction and billed the taxpayer for the refund issued in error, interest, and penalty. The taxpayer protested the assessment and a hearing was held.

1. Adjusted Gross Income Tax – Human Services Tax Deduction

DISCUSSION

Pursuant to IC 6-3-2-1, an adjusted gross income tax is imposed upon all Indiana residents. After determining the Indiana adjusted gross income, taxpayers may take certain statutory deductions. One of these deductions is the human services tax deduction that is stated at IC 6-3-1-3.5 (a) (14) as follows:

> In the case of an individual who is a recipient of assistance under IC 12-10-6-1, IC 12-10-6-2, IC 12-15-2-2, or IC 12-15-7, subtract an amount equal to that portion of the individual's gross income with respect to which the individual is not allowed under federal law to retain an amount to pay state and local income taxes.

Income Tax Information Bulletin #80, April 1997, discusses the application of the deduction. The purpose of the deduction is explained as follows:

> There are instances in which persons who are receiving Medicaid may have a source of taxable income such as a pension or annuity or be entitled to a monthly personal allowance. The receipt of this income gives rise to state and local income tax liabilities. However, an individual on Medicaid is allowed to retain an amount equal to the individual's state and local income tax liabilities.

Under the terms of Income Tax Information Bulletin #80, April, 1997, a taxpayer is eligible to receive the deduction if:

1. The person receives medical assistance payments (known as Medicaid.),
2. The person does not live at home,
3. The person receives care at a hospital, a skilled nursing facility or an intermediate facility.

The department and the taxpayer agree that the taxpayer received Medicaid, did not live at home, and lived in a skilled nursing facility. Therefore, the only issue to be determined is the proper computation of the deduction.

Directions for computation of the human services deduction are found in Income Tax Information Bulletin #80, April, 1997, as follows:

> Step #1
>
> Complete the IT-40 without using the human services tax deduction. If the total Indiana Credits on Line 26 is greater than the Total Tax on Line 19, you are not eligible to claim the deduction. However, if the Total Tax on Line 19 is greater than the Total Indiana Credits on Line 26, go to Step #2.
>
> Step #2
>
> Complete a second IT-40 using the human services tax deduction as computed in this step. Take Line 11, Indiana adjusted gross income figure computed in Step#1 and place the sum of Line 9 of the IT-40. This sum is the amount of the human services tax deduction to which you are entitled. This figure should also be entered on Schedule 1, Line F of the IT-40 and labeled Human Services Tax Deduction.

Since the tax form line references referred to the 1996 IT-40 tax return, the references did not correspond correctly with the 2000 IT-40 EZ tax return. The taxpayer was required, therefore, to interpret the meaning of the various lines. The taxpayer classified the taxes withheld as an Indiana credit and compared it to his total tax. The withholding was greater than his tax liability, so the taxpayer interpreted this as indicating that he qualified for the Human Services Tax Deduction and requested the refund of his total taxes paid.

The taxpayer erred in this computation. The withholding was deducted from earned income as opposed to annuity or pension income as the written purpose of the Human Services Deduction indicated was the target income. Further, the term "Indiana Credit" referred to such credits as the gifts to Indiana colleges. The taxpayer did not have any of these credits available to him. Therefore, the taxpayer's Indiana Credits did not exceed his tax liability on non earned income. The taxpayer did not qualify for the Human Services Tax Deduction.

FINDING

The taxpayer's protest is denied.

2. Tax Administration – Negligence Penalty

DISCUSSION

The department assessed the 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. Negligence shall be determined on a case by case basis according to the facts and circumstances of each taxpayer.

In this case, the taxpayer attempted to follow a seldom used and poorly understood deduction from the adjusted gross income tax. The taxpayer obtained and tried to follow the directions in the department's publication concerning operation of the deduction. Unfortunately, the directions referred to specific tax lines on a form for a previous tax return form and were difficult to apply to the taxpayer's 2000 form. The taxpayer used reasonable care in attempting to properly apply the deduction to his situation. Therefore, although the taxpayer erred in his application, the negligence penalty does not apply in this case.

FINDING

The taxpayer's protest is sustained.

DEPARTMENT OF STATE REVENUE

0120020300.LOF

LETTER OF FINDINGS NUMBER: 02-0300
Indiana Individual Income Tax
For the Tax Year 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. Imposition of the State's Individual Income Tax By Reference to Taxpayer's Federal Adjusted Gross Income

Authority: IC 6-3-1-3.5; United States v. Kimball, 896 F.2d 1218 (9th Cir. 1990); United States v. Moore, 627 F.2d 839 (7th Cir. 1980); United States v. Long, 618 F.2d 74 (9th Cir. 1980); Cooper Industries, Inc. v. Indiana Dept. of State Revenue, 673 N.E.2d 1209 (Ind. Tax Ct. 1996); 45 IAC 3.1-1-1

Taxpayer maintains that because he reported "0" income on his Federal income tax return for year 2000, he was compelled to put "0" on his state return for that same year.

II. Definition of "Income" for Purposes of Imposing the State's Individual Income Tax

Authority. U.S. Const. amend. XVI; Ind. Const. art X, § 8; IC 6-3-1-3.5 et seq.; IC 6-3-1-9; IC 6-3-1-12; IC 6-3-1-15; I.R.C. § 61; I.R.C. § 62; New York v. Graves, 300 U.S. 308 (1937); Merchants' Loan Trust Company v. Smietanka, 255 U.S. 509 (1921); Eisner v. Macomber, 252 U.S. 189 (1920); Doyle v. Mitchell, 247 U.S. 179 (1918); Stratton's Independence v. Hobert, 231 U.S. 399 (1913); United States v. Connor, 898 F.2d 942 (3rd Cir. 1990); Wilcox v. Commissioner of Internal Revenue, 848 F.2d 1007 (9th Cir. 1988); Coleman v. Commissioner of Internal Revenue, 791 F.2d 68 (7th Cir. 1986); United States v. Koliboski, 732 F.2d 1328 (7th Cir. 1984); United States v. Romero, 640 F.2d 1014 (9th Cir. 1981); United States v. Ballard, 535 F.2d 400 (8th Cir. 1976); Conner v. United States, 303 F.Supp. 1187 (S.D. Tex. 1969); Snyder v. Indiana Dept. of State Revenue, 723 N.E.2d 487 (Ind. Tax Ct. 2000); Thomas v. Indiana Dept. of State Revenue, 675 N.E.2d 362 (Ind. Tax. Ct. 1997); Richey v. Indiana Dept. of State Revenue, 634 N.E.2d 1375 (Ind. Tax Ct. 1994)

Taxpayer maintains that the term "income" is not defined in the Internal Revenue Code. According to taxpayer, under the law and Supreme Court precedent, only corporations are competent to receive taxable income and that the normal income – such as wages and retirement benefits – received by ordinary citizens is not subject to Federal or state income tax.

STATEMENT OF FACTS

Taxpayer filed an Indiana individual income tax return for 2000. On that return, the taxpayer reported that his Federal adjusted gross income was "0." Taxpayer attached a letter to the Indiana return stating he had decided that he would no longer volunteer to pay the state's individual income tax because, he had received no "income" during 2000. The Indiana Department of Revenue (Department) chose to disagree with taxpayer and – given every indication that taxpayer had received income in the form of retirement benefits during the year – sent the taxpayer a notice of "Proposed Assessment." Taxpayer submitted a protest of the Proposed Assessment, an administrative hearing was held, and this Letter of Findings results.

DISCUSSION

I. Imposition of the State's Individual Income Tax By Reference to Taxpayer's Federal Adjusted Gross Income

Taxpayer presents numerous arguments in support of his assertion that he is not liable for Indiana income tax. His first argument is based on the undisputed fact that he reported "0" income on his corresponding Federal return. According to taxpayer, he was thereafter – under penalty of law – obliged to report that same amount on his state return. In support of his argument,

taxpayer presented a copy of his 2000 Federal return and, indeed, it is apparent that taxpayer had reported "0" on the Federal return. Taxpayer has also submitted a copy of the check which the Federal government obligingly issued to taxpayer and which refunded the total amount of federal taxes previously withheld.

It is also not disputed that the Indiana tax return for the tax year 2000 employs Federal adjusted gross income as the starting point for determining the taxpayer's state individual income tax liability. Line one of the IT-40 state form requires the taxpayer to "Enter your Federal adjusted gross income from your Federal return (see page 9)."

IC 6-3-1-3.5 states as follows: "When used in IC 6-3, the term 'adjusted gross income' shall mean the following: (a) In the case of all individuals 'adjusted gross income' (as defined in Section 62 of the Internal Revenue Code)...." Thereafter, the statute specifies addbacks and deductions, peculiar to Indiana, which modify the Federal adjusted gross income amount. The Department's regulation concisely restates the same formulary principal. 45 IAC 3.1-1-1 defines individual adjusted gross income as follows:

Adjusted Gross Income for Individuals Defined. For individuals, "Adjusted Gross Income" is "Adjusted Gross Income as defined in Internal Revenue Code § 62 modified as follows:

(1) Begin with gross income as defined in section 61 of the Internal Revenue Code.

(2) Subtract any deductions allowed by section 62 of the Internal Revenue Code.

(3) Make all modifications required by IC 6-3-1-3.5(a).

Both the statute, IC 6-3-1-3.5, and the accompanying regulation, 45 IAC 3.1-1-1, require that an Indiana taxpayer employ the Federal adjusted gross income calculation, as determined under I.R.C. § 62, as the starting point for determining the taxpayer's Indiana adjusted gross income.

Taxpayer's contention – that he was compelled by force of law to declare "0" as Indiana adjusted gross income because he declared "0" on his Federal return – is totally meritless. The statute is unambiguous. Indiana adjusted gross income begins with Federal taxable income as defined by I.R.C. § 62, not as reported by the taxpayer. *See* Cooper Industries, Inc. v. Indiana Dept. of State Revenue, 673 N.E.2d 1209, 1213 (Ind. Tax Ct. 1996). The directions contained within the Indiana income tax form provide the individual taxpayer with abbreviated directions for completing the form. The form does not purport to state what Indiana tax law is or is not; the directions themselves are not the means for determining the taxpayer's adjusted gross income. The Indiana tax form simply instructs a taxpayer to put which number inside of which box. Those directions notwithstanding, taxpayer is nonetheless required to actually perform the calculations necessary to determine his Indiana adjusted gross income tax liability.

Taxpayer has cited to a number of cases in support of the proposition that he is in full compliance with the tax laws simply by placing a "0" on his tax return. For example taxpayer cites to United States v. Kimball, 896 F.2d 1218 (9th Cir. 1990); United States v. Moore, 627 F.2d 839 (7th Cir. 1980); United States v. Long, 618 F.2d 74 (9th Cir. 1980). However, none of these cases support the fanciful notion that a taxpayer has fulfilled his obligations by merely placing a "0" on the form. Rather, in each of the cited cases, the defendant was being criminally prosecuted for failing to file an income tax return. *See* 26 U.S.C.S. § 7203. In each of those cases, the court merely found that "A return containing false of misleading figures is still a return." Long, 618 F.2d at 76. The cases cited by the taxpayer are entirely irrelevant to taxpayer's basic argument that he does not have to pay income tax. Taxpayer is not being criminally prosecuted for failure to file a return, because it is clear that taxpayer *did* file an Indiana tax return for 2000. Rather, the issue is whether the taxpayer owes adjusted gross income tax for that year.

FINDING

Taxpayer's protest is denied.

II. Definition of "Income" for Purposes of Imposing the State's Individual Income Tax

Taxpayer argues that he did not receive "income" during the year 2000. Liberally construed, taxpayer's argument is that – for purposes of determining income tax liability – "income" can only be derivative of corporate activity. Therefore, as an individual Indiana resident who by definition did not receive "corporate" income, taxpayer is not subject to the adjusted gross income tax because the ordinary income received by individuals is not "taxable income."

Taxpayer has provided a number of Supreme Court cases which purportedly support taxpayer's basic contention. Taxpayer cites to Merchants' Loan Trust Company v. Smietanka, 255 U.S. 509 (1921) for the proposition that income tax can only be levied against corporate gains. In that case, the Court held that the when a provision in a will created a trust, the increase of the value of the trust resulted in taxable "income" under the provisions of the U.S. Const. amend. XVI. Id. In arriving at that decision, the Court stated that "the word [income] must be given the same meaning and content in the Income Tax Acts of Congress that was given to it in the Corporation Excise Tax Act and that what that meaning is has now become definitely settled by decisions of [the] court." Id. 519.

Taxpayer also cites to Eisner v. Macomber, 252 U.S. 189 (1920), a case in which the Court addressed the issue of whether the U.S. Const. amend. XVI permitted the government to tax a taxpayer's stock dividends resulting from a corporation's accumulated profits. The Court held that the stock dividend did not involve the realization of a taxable gain but that the corporation's accumulated profits were simply capitalized or retained as surplus. Id. at 211. In effect, the taxpayer in Eisner had not yet realized a gain severed from and independent of the corporations' assets. Id. at 211-12. In reaching that decision, the Court stated that income is the "gain derived from capital, from labor, or from both combined." Id. at 201.

Taxpayer reads Merchant's Loan and Eisner together with certain other cases – Doyle v. Mitchell, 247 U.S. 179 (1918);

Stratton's Independence v. Hobert, 231 U.S. 406 (1913) United States v. Ballard, 535 F.2d 400 (8th Cir. 1976) – as supporting his contention that the individual income tax can only be assessed against corporate gain. Taxpayer predicates this conclusion on selected case citations which, when taken together, purportedly limits the definition of "taxable income" to the definition originally established under the Civil War Income Tax Act of 1867. However, setting aside the question of the validity of taxpayer's legal analysis, taxpayer's conclusion concerning the definition of corporate income tax is totally irrelevant.

Taxpayer's legal analysis stands for nothing more than, when read in isolation and selectively divorced from the factual setting under which the decisions were reached, a legal argument can be proposed which will support any legal conclusion no matter how unjustified that conclusion is ultimately found. Taxpayer cites cases in which the Court was asked to determine what constituted *corporate income* under the corporate income and excise taxes in effect at the time the Court reached its conclusion. To apply Supreme Court decisions limited to determining the efficacy and application of corporate income taxes to issues related to individual income tax may yield a certain desired result but the entire process is not legally, intellectually, or logically sound.

Taxpayer cites to numerous other cases each of which will not be addressed here. It is sufficient to say that the cases simply do not get the taxpayer where he wants to go. For example, taxpayer cites to Conner v. United States, 303 F. Supp. 1187 (S.D. Tex. 1969) in which the court held that the plaintiff taxpayers' receipt of fire insurance proceeds did not constitute taxable income. Id. at 1191. Nowhere in that case or in any of the other cited cases, did the court find that individuals were not responsible for reporting their income and paying tax on that income.

The United States Supreme has clearly stated that the wages of individual citizens may be subjected to an adjusted gross income tax. In New York v. Graves, 300 U.S. 308 (1937), Justice Stone stated "That the receipt of income by a resident of the territory of a taxing sovereignty is a taxable event is universally recognized." Id. at 312.

Since that 1937 decision, the Federal courts have consistently, repeatedly, and without exception, determined that individual wages are income. United States v. Connor, 898 F.2d 942. 943 (3rd Cir. 1990) ("Every court which has ever considered the issue has unequivocally rejected the argument that wages are not income"); Wilcox v. Commissioner of Internal Revenue, 848 F.2d 1007, 1008 (9th Cir. 1988) ("First, wages are income."); Coleman v. Commissioner of Internal Revenue, 791 F.2d 68, 70 (7th Cir. 1986) ("Wages are income, and the tax on wages is constitutional."); United States v. Koliboski, 732 F.2d 1328, 1329 n. 1 (7th Cir. 1984) ("Let us now put [the question] to rest: WAGES ARE INCOME. Any reading of tax cases by would-be tax protesters now should preclude a claim of good-faith belief that wages – or salaries – are not taxable") (Emphasis in original); United States v. Romero, 640 F.2d 1014, 1016 (9th Cir. 1981) ("Compensation for labor or services, paid in the form of wages or salary, has been universally held by the courts of this republic to be income, subject to the income tax laws currently applicable.... [Taxpayer] seems to have been inspired by various tax protesting groups across the land who postulate weird and illogical theories of tax avoidance all to the detriment of the common weal [sic] and of themselves.").

In addressing the identical issue, the Indiana Tax Court has held that, "Common definition, an overwhelming body of case law by the United Sates Supreme Court and Federal circuit courts, and this Court's opinion... all support the conclusion that wages are income for purposes of Indiana's adjusted gross income tax." Snyder v. Indiana Dept. of State Revenue, 723 N.E.2d 487, 491 (Ind. Tax Ct. 2000). *See also* Thomas v. Indiana Dept. of State Revenue, 675 N.E.2d 362 (Ind. Tax Ct. 1997); Richey v. Indiana Dept. of State Revenue, 634 N.E.2d 1375 (Ind. Tax Ct. 1994).

As set out in the Indiana Constitution, "The general assembly may levy and collect a tax upon income, from whatever source derived, at such rates, in such manner, and with such exemptions as may be prescribed by law." Ind. Const. art X, § 8. The Indiana General Assembly exercised its constitutional prerogative by imposing an adjusted gross income tax on individuals and corporations. IC 6-3-1-3.5 et seq. In doing so, the General Assembly defined an individual subject to the adjusted gross income tax as a "natural born person, whether married or unmarried, adult or minor." IC 6-3-1-9.

Taxpayer further argues that nowhere in the Internal Revenue Code is there a definition of "income." Taxpayer errs. I.R.C. § 61(a) states as follows:

> 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;
> (2) Gross income derived from business;
> (3) Gains derived from dealings in property;
> (4) Interest;
> (5) Rents;
> (6) Royalties;
> (7) Dividends;
> (8) Alimony and separate maintenance payments;
> (9) Annuities;
> (10) Income from life insurance and endowment contracts;
> (11) *Pensions*.... (*Emphasis added*).

Under I.R.C. § 62, taxpayer begins calculating his adjusted gross income by starting with "gross income" as defined under I.R.C. § 61. Taxpayer received pension payments during 2000. Therefore, taxpayer must include those pension payments as part of his reported "gross income." Taxpayer is then entitled to takes whatever adjustments and deductions are available to him in determining the amount of adjusted gross income. Thereafter, the taxpayer is required to report the Federal adjusted gross income on his Indiana return and begin the process of calculating his Indiana tax liability.

Taxpayer is of the opinion that, with the just the right alchemistic combination of semantic technicalities, he can render himself immune from Federal and state tax liability. There is not one single Federal or state court case which supports such a notion. Wishful thinking aside, given that taxpayer received gross income (I.R.C. § 61) in 2000, is an "individual" under IC 6-3-1-9, was a resident of Indiana for the year 2000 (IC 6-3-1-12), and is a "taxpayer" as defined within (IC 6-3-1-15), the statutes imposing the Indiana individual income tax apply with full force to taxpayer's pension payments.

FINDING

Taxpayer's protest is denied.

DEPARTMENT OF STATE REVENUE

0120020301.LOF

LETTER OF FINDINGS NUMBER: 02-0301
Indiana Individual Income 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. Taxpayer's Administrative Remedies

Authority: U.S. Const. amends. V, XIV; IC 6-8.1-5-1; IC 6-8.1-5-1(a); IC 6-8.1-5-1(c); IC 6-8.1-5-1(g); Goldberg v. Kelly, 397 U.S. 254 (1970); Sniadach v. Family Finance Corp., 395 U.S. 337 (1969)

Taxpayer objects to being invited to participate in an administrative hearing and challenges – on due process grounds – the authority of the Department of Revenue to adjudicate his individual income tax liability.

II. Applicability of the State's Individual Income Tax

Authority: Ind. Const. art. X, § 8; IC 6-2.1-1-16; IC 6-2.1-2-2; IC 6-3-1-3.5 et seq.; IC 6-3-1-9; IC 6-3-1-12; IC 6-3-1-15; 45 IAC 1.1-1-22; 45 IAC 1.1-1-22(b); 45 IAC 1.1-1-22(b)(1); Edwards v. Keith, 231 F. 110 (2nd Cir. 1916); I.R.C. § 61

Taxpayer argues that he is not subject to the state's individual income tax.

STATEMENT OF FACTS

Taxpayer received notices of proposed assessments for the 1998, 1999, and 2000 tax years. Thereafter, taxpayer submitted a protest to the Department of Revenue (Department) in which the he "refuse[d] these proposed assessments, for cause, based upon errors in fact and law."

The Department acknowledged receipt of the protest and assigned the file to a hearing officer. Thereafter, taxpayer was advised of his right to explain the basis for the protest during an administrative hearing. Taxpayer declined the opportunity either to schedule a hearing at his convenience or, alternatively, to attend a hearing which had been scheduled on his behalf. In declining to participate in the administrative hearing process, the taxpayer stated that "The undersigned is informed and believes that the DOR is operating under a SECRET JURISDICTION and, as such, is operating unlawfully." (*Emphasis in original*).

Faced with taxpayer's decision to submit a protest but refusal to participate in the available administrative hearing process, this Letter of Findings was prepared based upon taxpayer's original protest letter and on correspondence received after the protest was first submitted.

DISCUSSION

I. Taxpayer's Administrative Remedies

Taxpayer challenges the Department's administrative procedures made available to him. Taxpayer maintains that the procedures deny him his due process rights and that he wishes "only to be brought before a judge of competent jurisdiction empowered under federal/state constitutions." Taxpayer maintains that the Department is "operating unlawfully."

IC 6-8.1-5-1(a) provides the Department with certain authority when it concludes that a taxpayer has failed to pay the taxes for which he is otherwise responsible. "If the department reasonably believes that a person has not reported the proper amount of tax due, the department shall make a proposed assessment of the amount of the unpaid tax on the basis of the best information available to the department." After the Department has made such a proposed assessment, it is then obligated to "send the person a notice of the proposed assessment through the United States mail." Id.

The Department apparently concluded, on the basis of W-2 forms issued to the taxpayer, that taxpayer failed to pay the taxes due on income received during 1998, 1999, and 2000. Taxpayer has not challenged the accuracy of the information contained within the W-2 forms. Taxpayer has not challenged the method by which the Department calculated the amount of taxes due.

Having received a notice of "proposed assessment," the taxpayer is entitled to challenge the Department's conclusions. Furthermore, the Department is required to notify the taxpayer of his *right* to challenge the "proposed assessment." IC 6-8.1-5-1(c) provides that, "The notice [of proposed assessment] shall state that the person has sixty (60) days from the date the notice is mailed to pay the assessment or to file a written protest."

The taxpayer does not dispute the fact that he received the notices of proposed assessment. Taxpayer does not maintain the Department failed to advise him of his right to challenge the assessment. To the contrary, taxpayer – in a letter dated May 19, 2002, and received by the Department on June 7, 2002 – acknowledged receiving the notices of proposed assessment and submitted a protest of those assessments. Thereafter, on June 14, 2002, the Department formally acknowledged receipt of the taxpayer's protest.

Having received a taxpayer's protest, the Department is then required to provide the taxpayer an opportunity to fully explain the basis for that protest during an administrative hearing. IC 6-8.1-5-1(c) provides as follows: "If the person files a protest and requires a hearing on the protest, the department *shall*: (1) set the hearing at the department's earliest convenient time; and (2) notify the person by United States mail of the time, date, and location of the hearing." (*Emphasis added*).

On June 14, 2002, the Department notified taxpayer of his opportunity to appear at a hearing, was advised of his right to have a representative appear on his behalf, and was advised of the informal procedures employed during the administrative hearing. In addition, taxpayer was invited to suggest a convenient date on which the hearing could be scheduled. The taxpayer declined to respond to the June 14 correspondence, and the Department sent additional correspondence on July 8, 2002, again reminding him of his opportunity to explain the basis for his protest at an administrative hearing.

Taxpayer responded by means of correspondence dated July 15, 2002, and received by the Department on July 19, 2002. In that letter, taxpayer challenged the Department's authority to enforce the state's tax laws on "citizens that they [did] not apply to." In addition, the taxpayer suggested the Department was "acting without authority of law and 'under color of law' and created the legal presumption or conclusion that you and/or Indiana DOR are engaged in an extortion scheme against [taxpayer].

Following receipt of taxpayer's July 15 correspondence, the Department sent a letter dated July 19, 2002. The Department again advised the taxpayer of his right to an administrative hearing, explained the hearing procedures, and advised the taxpayer that the Department had scheduled a hearing for August 9, 2002, at 2:00 PM. In addition, the taxpayer was advised that "[i]f this time is not convenient for you... [the Department] would reschedule the hearing at a date and time of your choice."

Taxpayer responded on August 1, 2002, stating that he "[did] not wish to succumb to an administrative hearing before an administrative officer, posing as a judge, possibly assume a judicial role and force me to act accordingly."

There is nothing in the record to indicate the Department acted inappropriately in issuing taxpayer the notices of "Proposed Assessment" as authorized under IC 6-8.1-5-1(a). There is nothing in the record which disputes the accuracy of the amount of taxes set out in those notices.

In addition, there is nothing in the record which indicates that the Department failed to advise taxpayer of his right to an administrative hearing or that the Department acted in any way to deny taxpayer of his *right* to fully, fairly, and completely explain the basis for his protest.

Taxpayer's procedural due process claim is totally without merit. The essential guarantee of the Due Process Clause (U.S. Const. amends. V, XIV) is that of fairness. Any procedure must be fundamentally fair to the individual in the resolution of the factual and legal basis for government actions which will potentially deprive the citizen of life, liberty, or property. *See* Goldberg v. Kelly, 397 U.S. 254 (1970); Sniadach v. Family Finance Corp., 395 U.S. 337 (1969). Taxpayer has provided no basis upon which to substantiate his argument that the administrative procedures authorized under IC 6-8.1-5-1 are inherently unfair. Taxpayer has provided no support for his argument that the Department has, in any way denied the taxpayer a fair opportunity to explain the basis for his protest of the proposed assessment of additional individual income taxes.

Having declined to participate in the administrative review process, taxpayer's remaining option is to present his arguments to the Indiana Tax Court pursuant to IC 6-8.1-5-1(g). However, taxpayer is cautioned that "the tax court does not have jurisdiction to hear an appeal that is filed more than one hundred eighty (180) days after the date on which the letter of findings is issued by the department." Id.

FINDING

Taxpayer's protest is denied.

II. Applicability of the State's Individual Income Tax

Having declined to actively participate in the administrative review process available to him, the Department is left with the task of discerning the basis for taxpayer's protest based upon the information contained within taxpayer's correspondence.

Taxpayer's first argument is that he is not a "statutory taxpayer" as defined under IC 6-2.1-1-16 and 45 IAC 1.1-1-22(b).

IC 6-2.1-1-16 reads, in its entirety as follows:

"Taxpayer" means any: (1) assignee; (2) receiver; (3) commissioner; (4) fiduciary; (5) trustee; (6) institution; (7) national bank;

(8) bank; (9) consignee; (10) firm; (11) partnership; (12) joint venture; (13) pool; (14) syndicate; (15) bureau; (16) association; (17) cooperative association; (18) society; (19) club; (20) fraternity; (21) sorority; (22) lodge; (23) corporation; (24) municipal corporation; (25) political subdivision of the state of Indiana or the state of Indiana, to the extent engaged in private or proprietary activities or business; (26) trust; (27) limited liability company (other than a limited liability company that has a single member and is disregarded as an entity for federal income tax purposes); or (28) other group or combination acting as a unit.

45 IAC 1.1-1-22 reads, in its entirety as follows:

"Taxpayer" includes the following:

(1) A regular C corporation.

(2) A regular C corporation that is a partner of a partnership.

(3) A not-for-profit organization on nonexempt income.

(4) A business trust as defined in IC 23-5-1-2.

(5) Indiana or a political subdivision of Indiana to the extent engaged in private or proprietary activities.

(6) A political organization as defined in Section 527 of the Internal Revenue Code.

(7) A publicly traded partnership that is treated as a corporation under Section 7704 of the Internal Revenue Code.

(8) A receiver, trustee, or conservator of a taxpayer subject to IC 6-2.1.

(9) An individual or entity required to withhold gross income taxes pursuant to IC 6-2.1-6.

(10) A fund, account, or trust treated as a corporation under Section 468B of the Internal Revenue Code or its accompanying regulations.

(11) A limited liability company, except when it is composed of a single member and is disregarded as an entity for federal income tax purposes.

(b) Except as provided in subsection (a), the term does not include the following:

(1) An individual.

(2) A partnership.

(3) A trust.

(4) An estate.

(5) An S corporation exempt under IC 6-2.1-3-24.

(6) A small business corporation as defined in IC 6-2.1-3-24.5.

(7) An organization wholly exempt from the gross income tax under IC 6-2.1-3.

At first reading, it would appear that taxpayer's argument has merit. Taxpayer is indeed not a "national bank," "cooperative," "sorority" or any of the enumerated classes of statutory taxpayers defined under IC 6-2.1-1-16. The accompanying regulation seems to confirm taxpayer's assertion; indeed, the language of 45 IAC 1.1-1-22(b)(1) specifically states that "An individual" is not subject to the state's gross income tax. However, taxpayer's argument is nonsensical because taxpayer has not been assessed gross income taxes. Indeed no individual is *ever* subject to gross income tax. The state's gross income tax is imposed exclusively on certain business entities which are either residents or domiciliarys of Indiana or on non-resident business entities which nonetheless derive income from doing business within the state. IC 6-2.1-2-2. In taxpayer's case, the notices of "Proposed Assessment" advised taxpayer that he was being assessed individual adjusted gross income taxes. *See* IC 6-3-1-3.5 et seq.

Taxpayer's next argument is that an individual cannot be assessed income tax against income received for the provision of services. To that end, taxpayer cites to Edwards v. Keith, 231 F. 110 (2nd Cir. 1916) in which the court stated that, "[O]ne does not 'derive' income' by rendering services and charging for them." Id. at 113. However, taxpayer neglects to describe the substance of that case in which the plaintiff taxpayer, in his role as an insurance agent, argued that he could not be assessed income taxes on insurance commissions which were due him but which the agent had not yet actually received. The Second Circuit Court of Appeals agreed with the plaintiff taxpayer stating that taxes could not be levied against commission income earned, but not yet received because "there [was] no certainty that the sum conditionally promised for an ensuing year will be paid or will accrue or come due." Id. at 112. The court also pointed out that "the obligation does not arise until [the insured] actually pays his renewal premium in tax." Id. In taxpayer's case, there is no contention that the Department has assessed individual income tax against income which the taxpayer has not yet received.

Taxpayer has postulated numerous alternative theories purportedly forming a basis for his assertion that he is not subject to the state's individual adjusted gross income tax. However, the Department will not expend its resources in addressing the remaining arguments which are as equally ill-conceived as those previously here considered. Suffice it to say that the Indiana Constitution specifically provides that, "The general assembly may levy and collect a tax upon income, from whatever source derived, at such rates, in such manner, and with such exemptions as may be prescribed by law." Ind. Const. art X, § 8. Pursuant to that constitutional provision, the Indiana General Assembly exercised its prerogative by imposing an adjusted gross income tax on individuals and corporations. IC 6-3-1-3.5 et seq. In doing so, the General Assembly defined an individual subject to the adjusted gross income tax as a "natural born person, whether married or unmarried, adult or minor." IC 6-3-1-9.

Taxpayer is of the opinion that, with the just the right semi-mystical combination of semantic technicalities and invocations to irrelevant court cases, he can render himself immune from state income tax liability; such a supposition defies ordinary common sense. There is not one single Federal or state court case which supports such a fanciful notion. Wishful thinking aside, given that taxpayer received gross income (I.R.C. § 61) in 1998 through 2000, is an "individual" under IC 6-3-1-9, was a resident of Indiana for during those years (IC 6-3-1-12), and is a "taxpayer" as defined within (IC 6-3-1-15), the statutes imposing the Indiana individual income tax apply with full force to taxpayer's individual income.

FINDING

Taxpayer's protest is denied.

DEPARTMENT OF STATE REVENUE

02980675.SLOF

SUPPLEMENTAL LETTER OF FINDINGS: 98-0675 SLOF
Indiana Gross Income Tax
For the Tax Years 1993 and 1994

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. Gross Income Tax – Telecommunications Services

Authority: U.S. Const. art. I, § 8; IC 6-2.1-1-13; IC 6-2.1-2-2; IC 6-2.1-3-3; 45 IAC 1-1-124(b); Monarch Steel Co. v. State Bd. Of Tax Comm'r, 699 N.E.2d 809 (Ind. Tax Ct. 1998); Indianapolis Public Transp. Corp. v. Indiana Dept. of State Revenue, 512 N.E.2d 906 (Ind. Tax Ct. 1987)

Taxpayer argues that it is a carrier of interstate telecommunications and that the income it received from the interstate communication of telecommunications was not subject to the state's gross income tax.

STATEMENT OF FACTS

Taxpayer is in the business of providing private line telecommunication transmission services to long distance carriers. Using the jargon of the telecommunications industry, taxpayer is a "facilities-based interexchange carrier" of voice and data information. As that term is used in the industry, taxpayer is a carrier which owns most of its equipment and transmission lines and provides long distance telephone service between LATA's (Local Access and Transport Areas). In order to provide its services, taxpayer operates a microwave transmission network on a regional basis. That network consists of microwave transmitters, receivers, towers, antennae, auxiliary power equipment, and equipment shelters.

When taxpayer computed its Indiana gross income, taxpayer included only the receipts from transporting "intrastate" communications and excluded that income attributable to "interstate communications. Taxpayer reported only that gross income derived from transporting communications over transmission segments that originated and terminated within Indiana.

Audit disagreed with taxpayer's reporting method. The audit determined that taxpayer was not a "communications carrier" but was a mere service provider and, consequently, could not adopt the definition of "intrastate" applicable to "communications carriers." Audit concluded that taxpayer operated to provide ancillary communication services to the actual "communications carriers." The ancillary nature of taxpayer's activities required that taxpayer report, as gross income, all receipts attributable to its Indiana activities. As a result, audit proposed additional assessments of gross income tax. Taxpayer protested both the audit's conclusions and the additional assessments. A hearing was held and a Letter of Findings was prepared and issued by the Department. The Letter of Findings agreed with the audit's conclusions finding that taxpayer was not "carrying communications" but was providing an intermediate service to long distance carriers. The taxpayer requested a rehearing on the issues, an administrative hearing was held, and this Supplemental Letter of Findings followed.

DISCUSSION

I. Gross Income Tax – Telecommunications Services

Under IC 6-2.1-2-2, Indiana imposes "[a]n income tax, known as the gross income tax... upon the receipt of: (1) the entire taxable gross income of a taxpayer who is a resident or a domiciliary of Indiana; and (2) the taxable gross income derived from activities or businesses or any other sources within Indiana by a taxpayer who is not a resident or a domiciliary of Indiana." A taxpayer's gross income includes all gross income not specifically exempted. IC 6-2.1-1-13.

The Department's regulation provides such an exemption which is central to the taxpayer's protest. 45 IAC 1-1-124(b) provides as follows:

Income from wire communications, including telephone and telegraph lines is taxable if derived from carrying communications

between two (2) points in Indiana. It is not taxable if derived from carrying communications between a point outside Indiana and a point in Indiana, or from a point outside Indiana into and across the state to a point outside Indiana. *(Note: 45 IAC 1 was repealed effective January 1, 1999, and replaced by 45 IAC 1.1).*

In addition to the specific exemptions allowed within the gross income tax scheme, IC 6-2.1-3-3 codifies the constitutional prohibition placed upon the individual states by the Interstate Commerce Clause. U.S. Const. art. I, § 8. Specifically, 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." It would seem apparent that 45 IAC 1-1-124(b) is an attempt to meet the constitutional requirement codified at IC 6-2.1-3-3.

Taxpayer provides its services to primary long distance carriers. That service is provided to fill in the gaps in the primary carrier's own transmission system or to provide additional capability when the primary carrier's system lacks available capacity to carry the amount of potential traffic. Once the taxpayer's customers route their communications signal into the taxpayer's system, it is the taxpayer who has the responsibility for carrying that signal between the designated points. Taxpayer's system is essentially a "fill in the gap" service. These "gaps" may be between two different points within Indiana (Indianapolis to Bloomington) between a point within Indiana and a point outside Indiana (Indianapolis to Chicago); or a gap which traverses Indiana (Chicago to Cleveland).

It is not disputed that the money taxpayer received from carrying communications between two points located within the state (Indianapolis to Bloomington) is subject to the gross income tax. However, taxpayer argues that the money it received for carrying communications between a point within Indiana to a point outside Indiana and the money it received for carrying communications across the state is, under 45 1-1-124(b), exempt from the gross income tax.

When discussing tax exemptions, such as 45 IAC 1-1-124(b), the courts have held that the exemptions are strictly construed against the taxpayer and in favor of taxation. Monarch Steel Co. v. State Bd. Of Tax Comm'r, 699 N.E.2d 809, 811 (Ind. Tax Ct. 1998). Trinity Episcopal Church v. State Bd. Of Tax Comm'r, 694 N.E.2d 816, 818 (Ind. Tax. Ct. 1998).

Nonetheless, however stringently 45 IAC 1-1-124(b) is construed or however finely the language of 45 IAC 1-1-124(b) is parsed, taxpayer is entitled to the regulatory exemption.

The plain words of 45 IAC 1-1-124(b) state that a carrier is entitled to the exemption when it carries telecommunications information from a point within Indiana to a point outside the state or if the information is carried across the state. The audit and the original Letter of Findings found that the taxpayer was not "carrying communications" but was merely an intermediate service provider. In addition, the Letter of Findings determined that an exemption claimant could only succeed if the claimant, on a "transactional basis," could determine the interstate or intrastate nature of each individual phone message. Because – according to the original Letter of Findings – taxpayer was not billing its customers on a per call basis but was carrying bulk, undifferentiated phone communications, the taxpayer was not entitled to the exemption.

Taxpayer is indeed providing bulk communication services to "primary" long distance carriers. It may be even fair to describe taxpayer as an intermediate telecommunications carrier. However, that does not alter the act that the taxpayer is – by any means used to define that term – "carrying" communications from one geographic point to another geographic point. That the originator of those telecommunications is a primary long distance carrier rather than a single, identifiable customer, is a distinction nowhere to be found – either explicitly or implicitly – within 45 IAC 1-1-124(b). That the taxpayer is an "intermediate" carrier of bulk communications, does not alter the fact that taxpayer can readily distinguish income it receives from carrying intrastate (Indianapolis to Bloomington) communications from that income derived from carrying interstate (Indianapolis to Chicago or Cleveland to Chicago) communications.

Under the plain words of the regulation, there is no requirement that a telecommunications carrier deal directly with the originator of each phone call and with each and every recipient of that same phone call. To impose such a requirement would add an additional mandate found nowhere within 45 IAC 1-1-124(b) and would ignore the technological and structural changes which have transformed the telecommunications industry. The days when the individual telephone customer would contract with a single phone carrier to install the customer's equipment, receive every phone message the customer originated, and carry – in toto – the consumer's phone calls to each and every one of the ultimate recipients, are long past.

The audit and the original Letter of Findings found that taxpayer was merely an intermediate "service provider," removed from the actual business of "carrying communications." A reasonable argument can be made that certain vendors – though peripherally involved in the telecommunications business – are simply "service" providers not involved in "carrying communications" and, as such, certainly not entitled to the regulatory exemption. Such vendors might include those who originally built and installed taxpayer's microwave equipment, vendors who provide taxpayer with billing or accounting services, or independent contractors which maintain and repair taxpayer's equipment. Clearly, taxpayer is not simply peripherally involved in "carrying communications." Taxpayer constructed its microwave system and exists to "carry communications" between two distinct geographic points. If taxpayer would be removed from the network infrastructure, the communications which travel through taxpayer's system would – until an alternative was provided – not be "carried" and the originators' messages would not be received at the their intended destinations.

The original Letter of Findings determined that taxpayer was not entitled to exemption because it could not compute its gross income on a "transactional basis." Because taxpayer could not determine the exact point of origin and terminus of each individual phone message, taxpayer could not claim the 45 IAC 1-1-124(b) exemption. However, the requirement that taxpayer be able to calculate its gross income on a transactional basis adds a level of complexity and specificity nowhere to be found in the plain words of 45 IAC 1-1-124(b). Although tax exemptions are to be strictly construed against the taxpayer, it is also true that such exemptions are not to be interpreted so narrowly as to obscure the legislative purpose of the exemption. Indianapolis Public Transp. Corp. v. Indiana Dept. of State Revenue, 512 N.E.2d 906, 908 (Ind. Tax Ct. 1987). Although it is true that taxpayer cannot peer into its microwave transmissions and determine that origin and terminus of each individual phone call, it is also true that the taxpayer can precisely delineate the income received from the interstate transmission of communications from that income received from the intrastate transmission of communications. Taxpayer enters into contracts with primary carriers (LATA's) to provide service along specific geographic segments of its microwave system. The primary carriers pay taxpayer to use an interstate segment such as Indianapolis to Chicago. Another primary carrier will pay taxpayer to use an intrastate segment such as the segment between Indianapolis and Bloomington. There is no ambiguity in determining what portion of taxpayer's income is "derived from carrying communications between two (2) points in Indiana." 45 IAC 1-1-124(b). There is no ambiguity in determining what portion of taxpayer's income is "derived from carrying communications between a point outside Indiana and a point in Indiana, or from a point outside Indiana into and across the State to a point outside Indiana." Id.

Accordingly, to the extent that taxpayer can specifically differentiate between the income it received for carrying intrastate communications linking two points within the state (e.g. Indianapolis to Bloomington) from the income it received for carrying interstate communications (e.g. Indianapolis to Chicago), taxpayer is entitled to claim the exemption available under 45 IAC 1-1-124(b).

FINDING

Taxpayer's protest is sustained.

TITLE 10 OFFICE OF ATTORNEY GENERAL FOR THE STATE

10 IAC 2	RA	01-311	25 IR 183	**25 IR 897**
10 IAC 4	N	01-264	25 IR 128	**25 IR 2208**

TITLE 11 CONSUMER PROTECTION DIVISION OF THE OFFICE OF THE ATTORNEY GENERAL

11 IAC	N	01-265	25 IR 130	*CPH (25 IR 403)
				25 IR 1854
11 IAC 1-1-3.5	N	02-238	26 IR 420	
11 IAC 2-2-5	N	02-18	25 IR 2281	*AROC (25 IR 3884)
				25 IR 3702
11 IAC 2-5-1	A	02-18	25 IR 2281	*AROC (25 IR 3884)
				25 IR 3702
11 IAC 2-5-2	A	02-18	25 IR 2281	*AROC (25 IR 3884)
				25 IR 3702
11 IAC 2-5-3	A	02-18	25 IR 2281	*AROC (25 IR 3884)
				25 IR 3702
11 IAC 2-5-4	N	02-18	25 IR 2281	*AROC (25 IR 3884)
				25 IR 3702
				*ERR (26 IR 35)
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**
11 IAC 2-9	N	02-19	25 IR 2282	**25 IR 3703**

TITLE 20 STATE BOARD OF ACCOUNTS

20 IAC 1	RA	01-192	25 IR 183	**25 IR 897**
20 IAC 2	RA	01-192	25 IR 183	**25 IR 897**

TITLE 25 INDIANA DEPARTMENT OF ADMINISTRATION

25 IAC 1.1	RA	01-125	24 IR 3788	**25 IR 1265**
25 IAC 1.5	RA	01-125	24 IR 3788	**25 IR 1265**
25 IAC 2	RA	01-125	24 IR 3788	**25 IR 1265**
25 IAC 2-19	R	02-150	26 IR 86	
25 IAC 2-20	R	02-150	26 IR 86	
25 IAC 4	RA	01-125	24 IR 3788	**25 IR 1265**
25 IAC 5	N	02-150	26 IR 67	

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 1.2-1-1	RA	01-216	24 IR 4201	**25 IR 897**
35 IAC 1.2-1-2	RA	01-216	24 IR 4201	**25 IR 897**
35 IAC 1.2-1-3	RA	01-217	24 IR 4201	**25 IR 1265**
35 IAC 1.2-2	RA	01-216	24 IR 4201	**25 IR 897**
35 IAC 1.2-3	RA	01-216	24 IR 4201	**25 IR 897**
35 IAC 1.2-3-10	RA	01-217	24 IR 4202	**25 IR 1265**
35 IAC 1.2-3-11	RA	01-216	25 IR 897	**25 IR 897**
35 IAC 1.2-3-12	RA	01-216	25 IR 897	**25 IR 897**
35 IAC 1.2-4-1	RA	01-216	24 IR 4201	**25 IR 897**
35 IAC 1.2-4-2	RA	01-216	24 IR 4201	**25 IR 897**
35 IAC 1.2-4-3	RA	01-216	24 IR 4201	**25 IR 897**
35 IAC 1.2-4-4	RA	01-216	24 IR 4201	**25 IR 897**
35 IAC 1.2-4-5	RA	01-216	24 IR 4201	**25 IR 897**
35 IAC 1.2-5-1	RA	01-216	24 IR 4201	**25 IR 897**
35 IAC 1.2-5-2	RA	01-216	24 IR 4201	**25 IR 897**
35 IAC 1.2-5-4	RA	01-216	24 IR 4201	**25 IR 897**
35 IAC 1.2-5-5	RA	01-217	24 IR 4202	**25 IR 1265**
35 IAC 1.2-5-6	RA	01-217	24 IR 4202	**25 IR 1265**
35 IAC 1.2-5-7	RA	01-216	24 IR 4201	**25 IR 897**
35 IAC 1.2-5-8	RA	01-216	24 IR 4201	**25 IR 897**
35 IAC 1.2-5-9	RA	01-216	24 IR 4201	**25 IR 897**
35 IAC 1.2-5-10	RA	01-216	24 IR 4201	**25 IR 897**
35 IAC 1.2-5-11	RA	01-216	24 IR 4201	**25 IR 897**
35 IAC 1.2-5-12	RA	01-216	24 IR 4201	**25 IR 897**
35 IAC 1.2-5-13	RA	01-217	24 IR 4202	**25 IR 1266**
35 IAC 1.2-5-14	RA	01-216	24 IR 4201	**25 IR 897**
35 IAC 1.2-5-15	RA	01-216	24 IR 4201	**25 IR 897**
35 IAC 1.2-5-16	RA	01-216	24 IR 4201	**25 IR 897**
35 IAC 1.2-5-17	RA	01-216	24 IR 4201	**25 IR 897**
35 IAC 1.2-5-18	RA	01-217	24 IR 4203	**25 IR 1266**
35 IAC 1.2-5-19	RA	01-217	24 IR 4203	**25 IR 1266**
35 IAC 1.2-5-20	RA	01-216	24 IR 4201	**25 IR 897**
35 IAC 1.2-6	RA	01-216	24 IR 4201	**25 IR 897**
35 IAC 1.2-6-3	RA	01-217	24 IR 4203	**25 IR 1267**
35 IAC 1.2-6-7	N	01-196	24 IR 4017	**25 IR 1488**
35 IAC 1.2-7	RA	01-216	24 IR 4201	**25 IR 897**
35 IAC 2	RA	01-218	24 IR 4204	**25 IR 898**
35 IAC 4	RA	01-218	24 IR 4204	**25 IR 898**
35 IAC 6	RA	01-218	24 IR 4204	**25 IR 898**
35 IAC 8	RA	01-218	24 IR 4204	**25 IR 898**
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	

TITLE 45 DEPARTMENT OF STATE REVENUE

45 IAC 18-1-2	R	02-40	25 IR 3238	*CPH (25 IR 4129)
45 IAC 18-1-3	R	02-40	25 IR 3238	*CPH (25 IR 4129)
45 IAC 18-1-4	R	02-40	25 IR 3238	*CPH (25 IR 4129)
45 IAC 18-1-5	R	02-40	25 IR 3238	*CPH (25 IR 4129)
45 IAC 18-1-6	R	02-40	25 IR 3238	*CPH (25 IR 4129)
45 IAC 18-1-7	R	02-40	25 IR 3238	*CPH (25 IR 4129)
45 IAC 18-1-8	R	02-40	25 IR 3238	*CPH (25 IR 4129)
45 IAC 18-1-9	N	02-40	25 IR 3220	*CPH (25 IR 4129)
45 IAC 18-1-10	N	02-40	25 IR 3220	*CPH (25 IR 4129)
45 IAC 18-1-11	N	02-40	25 IR 3220	*CPH (25 IR 4129)
45 IAC 18-1-12	N	02-40	25 IR 3220	*CPH (25 IR 4129)
45 IAC 18-1-13	N	02-40	25 IR 3220	*CPH (25 IR 4129)
45 IAC 18-1-14	N	02-40	25 IR 3221	*CPH (25 IR 4129)
45 IAC 18-1-15	N	02-40	25 IR 3221	*CPH (25 IR 4129)
45 IAC 18-1-16	N	02-40	25 IR 3221	*CPH (25 IR 4129)
45 IAC 18-1-17	N	02-40	25 IR 3221	*CPH (25 IR 4129)
45 IAC 18-1-18	N	02-40	25 IR 3221	*CPH (25 IR 4129)
45 IAC 18-1-19	N	02-40	25 IR 3221	*CPH (25 IR 4129)
45 IAC 18-1-20	N	02-40	25 IR 3221	*CPH (25 IR 4129)
45 IAC 18-1-21	N	02-40	25 IR 3222	*CPH (25 IR 4129)
45 IAC 18-1-22	N	02-40	25 IR 3222	*CPH (25 IR 4129)
45 IAC 18-1-23	N	02-40	25 IR 3222	*CPH (25 IR 4129)
45 IAC 18-1-24	N	02-40	25 IR 3222	*CPH (25 IR 4129)
45 IAC 18-1-25	N	02-40	25 IR 3222	*CPH (25 IR 4129)
45 IAC 18-1-26	N	02-40	25 IR 3222	*CPH (25 IR 4129)
45 IAC 18-1-27	N	02-40	25 IR 3222	*CPH (25 IR 4129)
45 IAC 18-1-28	N	02-40	25 IR 3223	*CPH (25 IR 4129)
45 IAC 18-1-29	N	02-40	25 IR 3223	*CPH (25 IR 4129)
45 IAC 18-1-30	N	02-40	25 IR 3223	*CPH (25 IR 4129)
45 IAC 18-1-31	N	02-40	25 IR 3223	*CPH (25 IR 4129)
45 IAC 18-1-32	N	02-40	25 IR 3223	*CPH (25 IR 4129)
45 IAC 18-1-33	N	02-40	25 IR 3224	*CPH (25 IR 4129)
45 IAC 18-1-34	N	02-40	25 IR 3224	*CPH (25 IR 4129)
45 IAC 18-1-35	N	02-40	25 IR 3224	*CPH (25 IR 4129)
45 IAC 18-1-36	N	02-40	25 IR 3224	*CPH (25 IR 4129)
45 IAC 18-1-37	N	02-40	25 IR 3224	*CPH (25 IR 4129)
45 IAC 18-1-38	N	02-40	25 IR 3224	*CPH (25 IR 4129)
45 IAC 18-1-39	N	02-40	25 IR 3224	*CPH (25 IR 4129)
45 IAC 18-1-40	N	02-40	25 IR 3225	*CPH (25 IR 4129)
45 IAC 18-1-41	N	02-40	25 IR 3225	*CPH (25 IR 4129)
45 IAC 18-1-42	N	02-40	25 IR 3225	*CPH (25 IR 4129)
45 IAC 18-1-43	N	02-40	25 IR 3225	*CPH (25 IR 4129)

45 IAC 18-2-1	A	02-40	25 IR 3225	*CPH (25 IR 4129)
45 IAC 18-2-2	A	02-40	25 IR 3226	*CPH (25 IR 4129)
45 IAC 18-2-3	A	02-40	25 IR 3227	*CPH (25 IR 4129)
45 IAC 18-2-4	A	02-40	25 IR 3228	*CPH (25 IR 4129)
45 IAC 18-3-1	A	02-40	25 IR 3228	*CPH (25 IR 4129)
45 IAC 18-3-2	A	02-40	25 IR 3229	*CPH (25 IR 4129)
45 IAC 18-3-3	R	02-40	25 IR 3238	*CPH (25 IR 4129)
45 IAC 18-3-4	N	02-40	25 IR 3231	*CPH (25 IR 4129)
45 IAC 18-3-5	N	02-40	25 IR 3232	*CPH (25 IR 4129)
45 IAC 18-3-6	N	02-40	25 IR 3232	*CPH (25 IR 4129)
45 IAC 18-3-7	N	02-40	25 IR 3232	*CPH (25 IR 4129)
45 IAC 18-3-8	N	02-40	25 IR 3233	*CPH (25 IR 4129)
45 IAC 18-4-1	A	02-40	25 IR 3233	*CPH (25 IR 4129)
45 IAC 18-4-2	A	02-40	25 IR 3234	*CPH (25 IR 4129)
45 IAC 18-5-2	A	02-40	25 IR 3235	*CPH (25 IR 4129)
45 IAC 18-6-1	R	02-40	25 IR 3238	*CPH (25 IR 4129)
45 IAC 18-6-2	R	02-40	25 IR 3238	*CPH (25 IR 4129)
45 IAC 18-6-3	A	02-40	25 IR 3235	*CPH (25 IR 4129)
45 IAC 18-7	N	02-40	25 IR 3236	*CPH (25 IR 4129)
45 IAC 18-8	N	02-40	25 IR 3236	*CPH (25 IR 4129)

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)
	A	02-240	26 IR 88	
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)
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 4.2-1	R	00-284	24 IR 4054	*AROC (24 IR 4240)
				25 IR 1528
50 IAC 4.2-2	R	00-284	24 IR 4054	*AROC (24 IR 4240)
				25 IR 1528
50 IAC 4.2-3-1	R	00-284	24 IR 4054	*AROC (24 IR 4240)
				25 IR 1528
50 IAC 4.2-3-2	R	00-284	24 IR 4054	*AROC (24 IR 4240)
				25 IR 1528
50 IAC 4.2-3-3	R	00-284	24 IR 4054	*AROC (24 IR 4240)
				25 IR 1528
50 IAC 4.2-4	R	00-284	24 IR 4054	*AROC (24 IR 4240)
				25 IR 1528
50 IAC 4.2-5	R	00-284	24 IR 4054	*AROC (24 IR 4240)
				25 IR 1528
50 IAC 4.2-6	R	00-284	24 IR 4054	*AROC (24 IR 4240)
				25 IR 1528
50 IAC 4.2-8	R	00-284	24 IR 4054	*AROC (24 IR 4240)
				25 IR 1528
50 IAC 4.2-9	R	00-284	24 IR 4054	*AROC (24 IR 4240)
				25 IR 1528
50 IAC 4.2-10	R	00-284	24 IR 4054	*AROC (24 IR 4240)
				25 IR 1528
50 IAC 4.2-11	R	00-284	24 IR 4054	*AROC (24 IR 4240)
				25 IR 1528
50 IAC 4.2-12	R	00-284	24 IR 4054	*AROC (24 IR 4240)
				25 IR 1528
50 IAC 4.2-14	R	00-284	24 IR 4054	*AROC (24 IR 4240)
				25 IR 1528
50 IAC 4.2-15	R	00-284	24 IR 4054	*AROC (24 IR 4240)
				25 IR 1528
50 IAC 4.2-16	R	00-284	24 IR 4054	*AROC (24 IR 4240)
				25 IR 1528
50 IAC 4.3	N	00-284	24 IR 4018	*AROC (24 IR 4240)
				25 IR 1489
50 IAC 5.1	R	01-347	25 IR 435	**25 IR 1875**
50 IAC 5.2	N	01-347	25 IR 417	**25 IR 1859**
50 IAC 14	N	00-283	25 IR 1930	**25 IR 4048**
				*ERR (26 IR 382)
50 IAC 15-1-2.5	N	01-266	25 IR 410	*AROC (25 IR 2591)
50 IAC 15-1-2.6	N	01-266	25 IR 410	*AROC (25 IR 2591)
50 IAC 15-1-3	R	01-266	25 IR 416	*AROC (25 IR 2591)
50 IAC 15-1-5	R	01-266	25 IR 416	*AROC (25 IR 2591)
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)
50 IAC 15-3-2	A	01-266	25 IR 410	*AROC (25 IR 2591)
50 IAC 15-3-3	A	01-266	25 IR 411	*AROC (25 IR 2591)
50 IAC 15-3-4	A	01-266	25 IR 411	*AROC (25 IR 2591)
50 IAC 15-3-5	A	01-266	25 IR 411	*AROC (25 IR 2591)
50 IAC 15-3-6	N	01-266	25 IR 411	*AROC (25 IR 2591)
50 IAC 15-4-1	A	01-266	25 IR 412	*AROC (25 IR 2591)
50 IAC 15-5-1	A	01-266	25 IR 413	*AROC (25 IR 2591)
50 IAC 15-5-2	A	01-266	25 IR 414	*AROC (25 IR 2591)
50 IAC 15-5-4	A	01-266	25 IR 414	*AROC (25 IR 2591)
50 IAC 15-5-5	A	01-266	25 IR 414	*AROC (25 IR 2591)
50 IAC 15-5-6	A	01-266	25 IR 415	*AROC (25 IR 2591)
50 IAC 15-5-7	A	01-266	25 IR 415	*AROC (25 IR 2591)
50 IAC 15-5-8	A	01-266	25 IR 415	*AROC (25 IR 2591)
50 IAC 17-5-1	A	00-188	24 IR 705	*AROC (24 IR 2590)
50 IAC 17-6-2	A	00-188	24 IR 705	*AROC (24 IR 2590)
50 IAC 17-7-1	A	00-188	24 IR 705	*AROC (24 IR 2590)
50 IAC 17-10.5	N	00-188	24 IR 706	*AROC (24 IR 2590)

TITLE 52 INDIANA BOARD OF TAX REVIEW

52 IAC 1	N	02-206	26 IR 89	

TITLE 55 DEPARTMENT OF COMMERCE

55 IAC 1	RA	01-239	25 IR 518	**25 IR 1267**
55 IAC 2	RA	01-239	25 IR 518	**25 IR 1267**
55 IAC 3.1	RA	01-239	25 IR 518	**25 IR 1267**
55 IAC 4	RA	01-239	25 IR 518	**25 IR 1267**
55 IAC 5	RA	01-239	25 IR 518	**25 IR 1267**
55 IAC 6	RA	01-239	25 IR 518	**25 IR 1267**
55 IAC 8	RA	01-239	25 IR 518	**25 IR 1267**

TITLE 58 ENTERPRISE ZONE BOARD

58 IAC 1	RA	01-267	25 IR 518	**25 IR 1267**
58 IAC 2	RA	01-267	25 IR 518	**25 IR 1267**

TITLE 60 OVERSIGHT COMMITTEE ON PUBLIC RECORDS

60 IAC 1.1	RA	01-318	25 IR 519	**25 IR 1268**
60 IAC 2	RA	01-318	25 IR 519	**25 IR 1268**

TITLE 65 STATE LOTTERY COMMISSION

65 IAC 1	RA	01-286	25 IR 184	**25 IR 1268**
65 IAC 2	RA	01-286	25 IR 184	**25 IR 1268**
65 IAC 3	RA	01-286	25 IR 184	**25 IR 1268**
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 4-1	RA	01-286	25 IR 184	**25 IR 1268**
65 IAC 4-2	RA	01-286	25 IR 184	**25 IR 1268**
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 4-3	RA	01-286	25 IR 184	**25 IR 1268**
65 IAC 4-205	RA	01-286	25 IR 184	**25 IR 1268**
65 IAC 4-248	RA	01-286	25 IR 184	**25 IR 1268**
65 IAC 4-248-10	N	01-379		*ER (25 IR 816)
65 IAC 4-248-11	N	01-379		*ER (25 IR 816)

65 IAC 4-279	RA	01-286	25 IR 184	**25 IR 1268**
65 IAC 4-287	RA	01-286	25 IR 184	**25 IR 1268**
65 IAC 4-287-9	N	01-380		*ER (25 IR 816)
65 IAC 4-287-10	N	01-380		*ER (25 IR 816)
65 IAC 4-332	RA	01-286	25 IR 184	**25 IR 1268**
65 IAC 4-354	RA	01-286	25 IR 184	**25 IR 1268**
65 IAC 4-441	RA	01-286	25 IR 184	**25 IR 1268**
65 IAC 4-442	RA	01-286	25 IR 184	**25 IR 1268**
65 IAC 4-443	RA	01-286	25 IR 184	**25 IR 1268**
65 IAC 4-444	RA	01-286	25 IR 184	**25 IR 1268**
65 IAC 4-446	RA	01-286	25 IR 184	**25 IR 1268**
65 IAC 4-447	N	01-325		*ER (25 IR 109)
65 IAC 4-448	N	02-65		*ER (25 IR 2269)
65 IAC 4-450	N	02-102		*ER (25 IR 2531)
65 IAC 4-451	N	02-228		*ER (25 IR 4125)
65 IAC 5-1	RA	01-286	25 IR 184	**25 IR 1268**
65 IAC 5-2	RA	01-286	25 IR 184	**25 IR 1268**
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 5-3	RA	01-286	25 IR 184	**25 IR 1268**
65 IAC 5-5	RA	01-286	25 IR 184	**25 IR 1268**
65 IAC 5-6	RA	01-286	25 IR 184	**25 IR 1268**
65 IAC 5-7	RA	01-286	25 IR 184	**25 IR 1268**
65 IAC 5-9	RA	01-286	25 IR 184	**25 IR 1268**
65 IAC 5-10	RA	01-286	25 IR 184	**25 IR 1268**
65 IAC 5-12	RA	01-286	25 IR 184	**25 IR 1268**
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	N	02-26		*ER (25 IR 1909)
65 IAC 6-1	RA	01-286	25 IR 184	**25 IR 1268**
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	RA	01-286	25 IR 184	**25 IR 1268**
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	RA	01-286	25 IR 184	**25 IR 1268**
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 1	RA	01-24	24 IR 2202	**25 IR 898**
68 IAC 2	RA	01-24	24 IR 2202	**25 IR 898**
68 IAC 2-2-1	A	01-23	24 IR 2728	**25 IR 1060**
68 IAC 2-2-9.5	N	01-23	24 IR 2729	**25 IR 1061**
68 IAC 2-3-5	A	01-23	24 IR 2729	**25 IR 1061**
68 IAC 2-6-6	A	01-23	24 IR 2732	**25 IR 1064**
68 IAC 3	RA	01-418	25 IR 2589	*CPH (25 IR 3208)
68 IAC 3-3-6	A	01-23	24 IR 2732	**25 IR 1065**
68 IAC 4	RA	01-418	25 IR 2589	*CPH (25 IR 3208)
68 IAC 5	RA	01-418	25 IR 2589	*CPH (25 IR 3208)
68 IAC 6	RA	01-24	24 IR 2202	**25 IR 898**
68 IAC 7	RA	01-24	24 IR 2202	**25 IR 898**
68 IAC 8	RA	01-24	24 IR 2202	**25 IR 898**
68 IAC 9	RA	01-24	24 IR 2202	**25 IR 898**
68 IAC 10	RA	01-418	25 IR 2589	*CPH (25 IR 3208)
68 IAC 10-2-1	A	01-23	24 IR 2733	**25 IR 1065**
68 IAC 11	RA	01-418	25 IR 2589	*CPH (25 IR 3208)
68 IAC 11-2-7	A	01-23	24 IR 2734	**25 IR 1066**
68 IAC 11-5-1	A	01-23	24 IR 2734	**25 IR 1066**
68 IAC 12	RA	01-418	25 IR 2589	*CPH (25 IR 3208)
68 IAC 13	RA	01-418	25 IR 2589	*CPH (25 IR 3208)
68 IAC 14-2-2	A	01-23	24 IR 2734	**25 IR 1066**
68 IAC 14-3-8	N	01-23	24 IR 2735	**25 IR 1067**
68 IAC 14-10-2	A	01-23	24 IR 2735	**25 IR 1067**
68 IAC 14-11-2	A	01-23	24 IR 2736	**25 IR 1068**
68 IAC 14-12-2	A	01-23	24 IR 2736	**25 IR 1068**
68 IAC 15	RA	01-418	25 IR 2589	*CPH (25 IR 3208)
68 IAC 15-2-3	A	01-23	24 IR 2736	**25 IR 1069**
68 IAC 15-2-6	A	01-23	24 IR 2737	**25 IR 1069**
68 IAC 15-4-2	A	01-23	24 IR 2738	**25 IR 1070**
68 IAC 15-4-3	A	01-23	24 IR 2739	**25 IR 1071**
68 IAC 15-7-3	A	01-23	24 IR 2739	**25 IR 1071**
68 IAC 15-8-1	A	01-23	24 IR 2740	**25 IR 1072**
68 IAC 15-8-2	A	01-23	24 IR 2740	**25 IR 1072**
68 IAC 15-14	N	01-23	24 IR 2740	**25 IR 1073**
68 IAC 16	RA	01-418	25 IR 2589	*CPH (25 IR 3208)
68 IAC 17	RA	01-418	25 IR 2589	*CPH (25 IR 3208)
68 IAC 18	RA	01-418	25 IR 2589	*CPH (25 IR 3208)

TITLE 71 INDIANA HORSE RACING COMMISSION

71 IAC 1	RA	01-38	24 IR 3788	**25 IR 899**
71 IAC 1-1-41.5	N	02-282		*ER (26 IR 394)
71 IAC 1.5	RA	01-38	24 IR 3788	**25 IR 899**
71 IAC 1-1.5-37.5	N	02-282		*ER (26 IR 394)
71 IAC 2	RA	01-38	24 IR 3788	**25 IR 899**
71 IAC 3	RA	01-38	24 IR 3788	**25 IR 899**
71 IAC 3-2-9	A	02-96		*ER (25 IR 2534)
71 IAC 3-10-1	A	02-96		*ER (25 IR 2534)
71 IAC 3.5	RA	01-38	24 IR 3788	**25 IR 899**
71 IAC 4	RA	01-38	24 IR 3788	**25 IR 899**
71 IAC 4.5	RA	01-38	24 IR 3788	**25 IR 899**
71 IAC 4.5-2-7	N	01-322		*ER (25 IR 118)
71 IAC 4.5-3-9	A	01-322		*ER (25 IR 118)
71 IAC 5	RA	01-38	24 IR 3788	**25 IR 899**
71 IAC 5-3-3	A	02-96		*ER (25 IR 2535)
71 IAC 5.5	RA	01-38	24 IR 3788	**25 IR 899**
71 IAC 5.5-1-12	A	01-322		*ER (25 IR 118)
71 IAC 5.5-1-13	A	01-322		*ER (25 IR 118)
71 IAC 5.5-2-1	A	01-322		*ER (25 IR 118)
71 IAC 5.5-3-6	A	01-322		*ER (25 IR 119)
71 IAC 5.5-5-3	A	02-250		*ER (26 IR 55)
71 IAC 6	RA	01-38	24 IR 3788	**25 IR 899**
71 IAC 6-1-2	A	02-96		*ER (25 IR 2536)
71 IAC 6.5	RA	01-38	24 IR 3788	**25 IR 899**
71 IAC 6.5-1-4	A	02-250		*ER (26 IR 55)
71 IAC 7	RA	01-38	24 IR 3788	**25 IR 899**
71 IAC 7-1-26	A	02-96		*ER (25 IR 2536)
71 IAC 7-1-28	A	02-96		*ER (25 IR 2536)
71 IAC 7-3-9	A	02-96		*ER (25 IR 2536)
71 IAC 7-3-13	A	02-96		*ER (25 IR 2537)
71 IAC 7-3-16	A	02-96		*ER (25 IR 2537)
71 IAC 7-3-25	A	02-96		*ER (25 IR 2537)
71 IAC 7.5	RA	01-38	24 IR 3788	**25 IR 899**
71 IAC 7.5-3-4	A	01-322		*ER (25 IR 119)

71 IAC 7.5-4-2	A	01-322		*ER (25 IR 120)
71 IAC 7.5-10	N	02-250		*ER (26 IR 56)
71 IAC 8	RA	01-38	24 IR 3788	**25 IR 899**
71 IAC 8-5-7	A	02-96		*ER (25 IR 2538)
71 IAC 8-11-3	A	02-96		*ER (25 IR 2538)
71 IAC 8.5	RA	01-38	24 IR 3788	**25 IR 899**
71 IAC 8.5-3-1	A	01-322		*ER (25 IR 121)
71 IAC 8.5-3-2	A	01-322		*ER (25 IR 121)
71 IAC 8.5-4-5	A	01-322		*ER (25 IR 121)
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)
71 IAC 8.5-10-5	A	01-322		*ER (25 IR 122)
71 IAC 8.5-10-6	A	02-250		*ER (26 IR 58)
71 IAC 9	RA	01-38	24 IR 3788	**25 IR 899**
71 IAC 10	RA	01-38	24 IR 3788	**25 IR 899**
71 IAC 11	RA	01-38	24 IR 3788	**25 IR 899**
71 IAC 12	RA	01-38	24 IR 3788	**25 IR 899**
71 IAC 12-2-15	A	01-410		*ER (25 IR 1189)
	A	02-251		*ER (26 IR 58)
	A	02-282		*ER (26 IR 394)
71 IAC 12-2-17	R	01-410		*ER (25 IR 1190)
71 IAC 12-2-18	A	01-410		*ER (25 IR 1190)
71 IAC 12-2-19	A	01-410		*ER (25 IR 1190)
	A	02-251		*ER (26 IR 59)
				*ERR (26 IR 382)
71 IAC 12-2-20	N	01-410		*ER (25 IR 1190)
	A	02-282		*ER (26 IR 395)
71 IAC 13.5	RA	01-38	24 IR 3788	**25 IR 899**
71 IAC 13.5-1-1	A	01-322		*ER (25 IR 122)
71 IAC 13.5-2-1	A	01-322		*ER (25 IR 122)
71 IAC 14.5	RA	01-38	24 IR 3788	**25 IR 899**
71 IAC 14.5-1-1	N	01-322		*ER (25 IR 123)
	A	01-411		*ER (25 IR 1190)
71 IAC 14.5-1-2	A	01-411		*ER (25 IR 1191)
71 IAC 14.5-1-3	A	02-97		*ER (25 IR 2538)
71 IAC 14.5-2-1	N	01-322		*ER (25 IR 123)
	A	01-411		*ER (25 IR 1191)
71 IAC 14.5-2-2	A	02-97		*ER (25 IR 2539)
71 IAC 14.5-3-2	A	02-97		*ER (25 IR 2539)
71 IAC 14.5-3-3	A	02-97		*ER (25 IR 2539)

TITLE 80 STATE FAIR COMMISSION

80 IAC 1	RA	01-126	24 IR 3789	**25 IR 528**
80 IAC 2	RA	01-126	24 IR 3789	**25 IR 528**
80 IAC 3	RA	01-126	24 IR 3789	**25 IR 528**
80 IAC 4	RA	01-126	24 IR 3789	**25 IR 528**
80 IAC 4-3-3	A	02-200	26 IR 420	
80 IAC 4-3-5	A	02-200	26 IR 420	
80 IAC 5	RA	01-126	24 IR 3789	**25 IR 528**
80 IAC 6	RA	01-126	24 IR 3789	**25 IR 528**

TITLE 105 INDIANA DEPARTMENT OF TRANSPORTATION

105 IAC 1	RA	01-234	25 IR 184	**25 IR 899**
105 IAC 2	RA	01-234	25 IR 184	**25 IR 899**
105 IAC 3	RA	01-234	25 IR 184	**25 IR 899**
105 IAC 4	RA	01-234	25 IR 184	**25 IR 899**
105 IAC 5	RA	01-234	25 IR 184	**25 IR 899**
105 IAC 5-10-1	A	01-390	25 IR 1673	**25 IR 4051**
105 IAC 5-10-2	A	01-390	25 IR 1674	**25 IR 4052**
105 IAC 6-1	RA	01-234	25 IR 184	**25 IR 899**
105 IAC 6-2	RA	01-234	25 IR 184	**25 IR 899**
105 IAC 7	RA	01-234	25 IR 184	**25 IR 899**
105 IAC 9	RA	01-234	25 IR 184	**25 IR 899**
105 IAC 9-2-1	A	02-231	26 IR 421	
105 IAC 9-4-4	A	01-374	25 IR 836	**25 IR 2438**
105 IAC 9-4-5	A	01-374	25 IR 836	**25 IR 2438**
105 IAC 9-4-6	A	01-374	25 IR 837	**25 IR 2439**
105 IAC 9-4-7	A	01-374	25 IR 837	**25 IR 2439**
105 IAC 9-4-8	A	01-374	25 IR 837	**25 IR 2439**
105 IAC 9-4-9	A	01-374	25 IR 838	**25 IR 2440**
105 IAC 9-4-10	A	01-374	25 IR 838	**25 IR 2440**
105 IAC 9-4-11	A	01-374	25 IR 839	**25 IR 2441**
105 IAC 9-4-12	A	01-374	25 IR 840	**25 IR 2442**
105 IAC 9-4-13	A	01-374	25 IR 840	**25 IR 2442**
105 IAC 10	RA	01-234	25 IR 184	**25 IR 899**
105 IAC 11	RA	01-234	25 IR 184	**25 IR 899**
105 IAC 12	RA	01-234	25 IR 184	**25 IR 899**
105 IAC 12-1-6	A	00-248	24 IR 3664	**25 IR 366**
105 IAC 12-1-9	A	00-248	24 IR 3664	**25 IR 366**
105 IAC 12-1-10	A	00-248	24 IR 3664	**25 IR 366**
105 IAC 12-1-12	A	00-248	24 IR 3664	**25 IR 366**
105 IAC 12-1-13	A	00-248	24 IR 3664	**25 IR 366**
105 IAC 12-1-14	A	00-248	24 IR 3664	**25 IR 366**
105 IAC 12-1-16	A	00-248	24 IR 3665	**25 IR 367**
105 IAC 12-1-20	A	00-248	24 IR 3665	**25 IR 367**
105 IAC 12-1-20.1	N	00-248	24 IR 3665	**25 IR 367**
105 IAC 12-1-21	A	00-248	24 IR 3665	**25 IR 367**
105 IAC 12-1-23	A	00-248	24 IR 3665	**25 IR 367**
105 IAC 12-1-24	A	00-248	24 IR 3665	**25 IR 367**
105 IAC 12-1-25	A	00-248	24 IR 3665	**25 IR 367**
105 IAC 12-1-26	A	00-248	24 IR 3665	**25 IR 367**
105 IAC 12-2-4	A	00-248	24 IR 3666	**25 IR 368**
105 IAC 12-2-6	A	00-248	24 IR 3666	**25 IR 368**
105 IAC 12-2-7	A	00-248	24 IR 3666	**25 IR 368**
105 IAC 12-2-9	A	00-248	24 IR 3666	**25 IR 368**
105 IAC 12-2-14	A	00-248	24 IR 3666	**25 IR 368**
105 IAC 12-2-16	A	00-248	24 IR 3666	**25 IR 369**
105 IAC 12-3-1	A	00-248	24 IR 3667	**25 IR 369**
105 IAC 12-3-2	A	00-248	24 IR 3667	**25 IR 369**
105 IAC 12-3-3	R	00-248	24 IR 3670	**25 IR 372**
105 IAC 12-3-4	A	00-248	24 IR 3667	**25 IR 370**
105 IAC 12-3-5	A	00-248	24 IR 3668	**25 IR 370**
105 IAC 12-3-7	A	00-248	24 IR 3668	**25 IR 370**
105 IAC 12-3-8	A	00-248	24 IR 3669	**25 IR 371**
105 IAC 12-4-1	A	00-248	24 IR 3669	**25 IR 371**
105 IAC 12-4-3	A	00-248	24 IR 3669	**25 IR 371**
105 IAC 12-4-4	A	00-248	24 IR 3669	**25 IR 371**
105 IAC 12-4-6	A	00-248	24 IR 3670	**25 IR 372**

TITLE 130 INDIANA PORT COMMISSION

130 IAC 1	RA	01-319	25 IR 185	**25 IR 900**
	R	01-395	25 IR 1683	*ARR (25 IR 2523)
				*CPH (25 IR 2542)
				*AROC (25 IR 3884)
				25 IR 3712
130 IAC 2	N	01-395	25 IR 1674	*ARR (25 IR 2523)
				*CPH (25 IR 2542)
				*AROC (25 IR 3884)
				25 IR 3703
130 IAC 3	N	01-395	25 IR 1676	*ARR (25 IR 2523)
				*CPH (25 IR 2542)
				*AROC (25 IR 3884)
				25 IR 3705
130 IAC 4	N	01-395	25 IR 1679	*ARR (25 IR 2523)
				*CPH (25 IR 2542)
				*AROC (25 IR 3884)
				25 IR 3708

TITLE 135 INDIANA TRANSPORTATION FINANCE AUTHORITY

135 IAC 2	RA	02-175	25 IR 4219	
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	

TITLE 140 BUREAU OF MOTOR VEHICLES

140 IAC 1-1-7	RA	01-75	24 IR 2862	**25 IR 900**
140 IAC 1-1-11	RA	01-75	24 IR 2863	**25 IR 901**
140 IAC 1-2-2	RA	01-75	24 IR 2864	**25 IR 902**
140 IAC 1-2-3	RA	01-75	24 IR 2864	**25 IR 902**
140 IAC 1-4.5-4	RA	01-75	24 IR 2865	**25 IR 902**
140 IAC 1-4.5-6	RA	01-75	24 IR 2865	**25 IR 903**
140 IAC 1-4.5-10	RA	01-75	24 IR 2866	**25 IR 903**
140 IAC 1-5-3	RA	01-75	24 IR 2871	**25 IR 909**
140 IAC 1-8-1	RA	01-75	24 IR 2872	**25 IR 910**
140 IAC 2-4-3	RA	01-77	24 IR 2873	**25 IR 910**
140 IAC 2-4-4	RA	01-77	24 IR 2873	**25 IR 910**
140 IAC 2-4-9	RA	01-77	24 IR 2874	**25 IR 911**
140 IAC 3-3-6	RA	01-79	24 IR 2875	**25 IR 911**
140 IAC 3.5-2-4	RA	01-81	24 IR 2877	**25 IR 912**
140 IAC 3.5-2-9	RA	01-81	24 IR 2878	**25 IR 913**
140 IAC 3.5-2-11	RA	01-81	24 IR 2879	**25 IR 914**
140 IAC 3.5-2-13	RA	01-81	24 IR 2879	**25 IR 914**
140 IAC 3.5-2-15	RA	01-81	24 IR 2879	**25 IR 914**
140 IAC 4-1-4	RA	01-83	24 IR 2881	**25 IR 915**
140 IAC 4-1-5	RA	01-83	24 IR 2881	**25 IR 915**
140 IAC 4-1-11	RA	01-83	24 IR 2881	**25 IR 916**
140 IAC 4-1-13	RA	01-83	24 IR 2882	**25 IR 916**
140 IAC 4-3-1	RA	01-83	24 IR 2883	**25 IR 917**
140 IAC 5-1-2	RA	01-85	24 IR 2884	**25 IR 918**
140 IAC 5-1-3	RA	01-85	24 IR 2884	**25 IR 918**
140 IAC 5-1-4	RA	01-85	24 IR 2885	**25 IR 919**
140 IAC 6-1-7	RA	01-87	24 IR 2886	**25 IR 920**
140 IAC 7-2-5	RA	01-89	24 IR 2888	**25 IR 920**
140 IAC 7-2-6	RA	01-89	24 IR 2888	**25 IR 920**
140 IAC 7-3-5	RA	01-89	24 IR 2888	**25 IR 921**
140 IAC 7-3-9	RA	01-89	24 IR 2889	**25 IR 921**
140 IAC 7-3-10	RA	01-89	24 IR 2889	**25 IR 921**
140 IAC 7-3-11	RA	01-89	24 IR 2889	**25 IR 922**
140 IAC 7-3-13	RA	01-89	24 IR 2890	**25 IR 922**
140 IAC 7-3-17	RA	01-89	24 IR 2890	**25 IR 922**
140 IAC 8-1-1	RA	01-155	24 IR 3221	**25 IR 202**
140 IAC 8-1-2	RA	01-155	24 IR 3221	**25 IR 202**
140 IAC 8-1-3	RA	01-118	24 IR 3209	**25 IR 923**
140 IAC 8-2-1	RA	01-118	24 IR 3210	**25 IR 924**
140 IAC 8-2-2	RA	01-118	24 IR 3210	**25 IR 924**
140 IAC 8-2-3	RA	01-118	24 IR 3211	**25 IR 925**
140 IAC 8-2-4	RA	01-118	24 IR 3211	**25 IR 925**
140 IAC 8-3-1.1	RA	01-118	24 IR 3215	**25 IR 929**
140 IAC 8-3-2	RA	01-118	24 IR 3220	**25 IR 929**
140 IAC 8-3-3	RA	01-118	24 IR 3215	**25 IR 935**
140 IAC 8-3-4	RA	01-118	24 IR 3216	**25 IR 930**
140 IAC 8-3-5	RA	01-118	24 IR 3216	**25 IR 930**
140 IAC 8-3-6	RA	01-155	24 IR 3221	**25 IR 202**
140 IAC 8-3-7	RA	01-155	24 IR 3221	**25 IR 202**
140 IAC 8-3-8	RA	01-118	24 IR 3216	**25 IR 930**
140 IAC 8-3-9	RA	01-155	24 IR 3221	**25 IR 202**
140 IAC 8-3-10	RA	01-155	24 IR 3221	**25 IR 202**
140 IAC 8-3-11	RA	01-155	24 IR 3221	**25 IR 202**
140 IAC 8-3-12	RA	01-118	24 IR 3216	**25 IR 931**
140 IAC 8-3-13	RA	01-118	24 IR 3217	**25 IR 931**
140 IAC 8-3-14	RA	01-118	24 IR 3217	**25 IR 931**
140 IAC 8-3-15	RA	01-118	24 IR 3217	**25 IR 931**
140 IAC 8-3-16	RA	01-118	24 IR 3217	**25 IR 932**
140 IAC 8-3-17	RA	01-118	24 IR 3218	**25 IR 932**
140 IAC 8-3-18	RA	01-118	24 IR 3218	**25 IR 932**
140 IAC 8-3-19	RA	01-118	24 IR 3218	**25 IR 933**
140 IAC 8-3-20	RA	01-118	24 IR 3219	**25 IR 933**
140 IAC 8-3-21	RA	01-118	24 IR 3219	**25 IR 933**
140 IAC 8-3-22	RA	01-118	24 IR 3219	**25 IR 933**
140 IAC 8-3-23	RA	01-118	24 IR 3219	**25 IR 934**
140 IAC 8-3-24	RA	01-118	24 IR 3219	**25 IR 934**
140 IAC 8-3-25	RA	01-118	24 IR 3220	**25 IR 934**
140 IAC 8-3-26	RA	01-118	24 IR 3220	**25 IR 934**
140 IAC 8-3-27	RA	01-118	24 IR 3220	**25 IR 935**

TITLE 170 INDIANA UTILITY REGULATORY COMMISSION

170 IAC 1-1.1-1	A	01-9	24 IR 1690	*ARR (24 IR 3653)
			24 IR 4055	*CPH (25 IR 403)
				25 IR 1875
170 IAC 4-1-26	A	02-44	25 IR 2751	**26 IR 328**
170 IAC 4-4.1-9				*ERR (25 IR 2521)
170 IAC 7-1.1-1	R	00-213	24 IR 716	*AWR (25 IR 107)
	R	01-341	25 IR 1945	**25 IR 4065**
170 IAC 7-1.1-2	R	00-213	24 IR 716	*AWR (25 IR 107)
	R	01-341	25 IR 1945	**25 IR 4065**
170 IAC 7-1.1-3	R	00-34	23 IR 2035	*ARR (24 IR 1671)
				*AWR (25 IR 107)
	R	01-341	25 IR 1945	**25 IR 4065**
170 IAC 7-1.1-4	R	00-34	23 IR 2035	*ARR (24 IR 1671)
				*AWR (25 IR 107)
	R	01-341	25 IR 1945	**25 IR 4065**
170 IAC 7-1.1-5	R	00-34	23 IR 2035	*ARR (24 IR 1671)
				*AWR (25 IR 107)
	R	01-341	25 IR 1945	**25 IR 4065**
170 IAC 7-1.1-6	R	00-34	23 IR 2035	*ARR (24 IR 1671)
				*AWR (25 IR 107)
	R	01-341	25 IR 1945	**25 IR 4065**
170 IAC 7-1.1-7	R	00-34	23 IR 2035	*ARR (24 IR 1671)
				*AWR (25 IR 107)
	R	01-341	25 IR 1945	**25 IR 4065**
170 IAC 7-1.1-8	R	00-34	23 IR 2035	*ARR (24 IR 1671)
				*AWR (25 IR 107)
	R	01-341	25 IR 1945	**25 IR 4065**
170 IAC 7-1.1-9	R	00-34	23 IR 2035	*ARR (24 IR 1671)
				*AWR (25 IR 107)
	R	01-341	25 IR 1945	**25 IR 4065**
170 IAC 7-1.1-10	R	00-34	23 IR 2035	*ARR (24 IR 1671)
				*AWR (25 IR 107)
	R	01-341	25 IR 1945	**25 IR 4065**
170 IAC 7-1.1-11	R	00-34	23 IR 2035	*ARR (24 IR 1671)
				*AWR (25 IR 107)
	R	01-341	25 IR 1945	**25 IR 4065**
170 IAC 7-1.1-12	R	00-213	24 IR 716	*AWR (25 IR 107)
	R	01-342	25 IR 1954	**25 IR 4074**
170 IAC 7-1.1-13	R	00-213	24 IR 716	*AWR (25 IR 107)
	R	01-342	25 IR 1954	**25 IR 4074**
170 IAC 7-1.1-14	R	00-213	24 IR 716	*AWR (25 IR 107)
	R	01-342	25 IR 1954	**25 IR 4074**
170 IAC 7-1.1-15	R	00-213	24 IR 716	*AWR (25 IR 107)
	R	01-342	25 IR 1954	**25 IR 4074**

170 IAC 7-1.1-16	R	00-213	24 IR 716	*AWR (25 IR 107)
	R	01-342	25 IR 1954	**25 IR 4074**
170 IAC 7-1.1-17	R	00-213	24 IR 716	*AWR (25 IR 107)
	R	01-342	25 IR 1954	**25 IR 4074**
170 IAC 7-1.1-18	R	00-213	24 IR 716	*AWR (25 IR 107)
	R	01-342	25 IR 1954	**25 IR 4074**
170 IAC 7-1.1-19	A	01-236	25 IR 135	**25 IR 2209**
170 IAC 7-1.2	N	00-34	23 IR 2025	*ARR (24 IR 1671)
				*AWR (25 IR 107)
	N	01-341	25 IR 1933	**25 IR 4053**
				*ERR (26 IR 382)
170 IAC 7-1.3	N	00-213	24 IR 707	*AWR (25 IR 107)
	N	01-342	25 IR 1946	**25 IR 4066**
				*ERR (26 IR 382)

TITLE 205 INDIANA CRIMINAL JUSTICE INSTITUTE

205 IAC 1	RA	01-219	25 IR 185	*CPH (25 IR 831)
				25 IR 3462
205 IAC 2	RA	01-219	25 IR 185	*CPH (25 IR 831)
				25 IR 3462

TITLE 210 DEPARTMENT OF CORRECTION

210 IAC 1	RA	01-292	25 IR 186	**25 IR 1269**
210 IAC 1-6-1	A	01-358	25 IR 1200	*ARR (25 IR 4114)
210 IAC 1-6-2	A	01-358	25 IR 1201	*ARR (25 IR 4114)
210 IAC 1-6-3	R	01-358	25 IR 1212	*ARR (25 IR 4114)
210 IAC 1-6-4	A	01-358	25 IR 1201	*ARR (25 IR 4114)
210 IAC 1-6-5	A	01-358	25 IR 1202	*ARR (25 IR 4114)
210 IAC 1-6-6	A	01-358	25 IR 1203	*ARR (25 IR 4114)
210 IAC 1-6-7	A	01-358	25 IR 1204	*ARR (25 IR 4114)
210 IAC 1-10	N	01-358	25 IR 1204	*ARR (25 IR 4114)
210 IAC 2	RA	01-292	25 IR 186	**25 IR 1269**
210 IAC 3	RA	01-292	25 IR 186	**25 IR 1269**
210 IAC 5	RA	01-292	25 IR 186	**25 IR 1269**
210 IAC 5-1-1	A	01-358	25 IR 1206	*ARR (25 IR 4114)
210 IAC 5-1-2	A	01-358	25 IR 1207	*ARR (25 IR 4114)
210 IAC 5-1-3	A	01-358	25 IR 1207	*ARR (25 IR 4114)
210 IAC 5-1-4	A	01-358	25 IR 1210	*ARR (25 IR 4114)
210 IAC 6-1-1	A	02-173	25 IR 4152	
210 IAC 6-2-1	RA	02-174	25 IR 4219	
210 IAC 6-2-2	RA	02-174	25 IR 4219	
210 IAC 6-2-3	A	02-173	25 IR 4152	
210 IAC 6-2-4	A	02-173	25 IR 4152	
210 IAC 6-2-5	A	02-173	25 IR 4152	
210 IAC 6-2-6	RA	02-174	25 IR 4219	
210 IAC 6-2-7	RA	02-174	25 IR 4219	
210 IAC 6-2-8	RA	02-174	25 IR 4219	
210 IAC 6-2-9	RA	02-174	25 IR 4219	
210 IAC 6-2-10	RA	02-174	25 IR 4219	
210 IAC 6-2-11	RA	02-174	25 IR 4219	
210 IAC 6-2-12	RA	02-174	25 IR 4219	
210 IAC 6-2-13	A	02-173	25 IR 4152	
210 IAC 6-3-1	A	02-173	25 IR 4152	
210 IAC 6-3-2	A	02-173	25 IR 4153	
210 IAC 6-3-3	A	02-173	25 IR 4153	
210 IAC 6-3-4	A	02-173	25 IR 4154	
210 IAC 6-3-5	A	02-173	25 IR 4155	
210 IAC 6-3-6	RA	02-174	25 IR 4219	
210 IAC 6-3-7	RA	02-174	25 IR 4219	
210 IAC 6-3-8	RA	02-174	25 IR 4219	
210 IAC 6-3-9	A	02-173	25 IR 4155	
210 IAC 6-3-10	A	02-173	25 IR 4155	
210 IAC 6-3-11	A	02-173	25 IR 4155	
210 IAC 6-3-12	RA	02-174	25 IR 4219	

TITLE 220 PAROLE BOARD

220 IAC 1.1	RA	01-291	25 IR 186	**25 IR 935**

TITLE 240 STATE POLICE DEPARTMENT

240 IAC 1-4-1	RA	01-185	24 IR 4204	**25 IR 935**
240 IAC 1-4-2	RA	01-185	24 IR 4204	**25 IR 935**
240 IAC 1-4-4	RA	01-185	24 IR 4204	**25 IR 936**
240 IAC 1-4-5	RA	01-185	24 IR 4204	**25 IR 936**
240 IAC 1-4-18	RA	01-185	24 IR 4204	**25 IR 936**
240 IAC 1-4-22	RA	01-185	24 IR 4204	**25 IR 936**
240 IAC 1-5-1	RA	01-185	24 IR 4204	**25 IR 936**
240 IAC 1-5-2	RA	01-185	24 IR 4204	**25 IR 936**
240 IAC 1-5-3	RA	01-185	24 IR 4204	**25 IR 936**
240 IAC 1-5-4	RA	01-185	24 IR 4204	**25 IR 936**
240 IAC 1-5-5	RA	01-185	24 IR 4204	**25 IR 936**
240 IAC 1-5-6	RA	01-185	24 IR 4204	**25 IR 936**
240 IAC 1-5-7.1	RA	01-185	24 IR 4204	**25 IR 936**
240 IAC 1-5-8	RA	01-185	24 IR 4204	**25 IR 936**
240 IAC 1-5-23	RA	01-185	24 IR 4204	**25 IR 936**
240 IAC 3	RA	01-185	24 IR 4204	**25 IR 936**
240 IAC 5	RA	01-185	24 IR 4204	**25 IR 936**
240 IAC 6	RA	01-185	24 IR 4204	**25 IR 936**
240 IAC 7	RA	01-185	24 IR 4204	**25 IR 936**
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 1-5.1	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	

TITLE 260 STATE DEPARTMENT OF TOXICOLOGY

260 IAC 1.1-2-3	RA	02-77	25 IR 2853	**25 IR 4221**
260 IAC 1.1-3-1	RA	02-77	25 IR 2853	**25 IR 4221**

TITLE 270 ADJUTANT GENERAL

270 IAC 1	RA	01-320	25 IR 186	**25 IR 1269**

TITLE 312 NATURAL RESOURCES COMMISSION

312 IAC 2	RA	02-72	25 IR 3461	**26 IR 546**
312 IAC 2-3-3	A	01-124	24 IR 4057	**25 IR 1542**
312 IAC 2-4-3	A	01-359	25 IR 1214	**25 IR 3046**
312 IAC 2-4-9.5	N	01-295	25 IR 842	**25 IR 3045**
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	01-124	24 IR 4057	**25 IR 1543**
	A	02-2	25 IR 2553	**26 IR 8**
312 IAC 3-1-3	A	01-124	24 IR 4058	**25 IR 1543**
	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 3-1-14	A	01-124	24 IR 4058	**25 IR 1543**
	A	02-2	25 IR 2554	**26 IR 9**
312 IAC 3-1-18	A	01-124	24 IR 4058	**25 IR 1544**
	A	02-2	25 IR 2554	**26 IR 9**
312 IAC 5-6-6	A	01-293	25 IR 3239	
	A	02-162	25 IR 4165	
312 IAC 5-9-2	A	01-283	25 IR 1213	**25 IR 3044**
312 IAC 5-9-4	N	01-282	25 IR 1212	**25 IR 3044**
312 IAC 8-1-4	A	01-124	24 IR 4059	**25 IR 1544**
	A	01-412	25 IR 1954	**25 IR 3713**
312 IAC 8-2-2	A	01-34	24 IR 4055	
312 IAC 8-2-3	A	01-412	25 IR 1955	**25 IR 3714**
312 IAC 8-2-6	A	01-34	24 IR 4056	**25 IR 1074**
	A	01-412	25 IR 1956	**25 IR 3715**
312 IAC 8-2-8	A	01-412	25 IR 1957	**25 IR 3715**
312 IAC 8-2-11	A	01-412	25 IR 1957	**25 IR 3716**
312 IAC 8-5-3	A	01-34	24 IR 4056	**25 IR 1074**
312 IAC 9-2-7	R	01-359	25 IR 1217	**25 IR 3049**
312 IAC 9-2-13	A	02-68	25 IR 2751	
312 IAC 9-3-2	A	01-102	24 IR 3671	**25 IR 1528**
312 IAC 9-3-3	A	01-102	24 IR 3672	**25 IR 1530**
312 IAC 9-3-4	A	01-102	24 IR 3673	**25 IR 1530**
312 IAC 9-3-5	A	01-102	24 IR 3673	**25 IR 1531**
312 IAC 9-3-7	A	01-102	24 IR 3674	**25 IR 1532**
312 IAC 9-3-8	A	01-102	24 IR 3675	**25 IR 1532**
312 IAC 9-3-19	A	01-359	25 IR 1214	**25 IR 3046**
312 IAC 9-4-11	A	01-102	24 IR 3675	**25 IR 1533**
312 IAC 9-4-14	A	01-102	24 IR 3677	**25 IR 1535**
	A	01-359	25 IR 1214	**25 IR 3046**
312 IAC 9-5-4	A	01-359	25 IR 1215	**25 IR 3047**
312 IAC 9-5-7	A	01-102	24 IR 3677	**25 IR 1535**
312 IAC 9-6-1	A	01-359	25 IR 1215	**25 IR 3047**
312 IAC 9-6-3	A	01-102	24 IR 3679	**25 IR 1537**
312 IAC 9-6-6	A	01-102	24 IR 3679	**25 IR 1537**
312 IAC 9-6-9	A	01-359	25 IR 1216	**25 IR 3048**
312 IAC 9-7-2	A	01-102	24 IR 3680	**25 IR 1537**
				*ERR (25 IR 2254)
312 IAC 9-7-3	A	01-102	24 IR 3681	**25 IR 1539**
312 IAC 9-7-6	A	01-102	24 IR 3681	**25 IR 1539**
312 IAC 9-7-12	A	01-102	24 IR 3682	**25 IR 1540**
312 IAC 9-7-13	A	01-102	24 IR 3682	**25 IR 1540**
312 IAC 9-7-17	A	01-102	24 IR 3682	**25 IR 1540**
312 IAC 9-7-18	A	01-102	24 IR 3683	**25 IR 1541**
312 IAC 9-9-4	A	01-359	25 IR 1217	**25 IR 3049**
312 IAC 9-10-6	A	02-68	25 IR 2752	
312 IAC 9-10-11	A	01-444	25 IR 2551	
312 IAC 9-10-17	A	01-102	24 IR 3683	**25 IR 1541**
312 IAC 10-3-1				*ERR (25 IR 1644)
312 IAC 10-5-4	A	01-124	24 IR 4060	**25 IR 1545**
				*ERR (25 IR 2521)
312 IAC 10-5-8	A	01-124	24 IR 4061	**25 IR 1546**
				*ERR (25 IR 1906)
312 IAC 11-2-17	A	01-124	24 IR 4062	**25 IR 1547**
312 IAC 11-4-4	A	01-124	24 IR 4062	**25 IR 1547**
312 IAC 13-4-1	A	01-106	24 IR 3102	**25 IR 708**
312 IAC 13-6-2	A	01-106	24 IR 3102	**25 IR 709**
312 IAC 16-3-2	A	02-73	25 IR 4156	
312 IAC 16-3.5	N	02-73	25 IR 4158	
312 IAC 16-4-1	A	02-73	25 IR 4158	
312 IAC 16-4-2	A	02-73	25 IR 4159	
312 IAC 16-4-5	A	02-73	25 IR 4159	
312 IAC 18	RA	02-72	25 IR 3461	**26 IR 546**
312 IAC 18-3-12	A	01-360	25 IR 1217	**25 IR 3049**
312 IAC 22.5	N	01-361	25 IR 2283	**25 IR 4074**
				*ERR (26 IR 383)
312 IAC 23-3-5	N	01-91	24 IR 3670	**25 IR 708**
312 IAC 25				*ERR (25 IR 106)
				*ERR (25 IR 1182)
312 IAC 25-1-45.5	N	02-104	25 IR 4160	
312 IAC 25-1-60.5	N	02-104	25 IR 4160	
312 IAC 25-4-43	A	02-104	25 IR 4160	
312 IAC 25-4-47	A	02-104	25 IR 4161	
312 IAC 25-4-85	A	02-104	25 IR 4162	
312 IAC 25-4-93	A	02-104	25 IR 4163	
312 IAC 25-6-12.5	N	02-104	25 IR 4164	
312 IAC 25-6-76.5	N	02-104	25 IR 4164	
312 IAC 26-1-13	A	01-124	24 IR 4062	**25 IR 1547**
312 IAC 26-2-3	A	01-124	24 IR 4062	**25 IR 1548**
				*ERR (25 IR 2521)
312 IAC 26-3-4	A	01-124	24 IR 4063	**25 IR 1548**
312 IAC 26-4-5	A	01-124	24 IR 4063	**25 IR 1549**
TITLE 326 AIR POLLUTION CONTROL BOARD				
326 IAC 1-1-3	A	01-215	24 IR 4065	**25 IR 3054**
326 IAC 1-1-3.5	N	01-215	24 IR 4065	**25 IR 3055**
326 IAC 1-2-20.5	N	01-215	24 IR 4065	**25 IR 3055**
326 IAC 1-2-48	A	01-215	24 IR 4065	**25 IR 3055**
326 IAC 1-2-82.5	N	00-267	24 IR 3107	*CPH (25 IR 124)
326 IAC 1-3-4	A	01-215	24 IR 4066	**25 IR 3055**
326 IAC 1-4-1	A	01-215	24 IR 4067	**25 IR 3056**
	A	02-88	25 IR 3240	
326 IAC 1-6-1	RA	00-44	24 IR 2752	*CPH (25 IR 2542)
				*CPH (25 IR 3208)
326 IAC 1-6-2	RA	00-44	24 IR 2752	*CPH (25 IR 2542)
				*CPH (25 IR 3208)
326 IAC 1-6-3	RA	00-44	24 IR 2753	*CPH (25 IR 2542)
				*CPH (25 IR 3208)
326 IAC 1-6-4	RA	00-44	24 IR 2753	*CPH (25 IR 2542)
				*CPH (25 IR 3208)
326 IAC 1-6-5	RA	00-44	24 IR 2753	*CPH (25 IR 2542)
				*CPH (25 IR 3208)
326 IAC 1-6-6	RA	00-44	24 IR 2754	*CPH (25 IR 2542)
				*CPH (25 IR 3208)
326 IAC 2-1.1-3	A	00-267	24 IR 3107	*CPH (25 IR 124)
				25 IR 1550
326 IAC 2-1.1-7	A	01-215	24 IR 4067	**25 IR 3057**
326 IAC 2-1.1-9.5	N	00-267	24 IR 3115	*CPH (25 IR 124)
				25 IR 1557
326 IAC 2-2-1	A	00-267	24 IR 3115	*CPH (25 IR 124)
				25 IR 1557
326 IAC 2-2-2	A	00-267	24 IR 3121	*CPH (25 IR 124)
				25 IR 1564
326 IAC 2-2-3	A	00-267	24 IR 3122	*CPH (25 IR 124)
				25 IR 1564
326 IAC 2-2-4	A	00-267	24 IR 3122	*CPH (25 IR 124)
				25 IR 1565
326 IAC 2-2-5	A	00-267	24 IR 3123	*CPH (25 IR 124)
				25 IR 1566
326 IAC 2-2-6	A	00-267	24 IR 3124	*CPH (25 IR 124)
				25 IR 1567
326 IAC 2-2-7	A	00-267	24 IR 3125	*CPH (25 IR 124)
				25 IR 1568
326 IAC 2-2-9	A	00-267	24 IR 3125	*CPH (25 IR 124)
				25 IR 1568
326 IAC 2-2-12	A	00-267	24 IR 3126	*CPH (25 IR 124)
				25 IR 1569
326 IAC 2-2-14	A	00-267	24 IR 3126	*CPH (25 IR 124)
				25 IR 1569
326 IAC 2-2.5	N	00-267		††**25 IR 1571**
326 IAC 2-3-1	A	00-137		††**25 IR 6**
				*ERR (25 IR 1183)
326 IAC 2-3-2	A	00-137		††**25 IR 11**
326 IAC 2-3-3	A	00-137		††**25 IR 12**
326 IAC 2-4.1-1	A	01-215	24 IR 4068	**25 IR 3058**
326 IAC 2-5.1-3	A	01-215	24 IR 4069	**25 IR 3059**
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)
326 IAC 2-6-5	N	01-249	24 IR 3705	*CPH (24 IR 4012)
326 IAC 2-6.1-2	A	00-267	24 IR 3128	*CPH (25 IR 124)
				25 IR 1572
326 IAC 2-6.1-3	A	01-215	24 IR 4072	**25 IR 3062**
326 IAC 2-6.1-5	A	00-267	24 IR 3128	*CPH (25 IR 124)
				25 IR 1572
326 IAC 2-6.1-6	A	01-215	24 IR 4072	**25 IR 3062**
326 IAC 2-7-1	A	00-267	24 IR 3129	*CPH (25 IR 124)
				25 IR 1573
326 IAC 2-7-2	A	00-267	24 IR 3139	*CPH (25 IR 124)
				25 IR 1584
326 IAC 2-7-4	A	00-267	24 IR 3140	*CPH (25 IR 124)
				25 IR 1585
326 IAC 2-7-5	A	00-267	24 IR 3143	*CPH (25 IR 124)
				25 IR 1588
326 IAC 2-7-10.5	A	01-215	24 IR 4075	**25 IR 3065**
326 IAC 2-7-11	A	00-267	24 IR 3146	*CPH (25 IR 124)
				25 IR 1591
326 IAC 2-7-12	A	00-267	24 IR 3147	*CPH (25 IR 124)
				25 IR 1591
326 IAC 2-7-16	A	00-267	24 IR 3149	*CPH (25 IR 124)
				25 IR 1593
326 IAC 2-7-19	A	01-215	24 IR 4079	**25 IR 3069**
326 IAC 2-7-20	A	00-267	24 IR 3150	*CPH (25 IR 124)
				25 IR 1594
326 IAC 2-7-24	A	00-267	24 IR 3150	*CPH (25 IR 124)
				25 IR 1595
326 IAC 2-7-25	R	00-267	24 IR 3160	*CPH (25 IR 124)
				25 IR 1604
326 IAC 2-8-10	A	01-215	24 IR 4081	**25 IR 3071**
326 IAC 2-8-11.1	A	01-215	24 IR 4083	**25 IR 3072**
326 IAC 2-9-4	A	01-215	24 IR 4085	**25 IR 3075**
326 IAC 3-5-1	A	00-267	24 IR 3152	*CPH (25 IR 124)
				25 IR 1596
				*ERR (25 IR 1644)
326 IAC 4-1-4.1	A	02-88	25 IR 3240	
326 IAC 4-2-1	RA	00-44	24 IR 2754	*CPH (25 IR 2542)
				*CPH (25 IR 3208)
	A	00-267	24 IR 3153	*CPH (25 IR 124)
				25 IR 1597
326 IAC 4-2-2	RA	00-44	24 IR 2754	*CPH (25 IR 2542)
				*CPH (25 IR 3208)
326 IAC 5-1-1	A	00-267	24 IR 3153	*CPH (25 IR 124)
				25 IR 1597
326 IAC 6-1-1	A	99-218	24 IR 395	*ARR (24 IR 3071)
				25 IR 710
	A	00-267	24 IR 3154	*CPH (25 IR 124)
				25 IR 1598
				*ERR (25 IR 1644)
				*ERR (26 IR 383)
326 IAC 6-1-1.5	N	99-218	24 IR 395	*ARR (24 IR 3071)
				25 IR 710
326 IAC 6-1-2	A	99-218	24 IR 395	*ARR (24 IR 3071)
				25 IR 710
326 IAC 6-1-3	A	99-218	24 IR 397	*ARR (24 IR 3071)
				25 IR 713
326 IAC 6-1-4	A	99-218	24 IR 398	*ARR (24 IR 3071)
				25 IR 713
326 IAC 6-1-5	A	99-218	24 IR 398	*ARR (24 IR 3071)
				25 IR 713
326 IAC 6-1-6	A	99-218	24 IR 399	*ARR (24 IR 3071)
				25 IR 714
326 IAC 6-1-8.1	A	99-218	24 IR 399	*ARR (24 IR 3071)
				25 IR 714
326 IAC 6-1-9	A	99-218	24 IR 400	*ARR (24 IR 3071)
				25 IR 715
326 IAC 6-1-10.1	A	99-218	24 IR 401	*ARR (24 IR 3071)
				25 IR 716
	A	99-73	25 IR 1959	**25 IR 4077**
326 IAC 6-1-11.1	A	99-218	24 IR 425	*ARR (24 IR 3071)
				25 IR 741
326 IAC 6-1-11.2	A	99-218	24 IR 430	*ARR (24 IR 3071)
				25 IR 746
326 IAC 6-1-12	A	99-218	24 IR 432	*ARR (24 IR 3071)
				25 IR 748
326 IAC 6-1-13	A	99-218	24 IR 437	*ARR (24 IR 3071)
				25 IR 754
326 IAC 6-1-14	A	99-218	24 IR 439	*ARR (24 IR 3071)
				25 IR 756
	A	02-122	26 IR 98	
326 IAC 6-1-15	A	99-218	24 IR 440	*ARR (24 IR 3071)
				25 IR 758
326 IAC 6-1-16	A	99-218	24 IR 442	*ARR (24 IR 3071)
				25 IR 759
326 IAC 6-1-17	A	99-218	24 IR 443	*ARR (24 IR 3071)
				25 IR 761
326 IAC 6-1-18	A	99-218	24 IR 444	*ARR (24 IR 3071)
				25 IR 762
326 IAC 6-2-1	A	00-267	24 IR 3154	*CPH (25 IR 124)
				25 IR 1598
326 IAC 6-3-1	A	99-265	24 IR 2748	*CPH (24 IR 4012)
				*CPH (25 IR 1195)
				*CPH (25 IR 1668)
				25 IR 3051
326 IAC 6-3-1.5	N	99-265		††**25 IR 3052**
326 IAC 6-3-2	A	99-265	24 IR 2749	*CPH (24 IR 4012)
				*CPH (25 IR 1195)
				*CPH (25 IR 1668)
				25 IR 3052
326 IAC 6-4-1	RA	01-184	24 IR 2800	**25 IR 1605**
326 IAC 6-4-2	RA	01-184	24 IR 2800	**25 IR 1605**
326 IAC 6-4-3	RA	01-184	24 IR 2800	**25 IR 1605**
326 IAC 6-4-4	RA	01-184	24 IR 2801	**25 IR 1606**
326 IAC 6-4-5	RA	01-184	24 IR 2801	**25 IR 1606**
326 IAC 6-4-6	RA	01-184	24 IR 2801	**25 IR 1606**
326 IAC 6-4-7	RA	01-184	24 IR 2801	**25 IR 1606**
326 IAC 6-5-1	A	00-267	24 IR 3154	*CPH (25 IR 124)
				25 IR 1599
326 IAC 6-6-1	A	00-267	24 IR 3155	*CPH (25 IR 124)
				25 IR 1600
326 IAC 7-1.1-1	A	00-267	24 IR 3156	*CPH (25 IR 124)
				25 IR 1600
326 IAC 7-1.1-2	A	00-267	24 IR 3156	*CPH (25 IR 124)
				25 IR 1600
326 IAC 7-2-1				*ERR (25 IR 813)
326 IAC 7-3-1	A	00-267	24 IR 3156	*CPH (25 IR 124)
				25 IR 1600
326 IAC 8-1-1	A	00-267	24 IR 3156	*CPH (25 IR 124)
				25 IR 1601
326 IAC 8-1-2	A	01-251	25 IR 2754	
326 IAC 8-2-9	A	02-88	25 IR 3241	
326 IAC 8-4-7		98-40		*ERR (25 IR 1183)
326 IAC 8-4-9				*ERR (25 IR 1906)
326 IAC 8-7-1	RA	00-44	24 IR 2754	*CPH (25 IR 2542)
				*CPH (25 IR 3208)
326 IAC 8-7-2	RA	00-44	24 IR 2755	*CPH (25 IR 2542)
				*CPH (25 IR 3208)
326 IAC 8-7-3	RA	00-44	24 IR 2755	*CPH (25 IR 2542)
				*CPH (25 IR 3208)
326 IAC 8-7-4	RA	00-44	24 IR 2756	*CPH (25 IR 2542)
				*CPH (25 IR 3208)
326 IAC 8-7-5	RA	00-44	24 IR 2758	*CPH (25 IR 2542)
				*CPH (25 IR 3208)
326 IAC 8-7-6	RA	00-44	24 IR 2758	*CPH (25 IR 2542)
				*CPH (25 IR 3208)
326 IAC 8-7-7	RA	00-44	24 IR 2758	*CPH (25 IR 2542)
				*CPH (25 IR 3208)

326 IAC 8-7-8	RA	00-44	24 IR 2758	*CPH (25 IR 2542)
				*CPH (25 IR 3208)
326 IAC 8-7-9	RA	00-44	24 IR 2758	*CPH (25 IR 2542)
				*CPH (25 IR 3208)
326 IAC 8-7-10	RA	00-44	24 IR 2759	*CPH (25 IR 2542)
				*CPH (25 IR 3208)
326 IAC 8-8-2	A	01-215	24 IR 4087	**25 IR 3077**
326 IAC 8-8-3	A	01-215	24 IR 4087	**25 IR 3077**
326 IAC 8-8.1-2	A	01-215	24 IR 4087	**25 IR 3077**
326 IAC 8-8.1-3	A	01-215	24 IR 4088	**25 IR 3078**
326 IAC 8-9-1	RA	00-44	24 IR 2760	*CPH (25 IR 2542)
				*CPH (25 IR 3208)
326 IAC 8-9-2	RA	00-44	24 IR 2760	*CPH (25 IR 2542)
				*CPH (25 IR 3208)
326 IAC 8-9-3	RA	00-44	24 IR 2760	*CPH (25 IR 2542)
				*CPH (25 IR 3208)
326 IAC 8-9-4	RA	00-44	24 IR 2761	*CPH (25 IR 2542)
				*CPH (25 IR 3208)
326 IAC 8-9-5	RA	00-44	24 IR 2763	*CPH (25 IR 2542)
				*CPH (25 IR 3208)
326 IAC 8-9-6	RA	00-44	24 IR 2765	*CPH (25 IR 2542)
				*CPH (25 IR 3208)
326 IAC 8-11-1	RA	00-44	24 IR 2767	*CPH (25 IR 2542)
				*CPH (25 IR 3208)
326 IAC 8-11-2	RA	00-44	24 IR 2767	*CPH (25 IR 2542)
				*CPH (25 IR 3208)
326 IAC 8-11-3	RA	00-44	24 IR 2769	*CPH (25 IR 2542)
				*CPH (25 IR 3208)
326 IAC 8-11-4	RA	00-44	24 IR 2770	*CPH (25 IR 2542)
				*CPH (25 IR 3208)
326 IAC 8-11-5	RA	00-44	24 IR 2771	*CPH (25 IR 2542)
				*CPH (25 IR 3208)
326 IAC 8-11-6	RA	00-44	24 IR 2771	*CPH (25 IR 2542)
				*CPH (25 IR 3208)
326 IAC 8-11-7	RA	00-44	24 IR 2775	*CPH (25 IR 2542)
				*CPH (25 IR 3208)
326 IAC 8-11-8	RA	00-44	24 IR 2775	*CPH (25 IR 2542)
				*CPH (25 IR 3208)
326 IAC 8-11-9	RA	00-44	24 IR 2776	*CPH (25 IR 2542)
				*CPH (25 IR 3208)
326 IAC 8-11-10	RA	00-44	24 IR 2777	*CPH (25 IR 2542)
				*CPH (25 IR 3208)
326 IAC 9-1-1	RA	00-44	24 IR 2777	*CPH (25 IR 2542)
				*CPH (25 IR 3208)
326 IAC 9-1-2	RA	00-44	24 IR 2777	*CPH (25 IR 2542)
				*CPH (25 IR 3208)
	A	00-267	24 IR 3157	*CPH (25 IR 124)
				25 IR 1601
				*ERR (25 IR 1644)
326 IAC 10-0.5	N	98-235	24 IR 81	*AWR (25 IR 107)
326 IAC 10-1-1	A	98-235	24 IR 83	*AWR (25 IR 107)
	A	00-267	24 IR 3157	*CPH (25 IR 124)
				25 IR 1602
326 IAC 10-1-2	R	98-235	24 IR 91	*AWR (25 IR 107)
326 IAC 10-2	N	98-235	24 IR 84	*AWR (25 IR 107)
326 IAC 10-3	N	00-137	24 IR 2143	*CPH (24 IR 2722)
				25 IR 14
				*ERR (25 IR 1183)
326 IAC 10-4	N	00-137	24 IR 2146	*CPH (24 IR 2722)
				25 IR 18
				*ERR (25 IR 1183)
326 IAC 11-1-1	A	00-267	24 IR 3158	*CPH (25 IR 124)
				25 IR 1602
326 IAC 11-2-1	A	00-267	24 IR 3158	*CPH (25 IR 124)
				25 IR 1603
326 IAC 11-3-1	A	00-267	24 IR 3158	*CPH (25 IR 124)
				25 IR 1603
326 IAC 11-4-1	A	00-267	24 IR 3159	*CPH (25 IR 124)
				25 IR 1603
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 11-5-1	A	00-267	24 IR 3159	*CPH (25 IR 124)
				25 IR 1603
326 IAC 11-6-1	A	01-215	24 IR 4088	**25 IR 3078**
326 IAC 11-6-2	A	01-215	24 IR 4089	**25 IR 3079**
326 IAC 11-6-4	A	01-215	24 IR 4089	**25 IR 3079**
326 IAC 11-6-5	A	01-215	24 IR 4089	**25 IR 3079**
326 IAC 11-6-6	A	01-215	24 IR 4089	**25 IR 3079**
326 IAC 11-6-7	A	01-215	24 IR 4090	**25 IR 3080**
326 IAC 11-6-8	A	01-215	24 IR 4090	**25 IR 3080**
326 IAC 11-7-2	A	01-215	24 IR 4090	**25 IR 3080**
326 IAC 11-7-4	A	01-215	24 IR 4090	**25 IR 3081**
326 IAC 11-7-5	A	01-215	24 IR 4091	**25 IR 3081**
326 IAC 11-7-6	A	01-215	24 IR 4091	**25 IR 3081**
326 IAC 11-7-7	A	01-215	24 IR 4091	**25 IR 3081**
326 IAC 11-7-8	A	01-215	24 IR 4092	**25 IR 3082**
326 IAC 11-7-9	A	01-215	24 IR 4092	**25 IR 3082**
326 IAC 11-8	N	01-375	25 IR 1986	**25 IR 4100**
326 IAC 12-1-1	A	00-267	24 IR 3159	*CPH (25 IR 124)
				25 IR 1603
326 IAC 12-1-2	A	01-215	24 IR 4092	**25 IR 3083**
326 IAC 12-1-3	A	01-215	24 IR 4093	**25 IR 3083**
326 IAC 13-1.1-17.1	A	01-215	24 IR 4093	**25 IR 3083**
326 IAC 13-3-1	A	02-88	25 IR 3242	
326 IAC 14-1-3	A	00-267	24 IR 3159	*CPH (25 IR 124)
				25 IR 1604
326 IAC 14-2-1	A	01-215	24 IR 4093	**25 IR 3084**
326 IAC 15-1-1	A	00-267	24 IR 3159	*CPH (25 IR 124)
				25 IR 1604
326 IAC 17.1-1-2	A	01-215	24 IR 4094	**25 IR 3084**
326 IAC 18-2-1	RA	00-44	24 IR 2778	*CPH (25 IR 2542)
				*CPH (25 IR 3208)
326 IAC 18-2-2	RA	00-44	24 IR 2778	*CPH (25 IR 2542)
				*CPH (25 IR 3208)
326 IAC 18-2-3	RA	00-44	24 IR 2779	*CPH (25 IR 2542)
				*CPH (25 IR 3208)
326 IAC 18-2-4	RA	00-44	24 IR 2786	*CPH (25 IR 2542)
				*CPH (25 IR 3208)
326 IAC 18-2-5	RA	00-44	24 IR 2786	*CPH (25 IR 2542)
				*CPH (25 IR 3208)
326 IAC 18-2-6	RA	00-44	24 IR 2787	*CPH (25 IR 2542)
				*CPH (25 IR 3208)
326 IAC 18-2-7	RA	00-44	24 IR 2787	*CPH (25 IR 2542)
				*CPH (25 IR 3208)
326 IAC 18-2-8	RA	00-44	24 IR 2789	*CPH (25 IR 2542)
				*CPH (25 IR 3208)
326 IAC 18-2-9	RA	00-44	24 IR 2789	*CPH (25 IR 2542)
				*CPH (25 IR 3208)
326 IAC 18-2-10.1	RA	00-44	24 IR 2789	*CPH (25 IR 2542)
				*CPH (25 IR 3208)
326 IAC 18-2-11	RA	00-44	24 IR 2790	*CPH (25 IR 2542)
				*CPH (25 IR 3208)
326 IAC 18-2-12	RA	00-44	24 IR 2790	*CPH (25 IR 2542)
				*CPH (25 IR 3208)
326 IAC 18-2-13	RA	00-44	24 IR 2790	*CPH (25 IR 2542)
				*CPH (25 IR 3208)
326 IAC 18-2-14	RA	00-44	24 IR 2791	*CPH (25 IR 2542)
				*CPH (25 IR 3208)
326 IAC 19-1	R	00-44	24 IR 2791	*CPH (25 IR 2542)
				*CPH (25 IR 3208)
326 IAC 19-2-1	A	01-215	24 IR 4094	**25 IR 3085**
326 IAC 19-3-2	A	01-215	24 IR 4095	**25 IR 3085**
326 IAC 19-3-3	A	01-215	24 IR 4097	**25 IR 3088**
326 IAC 19-3-5	A	01-215	24 IR 4098	**25 IR 3088**
326 IAC 20-1-1	A	01-215	24 IR 4099	**25 IR 3089**
326 IAC 20-1-3	A	01-215	24 IR 4099	**25 IR 3089**
326 IAC 20-2-1	A	01-215	24 IR 4099	**25 IR 3090**
326 IAC 20-3-1	A	01-215	24 IR 4100	**25 IR 3090**

326 IAC 20-4-1	A	01-215	24 IR 4100	**25 IR 3090**
326 IAC 20-5-1	A	01-215	24 IR 4100	**25 IR 3091**
326 IAC 20-6-1	A	01-215	24 IR 4100	**25 IR 3091**
326 IAC 20-7-1	A	01-215	24 IR 4101	**25 IR 3091**
326 IAC 20-8-1	A	01-215	24 IR 4101	**25 IR 3092**
326 IAC 20-9-1	A	01-215	24 IR 4102	**25 IR 3092**
326 IAC 20-10-1	A	01-215	24 IR 4102	**25 IR 3093**
326 IAC 20-11-1	A	01-215	24 IR 4102	**25 IR 3093**
326 IAC 20-12-1	A	01-215	24 IR 4103	**25 IR 3093**
326 IAC 20-13-1	A	01-215	24 IR 4103	**25 IR 3093**
326 IAC 20-13-2	A	01-215	24 IR 4103	**25 IR 3094**
326 IAC 20-13-4	A	01-215	24 IR 4104	**25 IR 3094**
326 IAC 20-13-5	A	01-215	24 IR 4104	**25 IR 3095**
326 IAC 20-13-6	A	01-215	24 IR 4104	**25 IR 3095**
326 IAC 20-13-7	A	01-215	24 IR 4105	**25 IR 3096**
326 IAC 20-13-8	A	01-215	24 IR 4106	**25 IR 3097**
326 IAC 20-14-1	A	01-215	24 IR 4107	**25 IR 3098**
326 IAC 20-15-1	A	01-215	24 IR 4108	**25 IR 3098**
326 IAC 20-16-1	A	01-215	24 IR 4108	**25 IR 3099**
326 IAC 20-17-1	A	01-215	24 IR 4108	**25 IR 3099**
326 IAC 20-18-1	A	01-215	24 IR 4109	**25 IR 3099**
326 IAC 20-19-1	A	01-215	24 IR 4109	**25 IR 3099**
326 IAC 20-20-1	A	01-215	24 IR 4109	**25 IR 3100**
326 IAC 20-21-1	A	01-215	24 IR 4109	**25 IR 3100**
326 IAC 20-22-1	A	01-215	24 IR 4110	**25 IR 3101**
326 IAC 20-23-1	A	01-215	24 IR 4110	**25 IR 3101**
326 IAC 20-24-1	A	01-215	24 IR 4110	**25 IR 3101**
326 IAC 20-25-1	A	02-55	26 IR 92	
326 IAC 20-25-3	A	02-55	26 IR 92	
326 IAC 20-25-4	A	02-55	26 IR 94	
326 IAC 20-25-5	A	02-55	26 IR 94	
326 IAC 20-25-7	A	02-55	26 IR 95	
326 IAC 20-26-1	A	01-215	24 IR 4111	**25 IR 3101**
326 IAC 20-28				*ERR (25 IR 813)
326 IAC 20-30-1	A	01-215	24 IR 4111	**25 IR 3102**
326 IAC 20-31-1	A	01-215	24 IR 4111	**25 IR 3102**
326 IAC 20-32-1	A	01-215	24 IR 4112	**25 IR 3102**
326 IAC 20-33-1	A	01-215	24 IR 4112	**25 IR 3103**
326 IAC 20-34-1	A	01-215	24 IR 4112	**25 IR 3103**
326 IAC 20-35-1	A	01-215	24 IR 4112	**25 IR 3103**
326 IAC 20-36-1	A	01-215	24 IR 4113	**25 IR 3103**
326 IAC 20-37-1	A	01-215	24 IR 4113	**25 IR 3104**
326 IAC 20-38-1	A	01-215	24 IR 4113	**25 IR 3104**
326 IAC 20-39-1	A	01-215	24 IR 4114	**25 IR 3105**
326 IAC 20-40-1	A	01-215	24 IR 4114	**25 IR 3105**
326 IAC 20-41-1	A	01-215	24 IR 4114	**25 IR 3105**
326 IAC 20-42-1	A	01-215	24 IR 4114	**25 IR 3106**
326 IAC 20-43-1	A	01-215	24 IR 4115	**25 IR 3106**
326 IAC 20-44-1	A	01-215	24 IR 4115	**25 IR 3106**
326 IAC 20-45-1	A	01-215	24 IR 4115	**25 IR 3107**
326 IAC 20-46-1	A	01-215	24 IR 4115	**25 IR 3107**
326 IAC 20-47-1	A	01-215	24 IR 4116	**25 IR 3107**
326 IAC 20-48	N	02-55	26 IR 95	
326 IAC 21-1-1	A	01-215	24 IR 4116	**25 IR 3107**
326 IAC 23-2-4	A	01-215	24 IR 4116	**25 IR 3108**
326 IAC 23-2-7	A	01-215	24 IR 4118	**25 IR 3109**

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327 IAC 2-1-7	R	99-263	23 IR 871	*CPH (24 IR 3658)
				25 IR 1882
327 IAC 2-1.5-9	R	99-263	23 IR 871	*CPH (24 IR 3658)
				25 IR 1882
327 IAC 2-11	N	99-263	23 IR 865	*CPH (24 IR 3658)
				25 IR 1876
				*ERR (25 IR 1906)
327 IAC 5-2-9	A	00-136	26 IR 427	
327 IAC 5-2.1	N	00-136	26 IR 427	
327 IAC 7-1	R	01-429	25 IR 1241	**25 IR 3739**
327 IAC 7-2-1	R	01-429	25 IR 1241	**25 IR 3739**
327 IAC 7-2-2	R	01-429	25 IR 1241	**25 IR 3739**
327 IAC 7-2-3	R	01-429	25 IR 1241	**25 IR 3739**
327 IAC 7-2-4	R	01-429	25 IR 1241	**25 IR 3739**
327 IAC 7-2-5	R	01-429	25 IR 1241	**25 IR 3739**
327 IAC 7-2-7	R	01-429	25 IR 1241	**25 IR 3739**
327 IAC 7-3	R	01-429	25 IR 1241	**25 IR 3739**
327 IAC 7-4-1	R	01-429	25 IR 1241	**25 IR 3739**
327 IAC 7-4-2	R	01-429	25 IR 1241	**25 IR 3739**
327 IAC 7-4-3	R	01-429	25 IR 1241	**25 IR 3739**
327 IAC 7-4-4	R	01-429	25 IR 1241	**25 IR 3739**
327 IAC 7-4-5	R	01-429	25 IR 1241	**25 IR 3739**
327 IAC 7-4-6	R	01-429	25 IR 1241	**25 IR 3739**
327 IAC 7-4-7	R	01-429	25 IR 1241	**25 IR 3739**
327 IAC 7-4-8	R	01-429	25 IR 1241	**25 IR 3739**
327 IAC 7-4-10	R	01-429	25 IR 1241	**25 IR 3739**
327 IAC 7-4-11	R	01-429	25 IR 1241	**25 IR 3739**
327 IAC 7-5	R	01-429	25 IR 1241	**25 IR 3739**
327 IAC 7-6	R	01-429	25 IR 1241	**25 IR 3739**
327 IAC 7-7	R	01-429	25 IR 1241	**25 IR 3739**
327 IAC 7-8	R	01-429	25 IR 1241	**25 IR 3739**
327 IAC 7.1	N	01-429	25 IR 1221	**25 IR 3717**
				*ERR (25 IR 4113)
327 IAC 8-2-1	A	00-266	24 IR 3706	**25 IR 1075**
	A	01-348	26 IR 101	
327 IAC 8-2-2	A	00-266	24 IR 3710	**25 IR 1079**
327 IAC 8-2-4	A	00-266	24 IR 3710	**25 IR 1079**
327 IAC 8-2-4.1	A	00-266	24 IR 3711	**25 IR 1080**
327 IAC 8-2-5	A	01-348	26 IR 105	
327 IAC 8-2-5.1	A	00-266	24 IR 3716	**25 IR 1084**
327 IAC 8-2-5.3	A	00-266	24 IR 3718	**25 IR 1086**
	A	01-348	26 IR 107	
327 IAC 8-2-5.5	A	00-266	24 IR 3720	**25 IR 1089**
327 IAC 8-2-6	R	01-348	26 IR 152	
327 IAC 8-2-7	A	00-266	24 IR 3723	**25 IR 1092**
327 IAC 8-2-8.4	A	00-266	24 IR 3724	**25 IR 1092**
				*ERR (25 IR 2254)
327 IAC 8-2-8.5	A	01-348	26 IR 109	
327 IAC 8-2-10.2	A	00-266	24 IR 3726	**25 IR 1094**
				*ERR (25 IR 2254)
327 IAC 8-2-13	A	00-266	24 IR 3727	**25 IR 1096**
				*ERR (25 IR 2254)
	A	01-348	26 IR 110	
327 IAC 8-2-14	A	00-266	24 IR 3728	**25 IR 1096**
327 IAC 8-2-15	R	00-266	24 IR 3755	**25 IR 1123**
327 IAC 8-2-16	R	00-266	24 IR 3755	**25 IR 1123**
				*ERR (25 IR 2254)
327 IAC 8-2-17	R	00-266	24 IR 3755	**25 IR 1123**
				*ERR (25 IR 2254)
327 IAC 8-2-18	R	00-266	24 IR 3755	**25 IR 1123**
327 IAC 8-2-20	A	00-266	24 IR 3729	**25 IR 1097**
327 IAC 8-2-29	R	01-348	26 IR 152	
327 IAC 8-2-30	A	01-348	26 IR 110	
327 IAC 8-2-31	A	01-348	26 IR 111	
327 IAC 8-2-37	A	00-111	24 IR 1062	**25 IR 764**
				*ERR (25 IR 813)
				*ERR (25 IR 2254)
327 IAC 8-2-38	A	00-111	24 IR 1068	**25 IR 770**
				*ERR (25 IR 813)
				*ERR (25 IR 2254)
327 IAC 8-2-39	A	00-111	24 IR 1071	**25 IR 772**
327 IAC 8-2-40	A	00-111	24 IR 1072	**25 IR 774**
				*ERR (25 IR 2254)
327 IAC 8-2-41	A	00-111	24 IR 1074	**25 IR 776**
327 IAC 8-2-43	A	00-111	24 IR 1076	**25 IR 778**
327 IAC 8-2-44	A	00-111	24 IR 1077	**25 IR 779**
				*ERR (25 IR 813)
				*ERR (25 IR 2254)
327 IAC 8-2-46	A	00-111	24 IR 1082	**25 IR 783**
				*ERR (25 IR 813)
				*ERR (25 IR 2254)

327 IAC 8-2-48	N	01-348	26 IR 111	
327 IAC 8-2.1-3	A	00-266	24 IR 3729	**25 IR 1098**
	A	01-348	26 IR 112	
327 IAC 8-2.1-4	A	01-348	26 IR 114	
327 IAC 8-2.1-6	A	00-266	24 IR 3732	**25 IR 1100**
	A	01-348	26 IR 115	
327 IAC 8-2.1-7	N	00-266	24 IR 3741	**25 IR 1109**
327 IAC 8-2.1-8	N	00-266	24 IR 3741	**25 IR 1110**
	A	01-348	26 IR 121	
327 IAC 8-2.1-9	N	00-266	24 IR 3742	**25 IR 1110**
327 IAC 8-2.1-10	N	00-266	24 IR 3743	**25 IR 1111**
327 IAC 8-2.1-11	N	00-266	24 IR 3744	**25 IR 1112**
327 IAC 8-2.1-12	N	00-266	24 IR 3745	**25 IR 1113**
327 IAC 8-2.1-13	N	00-266	24 IR 3745	**25 IR 1113**
				*ERR (25 IR 2254)
327 IAC 8-2.1-14	N	00-266	24 IR 3746	**25 IR 1114**
327 IAC 8-2.1-15	N	00-266	24 IR 3746	**25 IR 1114**
327 IAC 8-2.1-16	N	00-266	24 IR 3746	**25 IR 1114**
				*ERR (25 IR 2254)
	A	01-348	26 IR 122	
327 IAC 8-2.1-17	N	00-266	24 IR 3750	**25 IR 1118**
				*ERR (25 IR 2254)
	A	01-348	26 IR 126	
327 IAC 8-2.5	N	01-348	26 IR 133	
327 IAC 8-2.6	N	01-348	26 IR 146	
327 IAC 16	N	00-235	24 IR 512	*CPH (24 IR 1686)
				*ARR (24 IR 3071)
				*CPH (24 IR 3098)
				*ARR (25 IR 385)
				25 IR 1883

TITLE 328 UNDERGROUND STORAGE TANK FINANCIAL ASSURANCE BOARD

328 IAC 1-1-1	A	00-135	24 IR 2501	**25 IR 787**
328 IAC 1-1-2	A	00-135	24 IR 2501	**25 IR 787**
328 IAC 1-1-3	A	00-135	24 IR 2501	**25 IR 787**
328 IAC 1-1-3.1	N	00-135	24 IR 2501	**25 IR 788**
328 IAC 1-1-4	A	00-135	24 IR 2502	**25 IR 787**
328 IAC 1-1-5	R	00-135	24 IR 2514	**25 IR 803**
328 IAC 1-1-5.1	N	00-135	24 IR 2502	**25 IR 788**
328 IAC 1-1-6	A	00-135	24 IR 2502	**25 IR 788**
328 IAC 1-1-7	A	00-135	24 IR 2502	**25 IR 788**
328 IAC 1-1-8	A	00-135	24 IR 2502	**25 IR 788**
328 IAC 1-1-8.5	N	00-135	24 IR 2502	**25 IR 788**
328 IAC 1-1-9	A	00-135	24 IR 2502	**25 IR 789**
328 IAC 1-1-10	A	00-135	24 IR 2503	**25 IR 789**
328 IAC 1-1-11	R	00-135	24 IR 2514	**25 IR 803**
328 IAC 1-2-1	A	00-135	24 IR 2503	**25 IR 789**
328 IAC 1-2-2	A	00-135	24 IR 2503	**25 IR 789**
328 IAC 1-2-3	A	00-135	24 IR 2503	**25 IR 789**
328 IAC 1-3-1	A	00-135	24 IR 2503	**25 IR 790**
328 IAC 1-3-2	A	00-135	24 IR 2504	**25 IR 790**
328 IAC 1-3-3	A	00-135	24 IR 2504	**25 IR 790**
				*ERR (25 IR 2254)
328 IAC 1-3-4	A	00-135	24 IR 2505	**25 IR 792**
328 IAC 1-3-5	A	00-135	24 IR 2505	**25 IR 792**
				*ERR (25 IR 2255)
328 IAC 1-3-6	A	00-135	24 IR 2511	**25 IR 798**
328 IAC 1-4-1	A	00-135	24 IR 2511	**25 IR 799**
328 IAC 1-5-1	A	00-135	24 IR 2512	**25 IR 801**
328 IAC 1-5-2	A	00-135	24 IR 2513	**25 IR 801**
328 IAC 1-5-3	N	00-135	24 IR 2513	**25 IR 802**
328 IAC 1-6-1	A	00-135	24 IR 2513	**25 IR 802**
328 IAC 1-6-2	A	00-135	24 IR 2513	**25 IR 802**
328 IAC 1-7-1	A	00-135	24 IR 2514	**25 IR 802**
328 IAC 1-7-2	A	00-135	24 IR 2514	**25 IR 803**
328 IAC 1-7-3	A	00-135	24 IR 2514	**25 IR 803**
328 IAC 2	R	00-135	24 IR 2514	**25 IR 803**

TITLE 329 SOLID WASTE MANAGEMENT BOARD

329 IAC 3.1-1-7				*ERR (25 IR 813)
	A	01-289	25 IR 843	**25 IR 3111**
329 IAC 3.1-4-9.1	R	01-289	25 IR 847	**25 IR 3114**
329 IAC 3.1-4-17.1	R	01-289	25 IR 847	**25 IR 3114**
329 IAC 3.1-6-6	N	00-255	24 IR 2516	**25 IR 372**
329 IAC 3.1-7-2	A	01-289	25 IR 844	**25 IR 3112**
329 IAC 3.1-9-2	A	01-289	25 IR 845	**25 IR 3112**
329 IAC 3.1-10-2	A	01-289	25 IR 846	**25 IR 3113**
329 IAC 7-2-6	A	00-173	24 IR 2803	**25 IR 1124**
329 IAC 7-11-1	A	00-173	24 IR 2803	**25 IR 1124**
329 IAC 7-11-2	A	00-173	24 IR 2804	**25 IR 1125**
329 IAC 7-11-3	A	00-173	24 IR 2804	**25 IR 1125**
329 IAC 10-1-4	A	00-185	26 IR 432	
329 IAC 10-1-4.5	N	00-185	26 IR 433	
329 IAC 10-2-6	R	00-185	26 IR 511	
329 IAC 10-2-11	A	00-185	26 IR 433	
329 IAC 10-2-29	R	00-185	26 IR 511	
329 IAC 10-2-33	R	00-185	26 IR 511	
329 IAC 10-2-41	A	00-185	26 IR 433	
329 IAC 10-2-41.1	A	00-185	26 IR 434	
329 IAC 10-2-53	R	00-185	26 IR 511	
329 IAC 10-2-60	R	00-185	26 IR 511	
329 IAC 10-2-63.5	N	00-185	26 IR 434	
329 IAC 10-2-64	A	00-185	26 IR 434	
329 IAC 10-2-66.1	N	00-185	26 IR 434	
329 IAC 10-2-66.2	N	00-185	26 IR 434	
329 IAC 10-2-66.3	N	00-185	26 IR 434	
329 IAC 10-2-69	A	00-185	26 IR 435	
329 IAC 10-2-74	A	00-185	26 IR 435	
329 IAC 10-2-75	A	00-185	26 IR 435	
329 IAC 10-2-75.1	N	00-185	26 IR 435	
329 IAC 10-2-76	R	00-185	26 IR 511	
329 IAC 10-2-96	A	00-185	26 IR 435	
329 IAC 10-2-97.1	A	00-185	26 IR 435	
329 IAC 10-2-99	A	00-185	26 IR 436	
329 IAC 10-2-100	A	00-185	26 IR 436	
329 IAC 10-2-105.3	N	00-185	26 IR 436	
329 IAC 10-2-106	A	00-185	26 IR 436	
329 IAC 10-2-109	A	00-185	26 IR 436	
329 IAC 10-2-111.5	N	00-185	26 IR 436	
329 IAC 10-2-112	A	00-185	26 IR 436	
329 IAC 10-2-121.1	A	00-185	26 IR 437	
329 IAC 10-2-127	R	00-185	26 IR 511	
329 IAC 10-2-128	R	00-185	26 IR 511	
329 IAC 10-2-132.2	N	00-185	26 IR 437	
329 IAC 10-2-132.3	N	00-185	26 IR 437	
329 IAC 10-2-142.5	N	00-185	26 IR 437	
329 IAC 10-2-147.2	N	00-185	26 IR 437	
329 IAC 10-2-149	R	00-185	26 IR 511	
329 IAC 10-2-158	A	00-185	26 IR 437	
329 IAC 10-2-165.5	N	00-185	26 IR 438	
329 IAC 10-2-172.5	N	00-185	26 IR 438	
329 IAC 10-2-177	R	00-185	26 IR 511	
329 IAC 10-2-181.2	N	00-185	26 IR 438	
329 IAC 10-2-181.5	N	00-185	26 IR 438	
329 IAC 10-2-181.6	N	00-185	26 IR 438	
329 IAC 10-2-187.5	N	00-185	26 IR 438	
329 IAC 10-2-203	R	00-185	26 IR 511	
329 IAC 10-2-205	R	00-185	26 IR 511	
329 IAC 10-3-1	A	00-185	26 IR 438	
329 IAC 10-3-2	A	00-185	26 IR 439	
329 IAC 10-3-3	A	00-185	26 IR 439	
329 IAC 10-6-4	A	00-185	26 IR 440	
329 IAC 10-10-1	A	00-185	26 IR 440	
329 IAC 10-10-2	A	00-185	26 IR 440	
329 IAC 10-11-2.1	A	00-185	26 IR 440	
329 IAC 10-11-2.5	A	00-185	26 IR 441	
329 IAC 10-11-5.1	A	00-185	26 IR 443	

329 IAC 10-11-6	A	00-185	26 IR 443	
329 IAC 10-12-1	A	00-185	26 IR 443	
329 IAC 10-13-1	A	00-185	26 IR 445	
329 IAC 10-13-5	A	00-185	26 IR 445	
329 IAC 10-13-6	A	00-185	26 IR 446	
329 IAC 10-14-1	A	00-185	26 IR 446	
329 IAC 10-15-1	A	00-185	26 IR 447	
329 IAC 10-15-2	A	00-185	26 IR 448	
329 IAC 10-15-5	A	00-185	26 IR 449	
329 IAC 10-15-8	A	00-185	26 IR 450	
329 IAC 10-15-12	N	00-185	26 IR 451	
329 IAC 10-16-1	A	00-185	26 IR 452	
329 IAC 10-16-8	A	00-185	26 IR 453	
329 IAC 10-17-2	A	00-185	26 IR 453	
329 IAC 10-17-7	A	00-185	26 IR 454	
329 IAC 10-17-9	A	00-185	26 IR 456	
329 IAC 10-17-12	A	00-185	26 IR 457	
329 IAC 10-17-18	A	00-185	26 IR 458	
329 IAC 10-19-1	A	00-185	26 IR 458	
329 IAC 10-20-3	A	00-185	26 IR 459	
329 IAC 10-20-8	A	00-185	26 IR 460	
329 IAC 10-20-11	A	00-185	26 IR 461	
329 IAC 10-20-12	A	00-185	26 IR 462	
329 IAC 10-20-13	A	00-185	26 IR 463	
329 IAC 10-20-20	A	00-185	26 IR 463	
329 IAC 10-20-24	A	00-185	26 IR 464	
329 IAC 10-20-26	A	00-185	26 IR 464	
329 IAC 10-20-28	A	00-185	26 IR 464	
329 IAC 10-21-1	A	00-185	26 IR 465	
329 IAC 10-21-2	A	00-185	26 IR 468	
329 IAC 10-21-4	A	00-185	26 IR 474	
329 IAC 10-21-6	A	00-185	26 IR 477	
329 IAC 10-21-7	A	00-185	26 IR 479	
329 IAC 10-21-8	A	00-185	26 IR 480	
329 IAC 10-21-9	A	00-185	26 IR 481	
329 IAC 10-21-10	A	00-185	26 IR 482	
329 IAC 10-21-13	A	00-185	26 IR 484	
329 IAC 10-21-15	A	00-185	26 IR 488	
329 IAC 10-21-16	A	00-185	26 IR 488	
329 IAC 10-22-2	A	00-185	26 IR 493	
329 IAC 10-22-3	A	00-185	26 IR 494	
329 IAC 10-22-5	A	00-185	26 IR 494	
329 IAC 10-22-6	A	00-185	26 IR 494	
329 IAC 10-22-7	A	00-185	26 IR 495	
329 IAC 10-22-8	A	00-185	26 IR 496	
329 IAC 10-23-2	A	00-185	26 IR 496	
329 IAC 10-23-3	A	00-185	26 IR 497	
329 IAC 10-23-4	A	00-185	26 IR 498	
329 IAC 10-24-4	A	00-185	26 IR 499	
329 IAC 10-29-1	A	00-185	26 IR 499	
329 IAC 10-30-4	A	00-185	26 IR 500	
329 IAC 10-37-4	A	00-185	26 IR 501	
329 IAC 10-39-1	A	00-185	26 IR 501	
329 IAC 10-39-2	A	00-185	26 IR 502	
329 IAC 10-39-3	A	00-185	26 IR 508	
329 IAC 10-39-7	A	00-185	26 IR 509	
329 IAC 10-39-9	A	00-185	26 IR 509	
329 IAC 10-39-10	A	00-185	26 IR 510	
329 IAC 11-1-1				*ERR (25 IR 2741)
329 IAC 11-1-2				*ERR (25 IR 2741)
329 IAC 11-1-4				*ERR (25 IR 2741)
329 IAC 11-2-1				*ERR (25 IR 2741)
329 IAC 11-2-5				*ERR (25 IR 2741)
329 IAC 11-2-7				*ERR (25 IR 2741)
329 IAC 11-2-9				*ERR (25 IR 2741)
329 IAC 11-2-26				*ERR (25 IR 2741)
329 IAC 11-2-39				*ERR (25 IR 2741)
329 IAC 11-3-1				*ERR (25 IR 2741)
329 IAC 11-4-4				*ERR (25 IR 2741)
329 IAC 11-9-1	A	01-207	24 IR 3162	**25 IR 1126**
329 IAC 11-9-2	A	01-207	24 IR 3163	**25 IR 1126**
				*ERR (25 IR 1906)
				*ERR (25 IR 2255)
329 IAC 11-9-3	A	01-207	24 IR 3164	**25 IR 1128**
329 IAC 11-9-4	A	01-207	24 IR 3165	**25 IR 1128**
329 IAC 11-9-5	A	01-207	24 IR 3165	**25 IR 1129**
329 IAC 11-10-1				*ERR (25 IR 2741)
329 IAC 11-11-1	A	01-207	24 IR 3166	**25 IR 1129**
329 IAC 11-11-2	A	01-207	24 IR 3166	**25 IR 1130**
329 IAC 11-11-3	A	01-207	24 IR 3166	**25 IR 1130**
329 IAC 11-11-4	A	01-207	24 IR 3167	**25 IR 1130**
329 IAC 11-11-5	A	01-207	24 IR 3167	**25 IR 1130**
329 IAC 11-11-6	A	01-207	24 IR 3167	**25 IR 1131**
329 IAC 11-14-1	A	01-207	24 IR 3167	**25 IR 1131**
329 IAC 11-15-1				*ERR (25 IR 2741)
329 IAC 11-15-3				*ERR (25 IR 2741)
329 IAC 11-15-5				*ERR (25 IR 2741)
329 IAC 11-17-1				*ERR (25 IR 2741)
329 IAC 11-21-1				*ERR (25 IR 2741)
329 IAC 11-21-2				*ERR (25 IR 2741)

TITLE 345 INDIANA STATE BOARD OF ANIMAL HEALTH

345 IAC 1-3-1.5	A	01-413	25 IR 1996	
345 IAC 1-3-3	A	02-107	25 IR 4170	
345 IAC 1-3-4	A	02-107	25 IR 4171	
345 IAC 1-3-8	R	02-107	25 IR 4182	
345 IAC 1-3-11	A	02-107	25 IR 4171	
345 IAC 1-3-12	A	02-107	25 IR 4172	
345 IAC 1-3-13	A	02-107	25 IR 4172	
345 IAC 1-3-14	A	02-107	25 IR 4173	
345 IAC 1-3-15	A	02-107	25 IR 4173	
345 IAC 1-3-16	R	02-107	25 IR 4182	
345 IAC 1-3-16.5	N	02-107	25 IR 4174	
345 IAC 1-3-30	A	01-413	25 IR 1997	**26 IR 345**
			25 IR 2774	
345 IAC 1-4-1	R	01-391	25 IR 1995	**25 IR 3742**
345 IAC 1-4-2	N	01-391	25 IR 1995	**25 IR 3742**
345 IAC 1-4-3	N	01-391	25 IR 1995	**25 IR 3742**
345 IAC 1-5-1	A	01-1	24 IR 2805	**25 IR 374**
345 IAC 1-5-2	A	01-1	24 IR 2806	**25 IR 375**
345 IAC 1-5-3	A	01-1	24 IR 2806	**25 IR 375**
345 IAC 1-6-1	R	01-37	24 IR 4121	**25 IR 1608**
345 IAC 1-6-1.5	N	01-37	24 IR 4120	**25 IR 1607**
345 IAC 1-6-2	A	01-37	24 IR 4120	**25 IR 1607**
345 IAC 1-6-3	A	01-37	24 IR 4120	**25 IR 1607**
345 IAC 2-6-8	A	01-333	25 IR 1989	**25 IR 3740**
345 IAC 2-7-1	A	01-413	25 IR 1998	**26 IR 346**
			25 IR 2775	
345 IAC 2-7-3	A	01-413	25 IR 1999	**26 IR 347**
			25 IR 2776	
345 IAC 2-7-4	A	01-413	25 IR 2000	**26 IR 348**
			25 IR 2777	
345 IAC 2-7-5	A	01-413	25 IR 2001	**26 IR 349**
			25 IR 2778	
345 IAC 3-5.1-1.2	A	02-107	25 IR 4175	
345 IAC 3-5.1-1.5	A	02-107	25 IR 4176	
345 IAC 3-5.1-2	A	02-107	25 IR 4176	
345 IAC 3-5.1-3	A	02-107	25 IR 4176	
345 IAC 3-5.1-3.5	N	02-107	25 IR 4177	
345 IAC 3-5.1-4	A	02-107	25 IR 4177	
345 IAC 3-5.1-6	A	02-107	25 IR 4177	
345 IAC 3-5.1-7	A	02-107	25 IR 4178	
345 IAC 3-5.1-8.5	A	02-107	25 IR 4179	
345 IAC 3-5.1-8.7	A	02-107	25 IR 4180	
345 IAC 3-5.1-8.8	R	02-107	25 IR 4182	
345 IAC 3-5.1-8.9	R	02-107	25 IR 4182	
345 IAC 3-5.1-9	R	02-107	25 IR 4182	
345 IAC 3-5.1-10	A	02-107	25 IR 4181	

345 IAC 3-5.1-12	R	02-107	25 IR 4182	
345 IAC 3-5.1-14	R	02-107	25 IR 4182	
345 IAC 3-5.1-15	R	02-107	25 IR 4182	
345 IAC 5-1-3	R	01-333	25 IR 1990	**25 IR 3742**
345 IAC 5-1-4	R	01-333	25 IR 1990	**25 IR 3742**
345 IAC 7-3.5-1	R	01-166	24 IR 4125	
345 IAC 7-3.5-2	A	01-166	24 IR 4122	**25 IR 1609**
345 IAC 7-3.5-3	A	01-166	24 IR 4123	**25 IR 1610**
345 IAC 7-3.5-5	A	01-166	24 IR 4123	**25 IR 1610**
345 IAC 7-3.5-5.5	N	01-166	24 IR 4124	**25 IR 1611**
345 IAC 7-3.5-6	A	01-166	24 IR 4124	**25 IR 1611**
345 IAC 7-3.5-8	A	01-166	24 IR 4125	**25 IR 1612**
345 IAC 7-3.5-8.5	N	01-166	24 IR 4125	**25 IR 1612**
345 IAC 7-3.5-13	A	01-333	25 IR 1989	**25 IR 3740**
345 IAC 7-3.5-14	A	01-333	25 IR 1990	**25 IR 3741**
345 IAC 7-5-1	A	02-126	25 IR 4182	
345 IAC 7-5-2.1	N	02-126	25 IR 4183	
345 IAC 7-5-2.5	A	02-126	25 IR 4183	
345 IAC 7-5-3	R	02-126	25 IR 4187	
345 IAC 7-5-4	R	02-126	25 IR 4187	
345 IAC 7-5-5	R	02-126	25 IR 4187	
345 IAC 7-5-6	A	02-126	25 IR 4184	
345 IAC 7-5-7	A	02-126	25 IR 4184	
345 IAC 7-5-8	R	02-126	25 IR 4187	
345 IAC 7-5-9	A	02-126	25 IR 4184	
345 IAC 7-5-11	A	02-126	25 IR 4185	
345 IAC 7-5-15.1	A	02-126	25 IR 4185	
345 IAC 7-5-16	R	02-126	25 IR 4187	
345 IAC 7-5-16.1	R	02-126	25 IR 4187	
345 IAC 7-5-21	R	02-126	25 IR 4187	
345 IAC 7-5-22	A	02-126	25 IR 4186	
345 IAC 7-5-24	A	02-126	25 IR 4186	
345 IAC 7-5-25.7	R	02-126	25 IR 4187	
345 IAC 7-5-26	R	02-126	25 IR 4187	
345 IAC 7-5-27	R	02-126	25 IR 4187	
345 IAC 7-5-28	A	02-126	25 IR 4186	
345 IAC 7-7-1.5	N	01-377	25 IR 1991 25 IR 4166	*ARR (25 IR 3770)
345 IAC 7-7-2	A	01-377	25 IR 1991 25 IR 4166	*ARR (25 IR 3770)
345 IAC 7-7-3	A	01-377	25 IR 1992 25 IR 4167	*ARR (25 IR 3770)
345 IAC 7-7-3.5	N	01-377	25 IR 1993 25 IR 4168	*ARR (25 IR 3770)
345 IAC 7-7-4	A	01-377	25 IR 1993 25 IR 4168	*ARR (25 IR 3770)
345 IAC 7-7-5	A	01-377	25 IR 1993 25 IR 4168	*ARR (25 IR 3770)
345 IAC 7-7-6	R	01-377	25 IR 1994 25 IR 4169	*ARR (25 IR 3770)
345 IAC 7-7-7	A	01-377	25 IR 1994 25 IR 4169	*ARR (25 IR 3770)
345 IAC 7-7-8	R	01-377	25 IR 1994 25 IR 4169	*ARR (25 IR 3770)
345 IAC 7-7-9	R	01-377	25 IR 1994 25 IR 4169	*ARR (25 IR 3770)
345 IAC 7-7-10	A	01-377	25 IR 1994 25 IR 4169	*ARR (25 IR 3770)
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**
345 IAC 8-3-10	N	01-392		**††26 IR 342**
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	
345 IAC 10-2.1-1	A	02-127	25 IR 4188	

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355 IAC 4-0.5	RA	01-48	24 IR 3221	**25 IR 1269**
355 IAC 4-1	RA	01-48	24 IR 3221	**25 IR 1269**
355 IAC 4-2	RA	01-48	24 IR 3221	**25 IR 1269**
355 IAC 4-2-1	A	01-71	24 IR 2807	**25 IR 376**
355 IAC 4-2-2	A	01-71	24 IR 2807	**25 IR 376**
355 IAC 4-2-3	A	01-71	24 IR 2807	**25 IR 376**
355 IAC 4-2-4	R	01-71	24 IR 2809	**25 IR 378**
355 IAC 4-2-5	A	01-71	24 IR 2808	**25 IR 377**
355 IAC 4-2-6	A	01-71	24 IR 2808	**25 IR 377**
355 IAC 4-2-7	N	01-71	24 IR 2808	**25 IR 377**
355 IAC 4-2-8	N	01-71	24 IR 2808	**25 IR 377**
355 IAC 4-3	RA	01-48	24 IR 3221	**25 IR 1269**
355 IAC 4-4	RA	01-48	24 IR 3221	**25 IR 1269**
355 IAC 4-5	RA	01-48	24 IR 3221	**25 IR 1269**
355 IAC 4-6	RA	01-48	24 IR 3221	**25 IR 1269**
355 IAC 5	RA	01-48	24 IR 3221	**25 IR 1269**
355 IAC 5-1-1	A	01-294	25 IR 435	**25 IR 2212**
355 IAC 5-1-1.5	N	01-294	25 IR 435	**25 IR 2212**
355 IAC 5-1-2	R	01-294	25 IR 442	**25 IR 2220**
355 IAC 5-1-3	A	01-294	25 IR 435	**25 IR 2212**
355 IAC 5-1-4	A	01-294	25 IR 436	**25 IR 2213**
355 IAC 5-1-5	A	01-294	25 IR 436	**25 IR 2213**
355 IAC 5-1-6	A	01-294	25 IR 436	**25 IR 2213**
355 IAC 5-1-7.5	N	01-294	25 IR 436	**25 IR 2213**
355 IAC 5-1-10	R	01-294	25 IR 442	**25 IR 2220**
355 IAC 5-1-11	A	01-294	25 IR 436	**25 IR 2213**
355 IAC 5-1-13	A	01-294	25 IR 436	**25 IR 2213**
355 IAC 5-1-14	A	01-294	25 IR 437	**25 IR 2214**
355 IAC 5-1-15	A	01-294	25 IR 437	**25 IR 2214**
355 IAC 5-2-2	A	01-294	25 IR 437	**25 IR 2214**
355 IAC 5-2-3	A	01-294	25 IR 437	**25 IR 2214**
355 IAC 5-2-4	A	01-294	25 IR 437	**25 IR 2214**
355 IAC 5-2-5	A	01-294	25 IR 437	**25 IR 2215**
355 IAC 5-2-6	A	01-294	25 IR 438	**25 IR 2215**
355 IAC 5-2-7	A	01-294	25 IR 438	**25 IR 2215**
355 IAC 5-2-8	A	01-294	25 IR 438	**25 IR 2215**
355 IAC 5-2-9	A	01-294	25 IR 438	**25 IR 2215**
355 IAC 5-2-10	A	01-294	25 IR 438	**25 IR 2216**
355 IAC 5-2-11	A	01-294	25 IR 438	**25 IR 2216**
355 IAC 5-2-12	A	01-294	25 IR 439	**25 IR 2216**
355 IAC 5-2-13	R	01-294	25 IR 442	**25 IR 2220**
355 IAC 5-3-1	A	01-294	25 IR 439	**25 IR 2216**
355 IAC 5-3-2	R	01-294	25 IR 442	**25 IR 2220**
355 IAC 5-4-1	A	01-294	25 IR 440	**25 IR 2217**
355 IAC 5-4-2	A	01-294	25 IR 440	**25 IR 2217**
355 IAC 5-4-3	A	01-294	25 IR 440	**25 IR 2218**
355 IAC 5-4-4	A	01-294	25 IR 441	**25 IR 2218**
355 IAC 5-4-5	R	01-294	25 IR 442	**25 IR 2220**
355 IAC 5-4-6	R	01-294	25 IR 442	**25 IR 2220**
355 IAC 5-4-7	A	01-294	25 IR 441	**25 IR 2218**
355 IAC 5-4-8	A	01-294	25 IR 442	**25 IR 2219**
355 IAC 5-4-9	R	01-294	25 IR 442	**25 IR 2220**
355 IAC 5-5-1	A	01-294	25 IR 442	**25 IR 2219**
355 IAC 5-5-2	R	01-294	25 IR 442	**25 IR 2220**
355 IAC 5-6	R	01-294	25 IR 442	**25 IR 2220**
355 IAC 5-7	R	01-294	25 IR 442	**25 IR 2220**
355 IAC 5-8-1	A	01-294	25 IR 442	**25 IR 2219**
355 IAC 5-8-2	R	01-294	25 IR 442	**25 IR 2220**
355 IAC 6	N	01-335	25 IR 443	*ARR (25 IR 1907) **25 IR 2444** *ERR (25 IR 2521)

TITLE 357 INDIANA PESTICIDE REVIEW BOARD				
357 IAC 1-1	RA	01-49	24 IR 3222	**25 IR 936**
357 IAC 1-3	RA	01-49	24 IR 3222	**25 IR 936**
357 IAC 1-4	RA	01-49	24 IR 3222	**25 IR 936**
357 IAC 1-5	RA	01-49	24 IR 3222	**25 IR 936**
357 IAC 1-6	RA	01-49	24 IR 3222	**25 IR 936**
357 IAC 1-7	RA	01-49	24 IR 3222	**25 IR 936**
TITLE 360 STATE SEED COMMISSIONER				
360 IAC 1	RA	01-233	25 IR 519	**25 IR 1269**
TITLE 365 CREAMERY EXAMINING BOARD				
365 IAC 2-1-4				*ERR (25 IR 384)
365 IAC 2-1-6				*ERR (25 IR 384)
365 IAC 2-1-13				*ERR (25 IR 384)
365 IAC 2-1-14				*ERR (25 IR 384)
365 IAC 2-1-19				*ERR (25 IR 384)
365 IAC 2-1-22				*ERR (25 IR 384)
365 IAC 2-2-1				*ERR (25 IR 384)
TITLE 370 STATE EGG BOARD				
370 IAC 1-1	RA	01-317	25 IR 187	**25 IR 937**
370 IAC 1-1-1	A	01-419	26 IR 153	
370 IAC 1-1-2	A	01-419	26 IR 153	
370 IAC 1-1-3	A	01-419	26 IR 153	
370 IAC 1-1-4	A	01-419	26 IR 153	
370 IAC 1-1-5	A	01-419	26 IR 153	
370 IAC 1-2	RA	01-317	25 IR 187	**25 IR 937**
370 IAC 1-2-1	A	01-419	26 IR 154	
370 IAC 1-2-2	A	01-419	26 IR 154	
370 IAC 1-2-3	N	01-419	26 IR 154	
370 IAC 1-3	RA	01-317	25 IR 187	**25 IR 937**
370 IAC 1-3-1	A	01-419	26 IR 154	
370 IAC 1-3-2	A	01-419	26 IR 154	
370 IAC 1-3-3	A	01-419	26 IR 154	
370 IAC 1-3-4	A	01-419	26 IR 155	
370 IAC 1-4	RA	01-317	25 IR 187	**25 IR 937**
370 IAC 1-4-1	A	01-419	26 IR 155	
370 IAC 1-4-2	A	01-419	26 IR 155	
370 IAC 1-4-3	A	01-419	26 IR 156	
370 IAC 1-5	RA	01-317	25 IR 187	**25 IR 937**
370 IAC 1-5-1	A	01-419	26 IR 156	
370 IAC 1-6	RA	01-317	25 IR 187	**25 IR 937**
370 IAC 1-6-1	A	01-419	26 IR 156	
370 IAC 1-8	RA	01-317	25 IR 187	**25 IR 937**
370 IAC 1-8-1	A	01-419	26 IR 156	
370 IAC 1-9	RA	01-317	25 IR 187	**25 IR 937**
370 IAC 1-9-1	A	01-419	26 IR 156	
370 IAC 1-10	RA	01-317	25 IR 187	**25 IR 937**
370 IAC 1-10-1	A	01-419	26 IR 156	
370 IAC 1-10-2	A	01-419	26 IR 157	
TITLE 405 OFFICE OF THE SECRETARY OF FAMILY AND SOCIAL SERVICES				
405 IAC 1-8-3	A	00-249	24 IR 1381	*NRA (24 IR 3097)
405 IAC 1-9	R	00-249	24 IR 1386	*NRA (24 IR 3097) **25 IR 59**
405 IAC 1-10	R	00-249	24 IR 1386	*NRA (24 IR 3097) **25 IR 59**
405 IAC 1-10.5-1	A	00-249	24 IR 1382	*NRA (24 IR 3097) **25 IR 55**
405 IAC 1-10.5-2	A	00-249	24 IR 1382	*NRA (24 IR 3097) **25 IR 55**
405 IAC 1-10.5-3	A	00-249	24 IR 1384	*NRA (24 IR 3097) **25 IR 57** *ERR (25 IR 1906)
405 IAC 1-10.5-4	A	00-249	24 IR 1386	*NRA (24 IR 3097) **25 IR 59**
405 IAC 1-11	R	00-249	24 IR 1386	*NRA (24 IR 3097) **25 IR 59**
405 IAC 1-12-1	A	02-16	25 IR 2791	*NRA (25 IR 4128)
405 IAC 1-12-2	A	01-420	25 IR 1690	*NRA (25 IR 2541) **25 IR 3121**
	A	02-16	25 IR 2791	*NRA (25 IR 4128)
405 IAC 1-12-4	A	02-16	25 IR 2793	*NRA (25 IR 4128)
405 IAC 1-12-5	A	01-420	25 IR 1691	*NRA (25 IR 2541) **25 IR 3123**
	A	02-16	25 IR 2794	*NRA (25 IR 4128)
405 IAC 1-12-6	A	02-16	25 IR 2795	*NRA (25 IR 4128)
405 IAC 1-12-7	A	02-16	25 IR 2796	*NRA (25 IR 4128)
405 IAC 1-12-8	A	02-16	25 IR 2796	*NRA (25 IR 4128)
405 IAC 1-12-9	A	01-420	25 IR 1693	*NRA (25 IR 2541) **25 IR 3124**
	A	02-16	25 IR 2797	*NRA (25 IR 4128)
405 IAC 1-12-12	A	02-16	25 IR 2797	*NRA (25 IR 4128)
405 IAC 1-12-13	A	02-16	25 IR 2798	*NRA (25 IR 4128)
405 IAC 1-12-14	A	02-16	25 IR 2799	*NRA (25 IR 4128)
405 IAC 1-12-15	A	02-16	25 IR 2799	*NRA (25 IR 4128)
405 IAC 1-12-16	A	02-16	25 IR 2800	*NRA (25 IR 4128)
405 IAC 1-12-17	A	02-16	25 IR 2801	*NRA (25 IR 4128)
405 IAC 1-12-19	A	02-16	25 IR 2802	*NRA (25 IR 4128)
405 IAC 1-12-22	A	01-420	25 IR 1693	*NRA (25 IR 2541) **25 IR 3125**
405 IAC 1-12-24	A	01-172	24 IR 3179	*NRA (25 IR 401) **25 IR 381**
	A	02-16	25 IR 2802	*NRA (25 IR 4128)
405 IAC 1-12-26	A	02-16	25 IR 2803	*NRA (25 IR 4128)
405 IAC 1-14.5-13	A	02-144	25 IR 3826	*NRA (26 IR 415)
405 IAC 1-14.5-14	A	02-144	25 IR 3827	*NRA (26 IR 415)
405 IAC 1-14.5-15	A	02-144	25 IR 3827	*NRA (26 IR 415)
405 IAC 1-14.6-2	A	00-277	24 IR 3169	*ARR (24 IR 3992)
			24 IR 4126	*AROC (25 IR 533) *NRA (25 IR 401) *ARR (25 IR 814) *NRA (25 IR 1666) **25 IR 2462**
	A	02-13	25 IR 2779	*NRA (26 IR 61)
405 IAC 1-14.6-3	A	00-277	24 IR 3172	*ARR (24 IR 3992)
			24 IR 4128	*AROC (25 IR 533) *NRA (25 IR 401) *ARR (25 IR 814) *NRA (25 IR 1666) **25 IR 2465**
405 IAC 1-14.6-4	A	00-277	24 IR 3172	*ARR (24 IR 3992)
			24 IR 4129	*AROC (25 IR 533) *NRA (25 IR 401) *ARR (25 IR 814) *NRA (25 IR 1666) **25 IR 2465**
	A	02-13	25 IR 2782	*NRA (26 IR 61)
405 IAC 1-14.6-5	A	00-277	24 IR 3174	*ARR (24 IR 3992)
			24 IR 4131	*AROC (25 IR 533) *NRA (25 IR 401) *ARR (25 IR 814) *NRA (25 IR 1666) **25 IR 2467**
405 IAC 1-14.6-6	A	00-277	24 IR 3175	*ARR (24 IR 3992)
			24 IR 4131	*AROC (25 IR 533) *NRA (25 IR 401) *ARR (25 IR 814) *NRA (25 IR 1666) **25 IR 2468**
	A	02-13	25 IR 2784	*NRA (26 IR 61)
405 IAC 1-14.6-7	A	00-277	24 IR 3175	*ARR (24 IR 3992)
			24 IR 4132	*AROC (25 IR 533) *NRA (25 IR 401) *ARR (25 IR 814) *NRA (25 IR 1666) **25 IR 2468**
	A	02-13	25 IR 2785	*NRA (26 IR 61)

405 IAC 1-14.6-9	A	00-277	24 IR 3176	*ARR (24 IR 3992)
			24 IR 4133	*AROC (25 IR 533)
				*NRA (25 IR 401)
				*ARR (25 IR 814)
				*NRA (25 IR 1666)
				25 IR 2470
	A	02-13	25 IR 2786	*NRA (26 IR 61)
405 IAC 1-14.6-12	A	02-13	25 IR 2787	*NRA (26 IR 61)
405 IAC 1-14.6-16	A	02-13	25 IR 2788	*NRA (26 IR 61)
405 IAC 1-14.6-20	A	00-277	24 IR 3177	*ARR (24 IR 3992)
			24 IR 4134	*AROC (25 IR 533)
				*NRA (25 IR 401)
				*ARR (25 IR 814)
				*NRA (25 IR 1666)
				25 IR 2470
405 IAC 1-14.6-22	A	02-13	25 IR 2788	*NRA (26 IR 61)
405 IAC 1-15-1	A	00-277	24 IR 4134	*AROC (25 IR 533)
				*NRA (25 IR 401)
				*ARR (25 IR 814)
				*NRA (25 IR 1666)
				25 IR 2471
405 IAC 1-15-5	A	00-277	24 IR 3178	*ARR (24 IR 3992)
			24 IR 4135	*AROC (25 IR 533)
				*NRA (25 IR 401)
				*ARR (25 IR 814)
				*NRA (25 IR 1666)
				25 IR 2471
405 IAC 1-15-6	A	00-277	24 IR 3178	*ARR (24 IR 3992)
			24 IR 4135	*AROC (25 IR 533)
				*NRA (25 IR 401)
				*ARR (25 IR 814)
				*NRA (25 IR 1666)
				25 IR 2471
405 IAC 1-16-2	A	02-214	26 IR 158	
405 IAC 1-16-4	A	02-214	26 IR 159	
405 IAC 1-18	N	01-304	25 IR 138	*NRA (25 IR 1666)
				25 IR 2476
405 IAC 1-18-2	A	02-121	25 IR 3243	*NRA (26 IR 61)
405 IAC 1-18-3	R	02-121	25 IR 3243	*NRA (26 IR 61)
405 IAC 1-19	N	02-184	26 IR 511	
405 IAC 1-20	N	02-184	26 IR 512	
405 IAC 2-3-1	R	01-206	24 IR 4139	*NRA (25 IR 1666)
				25 IR 2475
405 IAC 2-3-1.1	A	01-206	24 IR 4137	*NRA (25 IR 1666)
				25 IR 2472
405 IAC 2-3-1.2	N	01-175	24 IR 4136	*NRA (25 IR 1666)
				*ARR (25 IR 2256)
				*NRA (25 IR 2541)
				25 IR 2726
				*ERR (26 IR 35)
405 IAC 2-3-3	A	01-393	25 IR 1683	*NRA (25 IR 2541)
				*AROC (25 IR 3463)
				25 IR 3114
				*ERR (25 IR 3769)
405 IAC 2-3-17	A	02-234	26 IR 516	
405 IAC 2-3-21	A	02-234	26 IR 517	
405 IAC 2-3-23	N	02-45	25 IR 2555	*NRA (25 IR 3804)
405 IAC 2-8-1	A	02-87	25 IR 2804	*NRA (26 IR 61)
405 IAC 2-8-1.1	N	02-87	25 IR 2805	*NRA (26 IR 61)
405 IAC 2-9	N	01-393	25 IR 1684	*NRA (25 IR 2541)
				*AROC (25 IR 3463)
				25 IR 3115
				*ERR (25 IR 3769)
				*ERR (26 IR 35)
405 IAC 2-10	N	02-145	25 IR 3829	*NRA (26 IR 415)
405 IAC 4-1	RA	02-275	26 IR 544	
405 IAC 4-1-1				*ERR (26 IR 383)
405 IAC 5-2-17	A	01-58	24 IR 2518	*ARR (24 IR 3992)
				*NRA (24 IR 4011)
				*NRA (25 IR 401)
				25 IR 378
405 IAC 5-3-4	A	01-58	24 IR 2519	*ARR (24 IR 3992)
				*NRA (24 IR 4011)
				*NRA (25 IR 401)
				25 IR 378
405 IAC 5-3-10	A	01-22	24 IR 2180	*NRA (24 IR 4011)
				*NRA (25 IR 830)
				25 IR 1613
405 IAC 5-3-11	A	01-58	24 IR 2519	*ARR (24 IR 3992)
				*NRA (24 IR 4011)
				*NRA (25 IR 401)
				25 IR 378
405 IAC 5-3-12	A	01-59	24 IR 2524	*NRA (24 IR 3657)
				25 IR 60
405 IAC 5-3-13	A	01-22	24 IR 2180	*NRA (24 IR 4011)
				*NRA (25 IR 830)
				25 IR 1613
405 IAC 5-7-1	A	01-58	24 IR 2519	*ARR (24 IR 3992)
				*NRA (24 IR 4011)
				*NRA (25 IR 401)
				25 IR 378
405 IAC 5-8-3	A	01-58	24 IR 2519	*ARR (24 IR 3992)
				*NRA (24 IR 4011)
				*NRA (25 IR 401)
				25 IR 379
405 IAC 5-12-1	A	02-49	25 IR 2555	
405 IAC 5-12-2	R	02-49	25 IR 2556	
405 IAC 5-12-3	A	02-49	25 IR 2556	
405 IAC 5-12-4	R	02-49	25 IR 2556	
405 IAC 5-12-5	R	02-49	25 IR 2556	
405 IAC 5-12-6	R	02-49	25 IR 2556	
405 IAC 5-12-7	R	02-49	25 IR 2556	
405 IAC 5-14-1	A	02-50	25 IR 2556	*NRA (26 IR 61)
				*ARR (26 IR 384)
				*NRA (26 IR 415)
405 IAC 5-14-2	A	02-140	25 IR 3823	*NRA (26 IR 61)
				*ARR (26 IR 384)
405 IAC 5-14-2.5	N	02-140	25 IR 3823	*NRA (26 IR 61)
				*ARR (26 IR 384)
405 IAC 5-14-3	A	02-140	25 IR 3824	*NRA (26 IR 61)
				*ARR (26 IR 384)
405 IAC 5-14-4	A	02-140	25 IR 3824	*NRA (26 IR 61)
				*ARR (26 IR 384)
405 IAC 5-14-6	A	02-140	25 IR 3824	*NRA (26 IR 61)
				*ARR (26 IR 384)
405 IAC 5-19-1	A	01-301	25 IR 3811	
405 IAC 5-19-3	A	02-207	26 IR 514	
405 IAC 5-19-7	A	01-58	24 IR 2521	*ARR (24 IR 3992)
				*NRA (24 IR 4011)
				*NRA (25 IR 401)
				25 IR 379
405 IAC 5-19-10	A	01-58	24 IR 2521	*ARR (24 IR 3992)
				*NRA (24 IR 4011)
				*NRA (25 IR 401)
				25 IR 379
405 IAC 5-20-8	A	01-59	24 IR 2524	*NRA (24 IR 3657)
				25 IR 61
				*ERR (25 IR 1184)
405 IAC 5-23-4	A	01-58	24 IR 2521	*ARR (24 IR 3992)
405 IAC 5-23-5	A	01-58	24 IR 2522	*ARR (24 IR 3992)
405 IAC 5-24-4	A	01-22	24 IR 2180	*NRA (24 IR 4011)
				25 IR 60
				*NRA (25 IR 830)
	A	01-303	25 IR 847	*NRA (25 IR 2276)
				*ARR (25 IR 2523)
	A	01-372	25 IR 1242	*NRA (25 IR 2276)
				*ARR (25 IR 2523)
				*NRA (25 IR 2541)
				25 IR 2727
				*ERR (26 IR 35)

405 IAC 5-24-6	A	01-22	24 IR 2181	*NRA (24 IR 4011)
				25 IR 60
				*NRA (25 IR 830)
	A	01-372	25 IR 1242	*NRA (25 IR 2276)
				*ARR (25 IR 2523)
				*NRA (25 IR 2541)
				25 IR 2727
405 IAC 5-24-7	A	02-141	25 IR 3825	*NRA (26 IR 62)
405 IAC 5-24-8.5	N	01-22	24 IR 2181	*NRA (24 IR 4011)
				*NRA (25 IR 830)
				25 IR 1613
405 IAC 5-24-8.6	N	01-22		**††25 IR 1614**
				*ERR (25 IR 2255)
405 IAC 5-24-11	N	01-22		**††25 IR 1614**
405 IAC 5-24-12	N	01-22		**††25 IR 1614**
405 IAC 5-24-13	N	02-207	26 IR 515	
405 IAC 5-29-1	A	01-58	24 IR 2522	*ARR (24 IR 3992)
				*NRA (24 IR 4011)
				*NRA (25 IR 401)
				25 IR 380
405 IAC 5-31-4	A	02-207	26 IR 515	
405 IAC 5-31-8	A	01-214	24 IR 3756	*NRA (25 IR 401)
				*ARR (25 IR 814)
				*NRA (25 IR 1666)
				25 IR 2475
405 IAC 5-34-1	A	02-214	26 IR 159	
405 IAC 5-34-2	A	02-214	26 IR 159	
405 IAC 5-34-3	A	02-214	26 IR 160	
405 IAC 5-34-4	A	02-214	26 IR 160	
405 IAC 5-34-4.1	N	02-214	26 IR 162	
405 IAC 5-34-4.2	N	02-214	26 IR 162	
405 IAC 5-34-5	A	02-214	26 IR 162	
405 IAC 5-34-6	A	02-214	26 IR 162	
405 IAC 5-34-7	A	02-214	26 IR 163	
405 IAC 5-34-12	A	01-302	25 IR 138	*NRA (25 IR 1666)
				25 IR 2476
405 IAC 5-37-3	A	01-58	24 IR 2523	*ARR (24 IR 3992)
				*NRA (24 IR 4011)
				*NRA (25 IR 401)
				25 IR 380
405 IAC 6-2-3	A	01-373	25 IR 3813	*AROC (25 IR 3885)
				*NRA (26 IR 61)
405 IAC 6-2-5	A	01-373	25 IR 3813	*AROC (25 IR 3885)
				*NRA (26 IR 61)
405 IAC 6-2-5.3	N	01-373	25 IR 3813	*AROC (25 IR 3885)
				*NRA (26 IR 61)
405 IAC 6-2-5.5	N	01-373	25 IR 3813	*AROC (25 IR 3885)
				*NRA (26 IR 61)
405 IAC 6-2-9	A	01-373	25 IR 3813	*AROC (25 IR 3885)
				*NRA (26 IR 61)
405 IAC 6-2-12	A	01-373	25 IR 3814	*AROC (25 IR 3885)
				*NRA (26 IR 61)
405 IAC 6-2-12.5	N	01-373	25 IR 3814	*AROC (25 IR 3885)
				*NRA (26 IR 61)
405 IAC 6-2-14	A	01-373	25 IR 3814	*AROC (25 IR 3885)
				*NRA (26 IR 61)
405 IAC 6-2-16.5	N	01-373	25 IR 3814	*AROC (25 IR 3885)
				*NRA (26 IR 61)
405 IAC 6-2-18	A	01-373	25 IR 3814	*AROC (25 IR 3885)
				*NRA (26 IR 61)
405 IAC 6-2-20	A	01-373	25 IR 3814	*AROC (25 IR 3885)
				*NRA (26 IR 61)
405 IAC 6-2-20.5	N	01-373	25 IR 3814	*AROC (25 IR 3885)
				*NRA (26 IR 61)
405 IAC 6-2-21	A	01-373	25 IR 3815	*AROC (25 IR 3885)
				*NRA (26 IR 61)
405 IAC 6-2-22.5	N	01-373	25 IR 3815	*AROC (25 IR 3885)
				*NRA (26 IR 61)
405 IAC 6-3-2	A	01-373	25 IR 3815	*AROC (25 IR 3885)
				*NRA (26 IR 61)
405 IAC 6-3-3	A	01-373	25 IR 3815	*AROC (25 IR 3885)
				*NRA (26 IR 61)
405 IAC 6-4-2	A	01-373	25 IR 3815	*AROC (25 IR 3885)
				*NRA (26 IR 61)
405 IAC 6-5-1	A	01-373	25 IR 3816	*AROC (25 IR 3885)
				*NRA (26 IR 61)
405 IAC 6-5-2	A	01-373	25 IR 3816	*AROC (25 IR 3885)
				*NRA (26 IR 61)
405 IAC 6-5-3	A	01-373	25 IR 3816	*AROC (25 IR 3885)
				*NRA (26 IR 61)
405 IAC 6-5-4	A	01-373	25 IR 3816	*AROC (25 IR 3885)
				*NRA (26 IR 61)
405 IAC 6-5-5	A	01-373	25 IR 3817	*AROC (25 IR 3885)
				*NRA (26 IR 61)
405 IAC 6-5-6	A	01-373	25 IR 3817	*AROC (25 IR 3885)
				*NRA (26 IR 61)
405 IAC 6-6-2	A	01-373	25 IR 3817	*AROC (25 IR 3885)
				*NRA (26 IR 61)
405 IAC 6-6-3	A	01-373	25 IR 3817	*AROC (25 IR 3885)
				*NRA (26 IR 61)
405 IAC 6-6-4	A	01-373	25 IR 3817	*AROC (25 IR 3885)
				*NRA (26 IR 61)
405 IAC 6-8	N	01-373	25 IR 3818	*AROC (25 IR 3885)
				*NRA (26 IR 61)
405 IAC 6-9	N	01-373	25 IR 3818	*AROC (25 IR 3885)
				*NRA (26 IR 61)
405 IAC 7	N	02-234	26 IR 518	

TITLE 407 OFFICE OF THE CHILDREN'S HEALTH INSURANCE PROGRAM

407 IAC 2-2-5	A	02-85	25 IR 2805	**25 IR 4103**
407 IAC 2-3-1	A	02-85	25 IR 2806	**25 IR 4103**
				*ERR (26 IR 383)
407 IAC 2-3-2	A	02-85	25 IR 2806	**25 IR 4103**

TITLE 410 INDIANA STATE DEPARTMENT OF HEALTH

410 IAC 1-2.3				*ERR (25 IR 106)
410 IAC 5-10.1	RA	01-240	25 IR 187	**25 IR 1270**
410 IAC 6-2	R	02-142	25 IR 4197	
410 IAC 6-2.1	N	02-142	25 IR 4188	
410 IAC 6-7	R	01-243	25 IR 2015	**25 IR 3757**
				*AROC (25 IR 3884)
410 IAC 6-7.1	N	01-243	25 IR 2002	**25 IR 3743**
				*ERR (25 IR 3769)
				*AROC (25 IR 3884)
				*ERR (26 IR 36)
410 IAC 6-7.2	N	01-243	25 IR 2007	**25 IR 3749**
				*ERR (25 IR 3769)
				*AROC (25 IR 3884)
				*ERR (26 IR 36)
410 IAC 7-21	N	01-7	24 IR 2809	**25 IR 1615**
				*ERR (25 IR 1644)
				*AROC (25 IR 1734)
410 IAC 15-1.5-4	A	02-43	26 IR 164	
410 IAC 15-1.5-5	A	02-43	26 IR 166	
410 IAC 15-1.5-8	A	01-169	25 IR 154	**25 IR 1135**
410 IAC 15-1.7-1	A	01-169	25 IR 156	**25 IR 1137**
410 IAC 15-2.5-7	A	01-168	25 IR 152	**25 IR 1133**
410 IAC 15-2.7-1	A	01-168	25 IR 153	**25 IR 1134**
410 IAC 16.2-1-0.5	R	02-89	25 IR 3276	
410 IAC 16.2-1-1	R	02-89	25 IR 3276	
410 IAC 16.2-1-2	R	02-89	25 IR 3276	
410 IAC 16.2-1-2.1	R	02-89	25 IR 3276	
410 IAC 16.2-1-2.2	R	02-89	25 IR 3276	
410 IAC 16.2-1-3	R	02-89	25 IR 3276	
410 IAC 16.2-1-3.5	R	02-89	25 IR 3276	
410 IAC 16.2-1-5	R	02-89	25 IR 3276	

410 IAC 16.2-1-6	R	02-89	25 IR 3276	
410 IAC 16.2-1-6.5	R	02-89	25 IR 3276	
410 IAC 16.2-1-7	R	02-89	25 IR 3276	
410 IAC 16.2-1-8	R	02-89	25 IR 3276	
410 IAC 16.2-1-9	R	02-89	25 IR 3276	
410 IAC 16.2-1-10.1	R	02-89	25 IR 3277	
410 IAC 16.2-1-10.2	R	02-89	25 IR 3277	
410 IAC 16.2-1-11	R	02-89	25 IR 3277	
410 IAC 16.2-1-12.5	R	02-89	25 IR 3277	
410 IAC 16.2-1-14	R	02-89	25 IR 3277	
410 IAC 16.2-1-14.1	R	02-89	25 IR 3277	
410 IAC 16.2-1-14.2	R	02-89	25 IR 3277	
410 IAC 16.2-1-15	R	02-89	25 IR 3277	
410 IAC 16.2-1-15.1	R	02-89	25 IR 3277	
410 IAC 16.2-1-15.2	R	02-89	25 IR 3277	
410 IAC 16.2-1-15.3	R	02-89	25 IR 3277	
410 IAC 16.2-1-16	R	02-89	25 IR 3277	
410 IAC 16.2-1-17	R	02-89	25 IR 3277	
410 IAC 16.2-1-18	R	02-89	25 IR 3277	
410 IAC 16.2-1-18.1	R	02-89	25 IR 3277	
410 IAC 16.2-1-18.2	R	02-89	25 IR 3277	
410 IAC 16.2-1-19	R	02-89	25 IR 3277	
410 IAC 16.2-1-19.1	R	02-89	25 IR 3277	
410 IAC 16.2-1-20	R	02-89	25 IR 3277	
410 IAC 16.2-1-21	R	02-89	25 IR 3277	
410 IAC 16.2-1-22	R	02-89	25 IR 3277	
410 IAC 16.2-1-22.1	R	02-89	25 IR 3277	
410 IAC 16.2-1-22.2	R	02-89	25 IR 3277	
410 IAC 16.2-1-23	R	02-89	25 IR 3277	
410 IAC 16.2-1-24	R	02-89	25 IR 3277	
410 IAC 16.2-1-25	R	02-89	25 IR 3277	
410 IAC 16.2-1-26	R	02-89	25 IR 3277	
410 IAC 16.2-1-26.1	R	02-89	25 IR 3277	
410 IAC 16.2-1-27	R	02-89	25 IR 3277	
410 IAC 16.2-1-27.1	R	02-89	25 IR 3277	
410 IAC 16.2-1-28	R	02-89	25 IR 3277	
410 IAC 16.2-1-29	R	02-89	25 IR 3277	
410 IAC 16.2-1-29.1	R	02-89	25 IR 3277	
410 IAC 16.2-1-30	R	02-89	25 IR 3277	
410 IAC 16.2-1-31	R	02-89	25 IR 3277	
410 IAC 16.2-1-31.1	R	02-89	25 IR 3277	
410 IAC 16.2-1-32	R	02-89	25 IR 3277	
410 IAC 16.2-1-32.1	R	02-89	25 IR 3277	
410 IAC 16.2-1-32.2	R	02-89	25 IR 3277	
410 IAC 16.2-1-33	R	02-89	25 IR 3277	
410 IAC 16.2-1-34	R	02-89	25 IR 3277	
410 IAC 16.2-1-35	R	02-89	25 IR 3277	
410 IAC 16.2-1-36	R	02-89	25 IR 3277	
410 IAC 16.2-1-37	R	02-89	25 IR 3277	
410 IAC 16.2-1-38	R	02-89	25 IR 3277	
410 IAC 16.2-1-39	R	02-89	25 IR 3277	
410 IAC 16.2-1-39.1	R	02-89	25 IR 3277	
410 IAC 16.2-1-41.1	R	02-89	25 IR 3277	
410 IAC 16.2-1-42	R	02-89	25 IR 3277	
410 IAC 16.2-1-44	R	02-89	25 IR 3277	
410 IAC 16.2-1-45	R	02-89	25 IR 3277	
410 IAC 16.2-1-46	R	02-89	25 IR 3277	
410 IAC 16.2-1-47	R	02-89	25 IR 3277	
410 IAC 16.2-1-48	R	02-89	25 IR 3277	
410 IAC 16.2-1.1	N	02-89	25 IR 3244	
410 IAC 16.2-3.1-21				*ERR (25 IR 2522)
410 IAC 16.2-5-0.5	N	02-89	25 IR 3252	
410 IAC 16.2-5-1.1	A	02-89	25 IR 3252	
410 IAC 16.2-5-1.2	A	02-89	25 IR 3254	
410 IAC 16.2-5-1.3	A	02-89	25 IR 3259	
410 IAC 16.2-5-1.4	A	02-89	25 IR 3261	
410 IAC 16.2-5-1.5	A	02-89	25 IR 3263	
410 IAC 16.2-5-1.6	A	02-89	25 IR 3265	
410 IAC 16.2-5-1.7	R	02-89	25 IR 3277	
410 IAC 16.2-5-2	A	02-89	25 IR 3269	
410 IAC 16.2-5-3	R	02-89	25 IR 3277	
410 IAC 16.2-5-4	A	02-89	25 IR 3270	
410 IAC 16.2-5-5	R	02-89	25 IR 3277	
410 IAC 16.2-5-5.1	N	02-89	25 IR 3271	
410 IAC 16.2-5-6	A	02-89	25 IR 3272	
410 IAC 16.2-5-7	R	02-89	25 IR 3277	
410 IAC 16.2-5-7.1	N	02-89	25 IR 3274	
410 IAC 16.2-5-8	R	02-89	25 IR 3277	
410 IAC 16.2-5-8.1	N	02-89	25 IR 3274	
410 IAC 16.2-5-9	R	02-89	25 IR 3277	
410 IAC 16.2-5-10	R	02-89	25 IR 3277	
410 IAC 16.2-5-11	R	02-89	25 IR 3277	
410 IAC 16.2-5-11.1	N	02-89	25 IR 3275	
410 IAC 16.2-5-12	N	02-89	25 IR 3276	
410 IAC 17-1.1	R	01-159	25 IR 151	**25 IR 2490**
410 IAC 17-2	R	01-159	25 IR 151	**25 IR 2490**
410 IAC 17-3	R	01-159	25 IR 151	**25 IR 2490**
410 IAC 17-4	R	01-159	25 IR 151	**25 IR 2490**
410 IAC 17-5	R	01-159	25 IR 151	**25 IR 2490**
410 IAC 17-6	R	01-159	25 IR 151	**25 IR 2490**
410 IAC 17-7	R	01-159	25 IR 151	**25 IR 2490**
410 IAC 17-8	R	01-159	25 IR 151	**25 IR 2490**
410 IAC 17-9	N	01-159	25 IR 140	**25 IR 2477**
				*ERR (25 IR 2522)
410 IAC 17-10	N	01-159	25 IR 143	**25 IR 2481**
410 IAC 17-11	N	01-159	25 IR 144	**25 IR 2482**
410 IAC 17-12	N	01-159	25 IR 145	**25 IR 2483**
410 IAC 17-13	N	01-159	25 IR 148	**25 IR 2486**
410 IAC 17-14	N	01-159	25 IR 149	**25 IR 2487**
				*ERR (25 IR 2522)
410 IAC 17-15	N	01-159	25 IR 151	**25 IR 2489**
410 IAC 17-16	N	01-159	25 IR 151	**25 IR 2489**
410 IAC 21-3	N	01-280	25 IR 2016	**25 IR 3757**
410 IAC 23-1	R	01-339	25 IR 2020	**25 IR 3761**
410 IAC 23-2	N	01-339	25 IR 2018	**25 IR 3759**

TITLE 412 INDIANA HEALTH FACILITIES COUNCIL

412 IAC 2	N	01-281	25 IR 1244	**25 IR 2728**
				*ERR (26 IR 36)
412 IAC 2-1-1	A	02-41	25 IR 4198	
412 IAC 2-1-2.1	N	02-41	25 IR 4198	
412 IAC 2-1-2.2	N	02-41	25 IR 4198	
412 IAC 2-1-6	A	02-41	25 IR 4199	
412 IAC 2-1-8	A	02-41	25 IR 4199	
412 IAC 2-1-10	N	02-41	25 IR 4199	
412 IAC 2-1-11	N	02-41	25 IR 4200	
412 IAC 2-1-12	N	02-41	25 IR 4200	
412 IAC 2-1-13	N	02-41	25 IR 4200	
412 IAC 2-1-14	N	02-41	25 IR 4200	

TITLE 431 COMMUNITY RESIDENTIAL FACILITIES COUNCIL

431 IAC 1.1	RA	00-298	24 IR 1948	**25 IR 528**
431 IAC 1.1-1-2	A	01-422	25 IR 1694	**25 IR 3126**
				*ERR (26 IR 36)
431 IAC 2.1	RA	00-298	24 IR 1948	**25 IR 528**
	R	01-299	25 IR 866	*NRA (25 IR 2745)
				25 IR 3145
431 IAC 3.1	RA	00-298	24 IR 1948	**25 IR 528**
431 IAC 4	RA	00-298	24 IR 1948	**25 IR 528**
431 IAC 5	RA	00-298	24 IR 1948	**25 IR 528**
	R	01-299	25 IR 866	*NRA (25 IR 2745)
				25 IR 3145
431 IAC 6	RA	00-298	24 IR 1948	**25 IR 528**
	R	01-299	25 IR 866	*NRA (25 IR 2745)
				25 IR 3145

TITLE 440 DIVISION OF MENTAL HEALTH AND ADDICTION

440 IAC 1-1.5	R	02-42	25 IR 3289	*NRA (26 IR 62)
440 IAC 1.5	N	02-42	25 IR 3277	*NRA (26 IR 62)
440 IAC 4-3-1	A	02-218	26 IR 519	
440 IAC 4.1-2-1	A	02-218	26 IR 519	
440 IAC 4.1-2-4	A	02-218	26 IR 520	
440 IAC 4.1-2-5	A	02-218	26 IR 521	
440 IAC 4.1-2-9	A	02-218	26 IR 521	
440 IAC 4.1-3	N	02-218	26 IR 522	
440 IAC 4.4-1-1	A	01-263	25 IR 157	**25 IR 2220**
440 IAC 4.4-2-1	A	01-263	25 IR 158	**25 IR 2221**
440 IAC 4.4-2-2	A	01-263	25 IR 158	**25 IR 2221**
440 IAC 4.4-2-3	A	01-263	25 IR 159	**25 IR 2222**
440 IAC 4.4-2-3.5	N	01-263	25 IR 159	**25 IR 2222**
440 IAC 4.4-2-4	A	01-263	25 IR 160	**25 IR 2223**
440 IAC 4.4-2-4.5	N	01-263	25 IR 160	**25 IR 2223**
440 IAC 4.4-2-5	A	01-263	25 IR 161	**25 IR 2224**
440 IAC 4.4-2-6	A	01-263	25 IR 162	**25 IR 2225**
440 IAC 4.4-2-7	A	01-263	25 IR 162	**25 IR 2225**
440 IAC 4.4-2-8	A	01-263	25 IR 162	**25 IR 2225**
440 IAC 4.4-2-9	A	01-263	25 IR 163	**25 IR 2226**
440 IAC 4.4-2-11	N	01-263	25 IR 163	**25 IR 2226**
440 IAC 5-1-1	A	02-105	25 IR 3289	*NRA (26 IR 62)
440 IAC 5-1-2	A	02-105	25 IR 3290	*NRA (26 IR 62)
440 IAC 5-1-3.5	N	02-105	25 IR 3290	*NRA (26 IR 62)
440 IAC 6-1-1	A	01-356	25 IR 867	*NRA (25 IR 2745) **25 IR 3145**
440 IAC 6-2-1	A	01-356	25 IR 867	*NRA (25 IR 2745) **25 IR 3146**
440 IAC 6-2-2	A	01-356	25 IR 868	*NRA (25 IR 2745) **25 IR 3146**
440 IAC 6-2-3	A	01-356	25 IR 868	*NRA (25 IR 2745) **25 IR 3147**
440 IAC 6-2-4	A	01-356	25 IR 869	*NRA (25 IR 2745) **25 IR 3147**
440 IAC 6-2-5	A	01-356	25 IR 869	*NRA (25 IR 2745) **25 IR 3148**
440 IAC 6-2-6	A	01-356	25 IR 869	*NRA (25 IR 2745) **25 IR 3148**
440 IAC 6-2-7	A	01-356	25 IR 870	*NRA (25 IR 2745) **25 IR 3148**
440 IAC 6-2-8	A	01-356	25 IR 870	*NRA (25 IR 2745) **25 IR 3149**
440 IAC 6-2-9	A	01-356	25 IR 870	*NRA (25 IR 2745) **25 IR 3149**
440 IAC 7	R	01-299	25 IR 866	*NRA (25 IR 2745) **25 IR 3145**
440 IAC 7-2-16	R	01-357	25 IR 2024	*NRA (25 IR 3207) **25 IR 3765**
440 IAC 7-2-17	R	01-357	25 IR 2024	*NRA (25 IR 3207) **25 IR 3765**
440 IAC 7-2-18	R	01-357	25 IR 2024	*NRA (25 IR 3207) **25 IR 3765**
440 IAC 7.5	N	01-299	25 IR 849	*NRA (25 IR 2745) **25 IR 3127**
440 IAC 9-2-4	N	01-53	24 IR 3757	*NRA (25 IR 401) **25 IR 1138**
440 IAC 9-2-5	N	01-53	24 IR 3757	*NRA (25 IR 401) **25 IR 1138**
440 IAC 9-2-6	N	01-53	24 IR 3758	*NRA (25 IR 401) **25 IR 1138**
440 IAC 9-2-7	N	01-357	25 IR 2020	*NRA (25 IR 3207) **25 IR 3762**
440 IAC 9-2-8	N	01-357	25 IR 2022	*NRA (25 IR 3207) **25 IR 3763**
440 IAC 9-2-9	N	01-357	25 IR 2023	*NRA (25 IR 3207) **25 IR 3764**
440 IAC 9-2-10	N	02-106	25 IR 4201	
440 IAC 9-2-11	N	02-106	25 IR 4202	
440 IAC 9-2-12	N	02-106	25 IR 4203	

TITLE 460 DIVISION OF DISABILITY, AGING, AND REHABILITATIVE SERVICES

460 IAC 1-1-1	RA	00-299	24 IR 1949	**25 IR 1270**
460 IAC 1-1-2	RA	00-299	24 IR 1949	**25 IR 1270**
460 IAC 1-1-3	RA	00-299	24 IR 1949	**25 IR 1271**
460 IAC 1-1-4	RA	00-299	24 IR 1949	**25 IR 1271**
460 IAC 1-1-5	RA	00-299	24 IR 1949	**25 IR 1272**
460 IAC 1-1-6	RA	00-299	24 IR 1949	**25 IR 1273**
460 IAC 1-1-7	RA	00-299	24 IR 1949	**25 IR 1273**
460 IAC 1-1-8	RA	00-299	24 IR 1949	**25 IR 1274**
460 IAC 1-1-9	RA	00-299	24 IR 1949	**25 IR 1274**
460 IAC 1-1-10	RA	00-299	24 IR 1949	**25 IR 1274**
460 IAC 1-1-11	RA	00-299	24 IR 1949	**25 IR 1275**
460 IAC 1-1-12	RA	00-299	24 IR 1949	**25 IR 1276**
460 IAC 1-1-13	RA	00-299	24 IR 1949	**25 IR 1276**
460 IAC 1-1-14	RA	00-299	24 IR 1949	**25 IR 1276**
460 IAC 1-1-15	RA	00-299	24 IR 1949	**25 IR 1277**
460 IAC 1-1-16	RA	00-299	24 IR 1949	**25 IR 1277**
460 IAC 1-2-1	RA	00-300	24 IR 1956	**25 IR 1278**
460 IAC 1-2-2	RA	00-300	24 IR 1956	**25 IR 1278**
460 IAC 1-2-3	RA	00-300	24 IR 1956	**25 IR 1278**
460 IAC 1-2-4	RA	00-300	24 IR 1956	**25 IR 1279**
460 IAC 1-2-5	RA	00-300	24 IR 1956	**25 IR 1279**
460 IAC 1-2-6	RA	00-300	24 IR 1956	**25 IR 1280**
460 IAC 1-2-7	RA	00-300	24 IR 1956	**25 IR 1280**
460 IAC 1-2-8	RA	00-300	24 IR 1956	**25 IR 1280**
460 IAC 1-2-9	RA	00-300	24 IR 1956	**25 IR 1281**
460 IAC 1-2-10	RA	00-300	24 IR 1956	**25 IR 1281**
460 IAC 1-2-11	RA	00-300	24 IR 1956	**25 IR 1281**
460 IAC 1-2-12	RA	00-300	24 IR 1956	**25 IR 1282**
460 IAC 1-3-3	RA	02-262	26 IR 544	
460 IAC 1-3-6	RA	02-262	26 IR 544	
460 IAC 1-3-7	RA	02-262	26 IR 544	
460 IAC 1-3-12	RA	02-262	26 IR 544	
460 IAC 1-3.6	N	00-286	24 IR 3759	**25 IR 1140**
460 IAC 1-4	RA	00-301	24 IR 1961	**25 IR 528**
460 IAC 1-5	RA	00-301	24 IR 1961	**25 IR 528**
460 IAC 1-6	RA	00-301	24 IR 1961	**25 IR 528**
460 IAC 1-8	N	01-337	25 IR 2557	**26 IR 350**
460 IAC 2-1	R	00-215	24 IR 2545	*NRA (24 IR 4011) **25 IR 82**
460 IAC 2-3-1	A	02-9	25 IR 2286	
460 IAC 2-3-2	A	02-9	25 IR 2286	
460 IAC 2-3-3	A	02-9	25 IR 2287	
460 IAC 2-4	N	00-215	24 IR 2526	*NRA (24 IR 4011) **25 IR 62** *ERR (25 IR 1645)
460 IAC 2-5	N	01-334	25 IR 871	*NRA (25 IR 1925) **25 IR 3765**
460 IAC 3.5-2-1	A	01-204	25 IR 163	*NRA (25 IR 1666) **25 IR 2226**
460 IAC 5-1-13	A	02-151	26 IR 524	
460 IAC 6	N	02-46	25 IR 3832	
460 IAC 7	N	02-210	26 IR 525	

TITLE 470 DIVISION OF FAMILY AND CHILDREN

470 IAC 2-5-1	RA	01-60	24 IR 2571	*NRA (25 IR 401) **25 IR 1281**
470 IAC 2-5-2	RA	01-60	24 IR 2572	*NRA (25 IR 401) **25 IR 1284**
470 IAC 2-5-3	RA	01-60	24 IR 2572	*NRA (25 IR 401) **25 IR 1284**
470 IAC 2-5-4	R	01-60	24 IR 2576	*NRA (25 IR 401) **25 IR 1288**
470 IAC 2-5-5	RA	01-60	24 IR 2572	*NRA (25 IR 401) **25 IR 1284**
470 IAC 2-5-6	RA	01-60	24 IR 2573	*NRA (25 IR 401) **25 IR 1285**

470 IAC 2-5-7	RA	01-60	24 IR 2573	*NRA (25 IR 401) **25 IR 1285**
470 IAC 2-5-8	R	01-60	24 IR 2576	*NRA (25 IR 401) **25 IR 1288**
470 IAC 2-5-9	R	01-60	24 IR 2576	*NRA (25 IR 401) **25 IR 1288**
470 IAC 2-5-10	RA	01-60	24 IR 2574	*NRA (25 IR 401) **25 IR 1286**
470 IAC 2-5-11	R	01-60	24 IR 2576	*NRA (25 IR 401) **25 IR 1288**
470 IAC 2-5-12	RA	01-60	24 IR 2574	*NRA (25 IR 401) **25 IR 1286**
470 IAC 2-5-13	RA	01-60	24 IR 2574	*NRA (25 IR 401) **25 IR 1286**
470 IAC 2-5-14	RA	01-60	24 IR 2575	*NRA (25 IR 401) **25 IR 1287**
470 IAC 2-5-15	RA	01-60	24 IR 2575	*NRA (25 IR 401) **25 IR 1287**
470 IAC 2-5-16	R	01-60	24 IR 2576	*NRA (25 IR 401) **25 IR 1288**
470 IAC 2-5-17	R	01-60	24 IR 2576	*NRA (25 IR 401) **25 IR 1288**
470 IAC 2-5-18	R	01-60	24 IR 2576	*NRA (25 IR 401) **25 IR 1288**
470 IAC 2-5-19	R	01-60	24 IR 2576	*NRA (25 IR 401) **25 IR 1288**
470 IAC 2-5-20	RA	01-60	24 IR 2576	*NRA (25 IR 401) **25 IR 1288**
470 IAC 2-5-21	R	01-60	24 IR 2576	*NRA (25 IR 401) **25 IR 1288**
470 IAC 2-5-22	RA	01-60	24 IR 2576	*NRA (25 IR 401) **25 IR 1288**
470 IAC 3-4.1	R	01-205	24 IR 4181	*AWR (25 IR 2524)
470 IAC 3-4.2	R	01-205	24 IR 4181	*AWR (25 IR 2524)
470 IAC 3-4.7	N	01-205	24 IR 4140	*AWR (25 IR 2524)
470 IAC 3-10-1	RA	01-61	24 IR 2577	*NRA (24 IR 3097) **25 IR 202**
470 IAC 3-10-2	RA	01-61	24 IR 2577	*NRA (24 IR 3097) **25 IR 202**
470 IAC 3-10-3	RA	01-61	24 IR 2577	*NRA (24 IR 3097) **25 IR 202**
470 IAC 3-10-5	RA	01-61	24 IR 2577	*NRA (24 IR 3097) **25 IR 202**
470 IAC 3-10-6	RA	01-61	24 IR 2577	*NRA (24 IR 3097) **25 IR 202**
470 IAC 3-10-7	RA	01-61	24 IR 2577	*NRA (24 IR 3097) **25 IR 202**
470 IAC 3-10-8	RA	01-61	24 IR 2577	*NRA (24 IR 3097) **25 IR 202**
470 IAC 3.1-12-2	A	02-74	26 IR 167	
470 IAC 3.1-12-7	N	02-74	26 IR 168	
470 IAC 8.1-2-12	A	02-152	26 IR 530	
470 IAC 10.1-1-2	A	01-173	24 IR 3760	
470 IAC 10.2	N	01-174	24 IR 3762	
470 IAC 11.1-1-5	A	02-203	26 IR 169	

TITLE 480 VIOLENT CRIME COMPENSATION DIVISION

480 IAC 1-1-1	A	01-194	25 IR 164	*CPH (25 IR 831)
480 IAC 1-1-2	A	01-194	25 IR 164	*CPH (25 IR 831)
480 IAC 1-1-3	A	01-194	25 IR 165	*CPH (25 IR 831)
480 IAC 1-1-4.1	A	01-194	25 IR 165	*CPH (25 IR 831)
480 IAC 1-1-5	A	01-194	25 IR 165	*CPH (25 IR 831)
480 IAC 1-1-6	A	01-194	25 IR 166	*CPH (25 IR 831)
480 IAC 1-1-7	A	01-194	25 IR 167	*CPH (25 IR 831)
480 IAC 1-1-8	A	01-194	25 IR 167	*CPH (25 IR 831)
480 IAC 1-1-9	A	01-194	25 IR 167	*CPH (25 IR 831)
480 IAC 1-1-10	A	01-194	25 IR 169	*CPH (25 IR 831)
480 IAC 1-2-1	A	01-194	25 IR 169	*CPH (25 IR 831)
480 IAC 1-2-2	A	01-194	25 IR 169	*CPH (25 IR 831)
480 IAC 1-2-3	A	01-194	25 IR 170	*CPH (25 IR 831)

TITLE 511 INDIANA STATE BOARD OF EDUCATION

511 IAC 1-1	RA	01-164	24 IR 3790	**25 IR 937**
511 IAC 1-2	RA	01-164	24 IR 3790	**25 IR 937**
511 IAC 1-2.5	RA	01-164	24 IR 3790	**25 IR 937**
511 IAC 1-3	RA	01-164	24 IR 3790	**25 IR 937**
511 IAC 1-6-1	RA	01-164	24 IR 3790	**25 IR 937**
511 IAC 1-6-5	RA	01-164	24 IR 3790	**25 IR 937**
511 IAC 1-7	RA	01-164	24 IR 3790	**25 IR 937**
511 IAC 1-8	RA	01-164	24 IR 3790	**25 IR 937**
511 IAC 2-5	RA	01-164	24 IR 3790	**25 IR 937**
511 IAC 3	RA	01-164	24 IR 3790	**25 IR 937**
511 IAC 4-2	RA	01-164	24 IR 3790	**25 IR 937**
511 IAC 4-4-1	RA	01-164	24 IR 3790	**25 IR 937**
511 IAC 4-4-2	RA	01-164	24 IR 3790	**25 IR 937**
511 IAC 4-4-5	RA	01-164	24 IR 3790	**25 IR 937**
511 IAC 4-4-6	RA	01-164	24 IR 3790	**25 IR 937**
511 IAC 4-4-7	RA	01-164	24 IR 3790	**25 IR 937**
511 IAC 5-1-2	A	02-67	25 IR 2807	
511 IAC 5-1-3.5	A	02-67	25 IR 2807	
511 IAC 5-1-5	A	02-67	25 IR 2807	
511 IAC 5-1-6	A	02-67	25 IR 2807	
511 IAC 5-2	RA	01-164	24 IR 3790	**25 IR 937**
511 IAC 5-2-1	A	01-203	24 IR 3768	**25 IR 1147**
511 IAC 5-2-3	A	01-203	24 IR 3769	**25 IR 1148**
	A	02-170	25 IR 4204	
511 IAC 5-2-4	A	01-162	24 IR 3764	**25 IR 1147**
	A	02-170	25 IR 4205	
511 IAC 6-2	RA	01-164	24 IR 3790	**25 IR 937**
511 IAC 6-2-1	R	01-212	24 IR 3777	**25 IR 2239**
511 IAC 6-6	RA	01-164	24 IR 3790	**25 IR 937**
511 IAC 6-7-6.5	A	02-177	25 IR 4205	
511 IAC 6-7-9	RA	01-164	24 IR 3790	**25 IR 937**
511 IAC 6-8-4	RA	01-164	24 IR 3790	**25 IR 937**
511 IAC 6-10	RA	01-164	24 IR 3790	**25 IR 937**
511 IAC 6.1-0.5	N	01-212	24 IR 3769	**25 IR 2231**
511 IAC 6.1-1-1	RA	01-164	24 IR 3790	**25 IR 938**
	A	01-212	24 IR 3770	**25 IR 2231**
511 IAC 6.1-1-2	A	01-212	24 IR 3770	**25 IR 2231**
511 IAC 6.1-1-3	RA	01-164	24 IR 3790	**25 IR 938**
	A	01-212	24 IR 3771	**25 IR 2233**
511 IAC 6.1-1-4	RA	01-164	24 IR 3790	**25 IR 938**
	A	01-212	24 IR 3772	**25 IR 2233**
511 IAC 6.1-1-5	RA	01-164	24 IR 3790	**25 IR 938**
	A	01-212	24 IR 3772	**25 IR 2233**
511 IAC 6.1-1-6	RA	01-164	24 IR 3790	**25 IR 938**
	A	01-212	24 IR 3773	**25 IR 2234**
511 IAC 6.1-1-7	A	01-212	24 IR 3773	**25 IR 2235**
511 IAC 6.1-1-8	RA	01-164	24 IR 3790	**25 IR 938**
	A	01-212	24 IR 3773	**25 IR 2235**
511 IAC 6.1-1-9	RA	01-164	24 IR 3790	**25 IR 938**
	A	01-212	24 IR 3774	**25 IR 2235**
511 IAC 6.1-1-10	RA	01-164	24 IR 3790	**25 IR 938**
511 IAC 6.1-1-11	RA	01-164	24 IR 3790	**25 IR 938**
	A	01-212	24 IR 3774	**25 IR 2235**
511 IAC 6.1-1-11.5	A	01-212	24 IR 3774	**25 IR 2236** *ERR (26 IR 36)
511 IAC 6.1-1-12	RA	01-164	24 IR 3790	**25 IR 938**
	R	01-212	24 IR 3777	**25 IR 2239**
511 IAC 6.1-1-13	RA	01-164	24 IR 3790	**25 IR 938**
	A	01-212	24 IR 3775	**25 IR 2236**
511 IAC 6.1-1-13.5	A	01-212	24 IR 3775	**25 IR 2236**
511 IAC 6.1-1-14	RA	01-164	24 IR 3790	**25 IR 938**
	A	01-212	24 IR 3775	
511 IAC 6.1-1-15	RA	01-164	24 IR 3790	**25 IR 938**
	A	01-212	24 IR 3775	**25 IR 2237**
511 IAC 6.1-2-1	RA	01-164	24 IR 3790	**25 IR 938**
	A	01-212	24 IR 3775	**25 IR 2237**
511 IAC 6.1-2-3	RA	01-164	24 IR 3790	**25 IR 938**
511 IAC 6.1-2-4	RA	01-164	24 IR 3790	**25 IR 938**

511 IAC 6.1-2-5	RA	01-164	24 IR 3790	**25 IR 938**
511 IAC 6.1-2-6	RA	01-164	24 IR 3790	**25 IR 938**
	A	01-212	24 IR 3776	**25 IR 2237**
511 IAC 6.1-3	RA	01-164	24 IR 3790	**25 IR 938**
511 IAC 6.1-3-1	A	01-212	24 IR 3776	**25 IR 2237**
511 IAC 6.1-4	RA	01-164	24 IR 3790	**25 IR 938**
511 IAC 6.1-4-1	A	01-212	24 IR 3777	**25 IR 2238**
511 IAC 6.1-5-0.5	RA	01-164	24 IR 3790	**25 IR 938**
511 IAC 6.1-5-1	RA	01-164	24 IR 3790	**25 IR 938**
511 IAC 6.1-5-2.5	RA	01-164	24 IR 3790	**25 IR 938**
511 IAC 6.1-5-5	RA	01-164	24 IR 3790	**25 IR 938**
511 IAC 6.1-5-6	RA	01-164	24 IR 3790	**25 IR 938**
511 IAC 6.1-5-7	RA	01-164	24 IR 3790	**25 IR 938**
	A	01-212	24 IR 3777	**25 IR 2238**
511 IAC 6.1-5-8	RA	01-164	24 IR 3790	**25 IR 938**
511 IAC 6.1-5-9	N	01-212	24 IR 3777	**25 IR 2238**
511 IAC 6.1-5-10	N	01-212	24 IR 3777	**25 IR 2238**
511 IAC 6.1-5.1-1	A	01-33	24 IR 2182	*CPH (24 IR 2724) **25 IR 1141**
511 IAC 6.1-5.1-5	A	02-177	25 IR 4206	
	A	02-178	25 IR 4207	
511 IAC 6.1-5.1-9	A	01-33	24 IR 2182	*CPH (24 IR 2724) **25 IR 1141**
511 IAC 6.1-5.1-10.1	A	01-33	24 IR 2183	*CPH (24 IR 2724) **25 IR 1143**
511 IAC 6.1-5.1-11	RA	01-164	24 IR 3790	**25 IR 938**
511 IAC 6.1-6	RA	01-164	24 IR 3790	**25 IR 938**
511 IAC 6.1-7	R	01-212	24 IR 3777	**25 IR 2239**
511 IAC 6.1-7-2	RA	01-164	24 IR 3790	**25 IR 938**
511 IAC 6.1-8	RA	01-164	24 IR 3790	**25 IR 938**
511 IAC 6.1-9	RA	01-164	24 IR 3790	**25 IR 938**
511 IAC 6.1-10	RA	01-164	24 IR 3790	
511 IAC 6.2-4	N	00-163	24 IR 1915	**25 IR 82**
511 IAC 6.2-6	N	01-163	24 IR 3765	**25 IR 2227**
511 IAC 7-17-10	A	01-433	25 IR 1696	**25 IR 3149**
511 IAC 7-18-3	A	01-433	25 IR 1696	**25 IR 3150**
511 IAC 7-19-1	A	01-433	25 IR 1697	**25 IR 3150**
511 IAC 7-19-2	A	01-433	25 IR 1698	**25 IR 3152**
511 IAC 7-22-1	A	01-433	25 IR 1699	**25 IR 3153**
511 IAC 7-23-2	A	01-433	25 IR 1700	**25 IR 3154**
511 IAC 7-25-3	A	01-433	25 IR 1701	**25 IR 3155**
511 IAC 7-25-4	A	01-433	25 IR 1702	**25 IR 3156**
511 IAC 7-25-5	A	01-433	25 IR 1704	**25 IR 3158**
511 IAC 7-25-6	A	01-433	25 IR 1705	**25 IR 3158**
511 IAC 7-25-7	A	01-433	25 IR 1706	**25 IR 3159**
511 IAC 7-27-4	A	01-433	25 IR 1706	**25 IR 3160**
511 IAC 7-27-5	A	01-433	25 IR 1707	**25 IR 3161**
511 IAC 7-27-7	A	01-433	25 IR 1707	**25 IR 3161**
511 IAC 7-27-9	A	01-433	25 IR 1708	**25 IR 3162**
511 IAC 7-27-12	A	01-433	25 IR 1709	**25 IR 3163**
511 IAC 7-28-3	A	01-433	25 IR 1711	**25 IR 3164**
511 IAC 7-29-5	A	01-433	25 IR 1712	**25 IR 3165**
511 IAC 7-29-6	A	01-433	25 IR 1712	**25 IR 3166**
511 IAC 7-29-8	A	01-433	25 IR 1713	**25 IR 3167**
511 IAC 7-30-1	A	01-433	25 IR 1714	**25 IR 3168**
511 IAC 7-30-3	A	01-433	25 IR 1715	**25 IR 3169**
511 IAC 7-30-4	A	01-433	25 IR 1717	**25 IR 3171**
511 IAC 7-30-6	A	01-433	25 IR 1719	**25 IR 3173**
511 IAC 9	RA	01-164	24 IR 3790	**25 IR 938**
511 IAC 10-6	RA	01-164	24 IR 3790	**25 IR 938**
511 IAC 11	RA	01-164	24 IR 3790	**25 IR 938**
511 IAC 12	RA	01-164	24 IR 3790	**25 IR 938**
511 IAC 12-2-7	A	01-6	24 IR 1917	**25 IR 84**

TITLE 515 PROFESSIONAL STANDARDS BOARD

515 IAC 1	RA	01-97	24 IR 2892	**25 IR 529**
515 IAC 1-2-19	A	00-254	24 IR 1103	*CPH (25 IR 124) **25 IR 1148**
515 IAC 1-4-1	A	02-75	25 IR 4207	
515 IAC 1-4-2	A	02-75	25 IR 4208	
515 IAC 1-6	N	01-171	25 IR 2288	**25 IR 3174** *ERR (26 IR 36)
515 IAC 2	RA	01-97	24 IR 2892	**25 IR 529**
515 IAC 3	N	02-7	25 IR 2290	**25 IR 3176** *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	

TITLE 540 INDIANA EDUCATION SAVINGS AUTHORITY

540 IAC 1-1-3	A	01-428	25 IR 2024	*ARR (25 IR 3183) **25 IR 4104**
540 IAC 1-1-4	A	01-428	25 IR 2024	*ARR (25 IR 3183) **25 IR 4104**
540 IAC 1-1-6	A	01-428	25 IR 2025	*ARR (25 IR 3183) **25 IR 4104**
540 IAC 1-1-7	A	01-428	25 IR 2025	*ARR (25 IR 3183) **25 IR 4104**
540 IAC 1-1-7.5	N	01-428	25 IR 2025	*ARR (25 IR 3183) **25 IR 4105**
540 IAC 1-1-9	A	01-428	25 IR 2025	*ARR (25 IR 3183) **25 IR 4105**
540 IAC 1-1-10.5	N	01-428	25 IR 2025	*ARR (25 IR 3183) **25 IR 4105**
540 IAC 1-1-11.5	A	01-428	25 IR 2025	*ARR (25 IR 3183) **25 IR 4105**
540 IAC 1-1-11.6	N	01-428	25 IR 2025	*ARR (25 IR 3183) **25 IR 4105**
540 IAC 1-1-12	A	01-428	25 IR 2026	*ARR (25 IR 3183) **25 IR 4105**
540 IAC 1-1-13	A	01-428	25 IR 2026	*ARR (25 IR 3183) **25 IR 4105**
540 IAC 1-1-14	A	01-428	25 IR 2026	*ARR (25 IR 3183) **25 IR 4106**
540 IAC 1-1-16	A	01-428	25 IR 2026	*ARR (25 IR 3183) **25 IR 4106**
540 IAC 1-1-16.5	N	01-428	25 IR 2026	*ARR (25 IR 3183) **25 IR 4106**
540 IAC 1-3-2	R	01-428	25 IR 2029	*ARR (25 IR 3183) **25 IR 4109**
540 IAC 1-5-1	A	01-428	25 IR 2026	*ARR (25 IR 3183) **25 IR 4106**
540 IAC 1-5-2	R	01-428	25 IR 2029	*ARR (25 IR 3183) **25 IR 4109**
540 IAC 1-6-1	A	01-428	25 IR 2027	*ARR (25 IR 3183) **25 IR 4106**
540 IAC 1-6-2	R	01-428	25 IR 2029	*ARR (25 IR 3183) **25 IR 4109**
540 IAC 1-7-1	A	01-428	25 IR 2027	*ARR (25 IR 3183) **25 IR 4106**
540 IAC 1-7-2	A	01-428	25 IR 2027	*ARR (25 IR 3183) **25 IR 4107**
540 IAC 1-7-3	R	01-428	25 IR 2029	*ARR (25 IR 3183) **25 IR 4109**
540 IAC 1-8-1	A	01-428	25 IR 2027	*ARR (25 IR 3183) **25 IR 4107**
540 IAC 1-8-2	A	01-428	25 IR 2027	*ARR (25 IR 3183) **25 IR 4107**
540 IAC 1-8-3.5	N	01-428	25 IR 2027	*ARR (25 IR 3183) **25 IR 4107**
540 IAC 1-8-4	A	01-428	25 IR 2027	*ARR (25 IR 3183) **25 IR 4107**
540 IAC 1-8-5	R	01-428	25 IR 2029	*ARR (25 IR 3183) **25 IR 4109**
540 IAC 1-8-6	R	01-428	25 IR 2029	*ARR (25 IR 3183) **25 IR 4109**
540 IAC 1-8-7	R	01-428	25 IR 2029	*ARR (25 IR 3183) **25 IR 4109**

540 IAC 1-9-1	A	01-428	25 IR 2028	*ARR (25 IR 3183) **25 IR 4107**
540 IAC 1-9-2	R	01-428	25 IR 2029	*ARR (25 IR 3183) **25 IR 4109**
540 IAC 1-9-2.5	N	01-428	25 IR 2028	*ARR (25 IR 3183) **25 IR 4108**
540 IAC 1-9-2.6	N	01-428	25 IR 2028	*ARR (25 IR 3183) **25 IR 4108**
540 IAC 1-9-2.7	N	01-428	25 IR 2028	*ARR (25 IR 3183) **25 IR 4108**
540 IAC 1-9-3	A	01-428	25 IR 2028	*ARR (25 IR 3183) **25 IR 4108**
540 IAC 1-10-1	A	01-428	25 IR 2029	*ARR (25 IR 3183) **25 IR 4108**
540 IAC 1-10-1.5	R	01-428	25 IR 2029	*ARR (25 IR 3183) **25 IR 4109**
540 IAC 1-10-1.6	R	01-428	25 IR 2029	*ARR (25 IR 3183) **25 IR 4109**
540 IAC 1-10-3	R	01-428	25 IR 2029	*ARR (25 IR 3183) **25 IR 4109**
540 IAC 1-10-4	N	01-428	25 IR 2029	*ARR (25 IR 3183) **25 IR 4109**
540 IAC 1-12-2	A	01-428	25 IR 2029	*ARR (25 IR 3183) **25 IR 4109**

TITLE 550 BOARD OF TRUSTEES OF THE INDIANA STATE TEACHERS' RETIREMENT FUND

550 IAC 2-1	RA	01-287	25 IR 188	**25 IR 1731**
550 IAC 2-2	RA	01-287	25 IR 188	**25 IR 1731**
550 IAC 2-3	RA	01-287	25 IR 188	**25 IR 1731**
550 IAC 2-4	RA	01-287	25 IR 188	**25 IR 1731**
550 IAC 2-5	RA	01-287	25 IR 188	**25 IR 1731**
550 IAC 2-6	RA	01-287	25 IR 188	**25 IR 1731**
550 IAC 2-7	RA	01-287	25 IR 188	**25 IR 1731**
550 IAC 2-8	RA	01-287	25 IR 188	**25 IR 1731**
550 IAC 2-9	RA	01-287	25 IR 188	**25 IR 1731**
550 IAC 3	RA	01-287	25 IR 188	**25 IR 1731**

TITLE 560 INDIANA EDUCATION EMPLOYMENT RELATIONS BOARD

560 IAC 2	RA	01-119	24 IR 3222	**25 IR 529**

TITLE 570 INDIANA COMMISSION ON PROPRIETARY EDUCATION

570 IAC 1	RA	01-285	25 IR 519	**25 IR 1731**

TITLE 575 STATE SCHOOL BUS COMMITTEE

575 IAC 1-1-1	RA	01-165	24 IR 3791	**25 IR 938**
575 IAC 1-1-2	RA	01-165	24 IR 3791	**25 IR 938**
575 IAC 1-1-4	RA	01-165	24 IR 3791	**25 IR 938**
575 IAC 1-1-4.5	N	01-213	24 IR 3777	**25 IR 1150**
575 IAC 1-1-5	RA	01-165	24 IR 3791	**25 IR 938**
	A	01-213	24 IR 3778	**25 IR 1150**
575 IAC 1-2	RA	01-165	24 IR 3791	**25 IR 938**
575 IAC 1-2.5	RA	01-165	24 IR 3791	**25 IR 938**
575 IAC 1-3	RA	01-165	24 IR 3791	**25 IR 938**
575 IAC 1-4	RA	01-165	24 IR 3791	**25 IR 938**
575 IAC 1-5	RA	01-165	24 IR 3791	**25 IR 938**
575 IAC 1-5.5-1	RA	01-165	24 IR 3791	**25 IR 938**
575 IAC 1-5.5-2	RA	01-165	24 IR 3791	**25 IR 938**
575 IAC 1-5.5-5	RA	01-165	24 IR 3791	**25 IR 938**
575 IAC 1-5.5-6	RA	01-165	24 IR 3791	**25 IR 938**
575 IAC 1-5.5-7	RA	01-165	24 IR 3791	**25 IR 938**
575 IAC 1-5.5-8	RA	01-165	24 IR 3791	**25 IR 938**
575 IAC 1-5.5-9	RA	01-165	24 IR 3791	**25 IR 938**
575 IAC 1-5.5-10	RA	01-165	24 IR 3791	**25 IR 938**
575 IAC 1-5.5-11	RA	01-165	24 IR 3791	**25 IR 938**
575 IAC 1-7	RA	01-165	24 IR 3791	**25 IR 938**
575 IAC 1-8	N	01-140	24 IR 3180	**25 IR 1149**

TITLE 585 STATE STUDENT ASSISTANCE COMMISSION

585 IAC 1-9-1	RA	01-147	24 IR 3792	**25 IR 1289**
585 IAC 1-9-2	RA	01-147	24 IR 3794	**25 IR 1291**
585 IAC 1-9-3	RA	01-147	24 IR 3792	**25 IR 1291**
585 IAC 1-9-4	RA	01-147	24 IR 3794	**25 IR 1292**
585 IAC 1-9-5	RA	01-147	24 IR 3795	**25 IR 1293**
585 IAC 1-9-6	RA	01-147	24 IR 3796	**25 IR 1293**
585 IAC 1-9-7	RA	01-147	24 IR 3797	**25 IR 1294**
585 IAC 1-9-8	RA	01-147	24 IR 3797	**25 IR 1295**
585 IAC 1-9-9	RA	01-147	24 IR 3798	**25 IR 1295**
585 IAC 1-9-10	RA	01-147	24 IR 3798	**25 IR 1295**
585 IAC 1-9-11	RA	01-147	24 IR 3798	**25 IR 1296**
585 IAC 1-9-13	RA	01-147	24 IR 3791	**25 IR 529**
585 IAC 1-9-14	RA	01-147	24 IR 3799	**25 IR 1296**
585 IAC 1-9-16	RA	01-147	24 IR 3801	
585 IAC 5-1-1	RA	01-147	24 IR 3801	**25 IR 1298**
585 IAC 5-2-2	RA	01-147	24 IR 3801	**25 IR 1298**
585 IAC 5-2-4	RA	01-147	24 IR 3802	
585 IAC 5-3-1	RA	01-147	24 IR 3791	**25 IR 529**
585 IAC 5-3-2	RA	01-147	24 IR 3791	**25 IR 529**
585 IAC 5-3-3	RA	01-147	24 IR 3791	**25 IR 529**
585 IAC 5-3-4	RA	01-147	24 IR 3791	**25 IR 529**
585 IAC 5-3-5	RA	01-147	24 IR 3791	**25 IR 529**
585 IAC 5-3-6	RA	01-147	24 IR 3802	**25 IR 1299**
585 IAC 5-3-7	RA	01-147	24 IR 3791	**25 IR 529**
585 IAC 5-4-1	RA	01-147	24 IR 3802	**25 IR 1299**
585 IAC 5-4-2	RA	01-147	24 IR 3791	**25 IR 529**
585 IAC 5-5-1	RA	01-147	24 IR 3791	**25 IR 529**
585 IAC 5-5-2	RA	01-147	24 IR 3791	**25 IR 529**
585 IAC 5-5-3	RA	01-147	24 IR 3791	**25 IR 529**
585 IAC 5-5-4	RA	01-147	24 IR 3791	**25 IR 529**
585 IAC 5-5-5	RA	01-147	24 IR 3791	**25 IR 529**
585 IAC 5-5-7	RA	01-147	24 IR 3792	**25 IR 529**
585 IAC 8-1-1	RA	01-147	24 IR 3792	**25 IR 529**
585 IAC 8-1-2	RA	01-147	24 IR 3802	**25 IR 1299**
585 IAC 8-1-3	RA	01-147	24 IR 3792	**25 IR 529**
585 IAC 8-1-4	RA	01-147	24 IR 3802	**25 IR 1299**
585 IAC 8-1-5	R	01-147	24 IR 3792	**25 IR 1303**
585 IAC 8-1-6	RA	01-147	24 IR 3802	**25 IR 1299**
585 IAC 8-1-7	RA	01-147	24 IR 3792	**25 IR 529**
585 IAC 8-1-8	RA	01-147	24 IR 3792	**25 IR 529**
585 IAC 8-1-9	RA	01-147	24 IR 3802	**25 IR 1299**
585 IAC 8-1-10	RA	01-147	24 IR 3792	**25 IR 529**
585 IAC 8-1-10.1	RA	01-147	24 IR 3803	
585 IAC 8-1-11	RA	01-147	24 IR 3803	**25 IR 1300**
585 IAC 8-1-12	RA	01-147	24 IR 3803	**25 IR 1300**
585 IAC 8-1-13	RA	01-147	24 IR 3803	**25 IR 1300**
585 IAC 8-2-1	RA	01-147	24 IR 3804	**25 IR 1301**
585 IAC 8-2-2	RA	01-147	24 IR 3804	**25 IR 1301**
585 IAC 8-2-3	RA	01-147	24 IR 3804	**25 IR 1301**
585 IAC 8-2-4	RA	01-147	24 IR 3804	**25 IR 1301**
585 IAC 8-2-5	RA	01-147	24 IR 3804	**25 IR 1301**
585 IAC 8-2-6	RA	01-147	24 IR 3792	**25 IR 529**
585 IAC 8-2-7	RA	01-147	24 IR 3805	**25 IR 1302**
585 IAC 8-2-8	RA	01-147	24 IR 3805	**25 IR 1302**

TITLE 590 INDIANA LIBRARY AND HISTORICAL BOARD

590 IAC 1-1-0.5	RA	01-208	24 IR 4205	**25 IR 1303**
590 IAC 1-1-0.6	RA	01-208	24 IR 4205	**25 IR 1303**
590 IAC 1-1-1	RA	01-208	24 IR 4205	**25 IR 1303**
590 IAC 1-1-2.5	RA	01-208	24 IR 4205	**25 IR 1303**
590 IAC 1-2	R	01-208	24 IR 4206	**25 IR 1303**
590 IAC 1-2.5-1	RA	01-208	24 IR 4205	**25 IR 1303**
590 IAC 1-2.5-2	RA	01-208	24 IR 4205	**25 IR 1303**
590 IAC 1-2.5-3	RA	01-208	24 IR 4206	**25 IR 1304**
590 IAC 1-3	RA	01-208	24 IR 4205	**25 IR 1303**
590 IAC 4	N	01-108	24 IR 2826	**25 IR 1151**

TITLE 595 LIBRARY CERTIFICATION BOARD

595 IAC 1	R	01-108	24 IR 2831	**25 IR 1156**

TITLE 610 DEPARTMENT OF LABOR

610 IAC 4	RA	01-313	25 IR 188	**25 IR 1305**
610 IAC 4-4	R	01-340	25 IR 891	*ARR (25 IR 3770) **26 IR 370** *AROC (26 IR 547)
610 IAC 4-5-11				*ERR (25 IR 106)
610 IAC 4-6	N	01-340	25 IR 874	*ARR (25 IR 3770) **26 IR 353** *AROC (26 IR 547)

TITLE 615 BOARD OF SAFETY REVIEW

615 IAC 1-2	RA	01-314	25 IR 188	**25 IR 1305**
615 IAC 1-2-7				*ERR (25 IR 106)
615 IAC 1-2-8				*ERR (25 IR 106)
615 IAC 1-2-11				*ERR (25 IR 106)

TITLE 620 OCCUPATIONAL SAFETY STANDARDS COMMISSION

620 IAC 1-3	RA	01-315	25 IR 189	**25 IR 1305**

TITLE 631 WORKER'S COMPENSATION BOARD OF INDIANA

631 IAC 1-1-1	RA	01-182	24 IR 3807	*AWR (25 IR 1186)
631 IAC 1-1-1.1	N	01-424	25 IR 2030	
631 IAC 1-1-2	RA	01-178	24 IR 3806	**25 IR 1305**
631 IAC 1-1-3	RA	01-178	24 IR 3806	**25 IR 1305**
631 IAC 1-1-4	RA	01-178	24 IR 3806	**25 IR 1305**
631 IAC 1-1-5	RA	01-178	24 IR 3806	**25 IR 1305**
631 IAC 1-1-6	RA	01-178	24 IR 3806	**25 IR 1305**
631 IAC 1-1-7	RA	01-178	24 IR 3806	**25 IR 1306**
631 IAC 1-1-8	RA	01-178	24 IR 3806	**25 IR 1306**
631 IAC 1-1-9	RA	01-178	24 IR 3806	**25 IR 1306**
631 IAC 1-1-10	RA	01-178	24 IR 3806	**25 IR 1306**
631 IAC 1-1-11	RA	01-178	24 IR 3806	**25 IR 1306**
631 IAC 1-1-12	RA	01-178	24 IR 3806	**25 IR 1306**
631 IAC 1-1-13	RA	01-178	24 IR 3806	**25 IR 1306**
631 IAC 1-1-14	RA	01-178	24 IR 3806	**25 IR 1306**
631 IAC 1-1-15	RA	01-178	24 IR 3806	**25 IR 1306**
631 IAC 1-1-16	RA	01-178	24 IR 3806	**25 IR 1306**
631 IAC 1-1-17	RA	01-178	24 IR 3806	**25 IR 1306**
631 IAC 1-1-18	RA	01-178	24 IR 3806	**25 IR 1306**
631 IAC 1-1-19	RA	01-178	24 IR 3807	**25 IR 1306**
631 IAC 1-1-20	RA	01-178	24 IR 3807	**25 IR 1306**
631 IAC 1-1-21	RA	01-178	24 IR 3807	**25 IR 1306**
631 IAC 1-1-22	RA	01-178	24 IR 3807	**25 IR 1306**
631 IAC 1-1-23	RA	01-178	24 IR 3807	**25 IR 1306**
631 IAC 1-1-24	RA	01-182	24 IR 3807	*AWR (25 IR 1186)
631 IAC 1-1-24.1	N	01-424	25 IR 2030	
631 IAC 1-1-25	RA	01-178	24 IR 3807	**25 IR 1306**
631 IAC 1-1-26	RA	01-178	24 IR 3807	**25 IR 1306**
631 IAC 1-1-27	RA	01-178	24 IR 3807	**25 IR 1306**
631 IAC 1-1-28	RA	01-178	24 IR 3807	**25 IR 1306**
631 IAC 1-1-29	RA	01-178	24 IR 3807	**25 IR 1306**
631 IAC 1-1-30	RA	01-178	24 IR 3807	**25 IR 1306**
631 IAC 1-1-31	RA	01-178	24 IR 3807	**25 IR 1306**

TITLE 646 DEPARTMENT OF WORKFORCE DEVELOPMENT

646 IAC 1	RA	01-11	24 IR 2579	**25 IR 203**
646 IAC 2	RA	01-11	24 IR 2579	**25 IR 203**
646 IAC 3	RA	01-11	24 IR 2579	**25 IR 203**
646 IAC 4	RA	01-11	24 IR 2579	**25 IR 203**

TITLE 655 BOARD OF FIREFIGHTING PERSONNEL STANDARDS AND EDUCATION

655 IAC 1	RA	00-302	24 IR 2579	*CPH (24 IR 3098) **25 IR 203** *ERR (26 IR 383)
655 IAC 1-1-1.1	A	01-121	24 IR 3181	*AROC (24 IR 3825) **25 IR 1156** *ERR (25 IR 1645)
655 IAC 1-1-4	A	01-121	24 IR 3182	*AROC (24 IR 3825) **25 IR 1157**
655 IAC 1-1-5.1	A	01-121	24 IR 3182	*AROC (24 IR 3825) **25 IR 1157**
655 IAC 1-1-7	A	01-121	24 IR 3184	*AROC (24 IR 3825) **25 IR 1159**
655 IAC 1-1-13	A	01-121	24 IR 3184	*AROC (24 IR 3825) **25 IR 1160**
655 IAC 1-2.1	RA	02-128	25 IR 3883	*CPH (26 IR 416)
655 IAC 1-2.1-2	A	01-121	24 IR 3185	*AROC (24 IR 3825) **25 IR 1160**
655 IAC 1-2.1-6	A	01-121	24 IR 3185	*AROC (24 IR 3825) **25 IR 1161**
655 IAC 1-2.1-6.1	N	01-121	24 IR 3185	*AROC (24 IR 3825) **25 IR 1161**
655 IAC 1-2.1-6.2	N	01-121	24 IR 3186	*AROC (24 IR 3825) **25 IR 1161**
655 IAC 1-2.1-6.3	N	01-121	24 IR 3186	*AROC (24 IR 3825) **25 IR 1161**
655 IAC 1-2.1-6.4	N	01-121	24 IR 3186	*AROC (24 IR 3825) **25 IR 1162**
655 IAC 1-2.1-7	A	01-121	24 IR 3186	*AROC (24 IR 3825) **25 IR 1162**
655 IAC 1-2.1-16	A	01-121	24 IR 3187	*AROC (24 IR 3825) **25 IR 1162**
655 IAC 1-2.1-17	A	01-121	24 IR 3187	*AROC (24 IR 3825) **25 IR 1162**
655 IAC 1-2.1-18	A	01-121	24 IR 3187	*AROC (24 IR 3825) **25 IR 1162**
655 IAC 1-2.1-19.1	N	01-121	24 IR 3187	*AROC (24 IR 3825) **25 IR 1162**
655 IAC 1-2.1-22	A	01-121	24 IR 3187	*AROC (24 IR 3825) **25 IR 1163** *ERR (25 IR 1645)
655 IAC 1-2.1-75	A	01-121	24 IR 3188	*AROC (24 IR 3825) **25 IR 1163**
655 IAC 1-2.1-75.1	N	01-121	24 IR 3188	*AROC (24 IR 3825) **25 IR 1163**
655 IAC 1-2.1-75.2	N	01-121	24 IR 3188	*AROC (24 IR 3825) **25 IR 1164**
655 IAC 1-2.1-75.3	N	01-121	24 IR 3188	*AROC (24 IR 3825) **25 IR 1164**
655 IAC 1-2.1-75.4	N	01-121	24 IR 3188	*AROC (24 IR 3825) **25 IR 1164**
655 IAC 1-2.1-75.5	N	01-121	24 IR 3189	*AROC (24 IR 3825) **25 IR 1164**
655 IAC 1-2.1-76	R	01-121	24 IR 3190	*AROC (24 IR 3825) **25 IR 1166**
655 IAC 1-2.1-76.1	N	01-121	24 IR 3189	*AROC (24 IR 3825) **25 IR 1164**
655 IAC 1-2.1-76.2	N	01-121	24 IR 3189	*AROC (24 IR 3825) **25 IR 1165**
655 IAC 1-2.1-76.3	N	01-121	24 IR 3189	*AROC (24 IR 3825) **25 IR 1165**
655 IAC 1-2.1-77	R	01-121	24 IR 3190	*AROC (24 IR 3825) **25 IR 1166**
655 IAC 1-2.1-78	R	01-121	24 IR 3190	*AROC (24 IR 3825) **25 IR 1166**
655 IAC 1-2.1-79	R	01-121	24 IR 3190	*AROC (24 IR 3825) **25 IR 1166**
655 IAC 1-2.1-80	R	01-121	24 IR 3190	*AROC (24 IR 3825) **25 IR 1166**
655 IAC 1-2.1-81	R	01-121	24 IR 3190	*AROC (24 IR 3825) **25 IR 1166**
655 IAC 1-2.1-82	R	01-121	24 IR 3190	*AROC (24 IR 3825) **25 IR 1166**
655 IAC 1-2.1-83	R	01-121	24 IR 3190	*AROC (24 IR 3825) **25 IR 1166**

655 IAC 1-2.1-84	R	01-121	24 IR 3190	*AROC (24 IR 3825) **25 IR 1166**
655 IAC 1-2.1-85	R	01-121	24 IR 3190	*AROC (24 IR 3825) **25 IR 1166**
655 IAC 1-2.1-86	R	01-121	24 IR 3190	*AROC (24 IR 3825) **25 IR 1166**
655 IAC 1-2.1-87	R	01-121	24 IR 3190	*AROC (24 IR 3825) **25 IR 1166**
655 IAC 1-2.1-93	N	01-121	24 IR 3189	*AROC (24 IR 3825) **25 IR 1165**
655 IAC 1-2.1-94	N	01-121	24 IR 3190	*AROC (24 IR 3825) **25 IR 1165**
655 IAC 1-2.1-95	N	01-121	24 IR 3190	*AROC (24 IR 3825) **25 IR 1165**
655 IAC 3	RA	00-302	24 IR 2579	*CPH (24 IR 3098) **25 IR 203**
655 IAC 4	RA	00-302	24 IR 2579	*CPH (24 IR 3098) **25 IR 203**

TITLE 675 FIRE PREVENTION AND BUILDING SAFETY COMMISSION

675 IAC 12	RA	00-303	24 IR 1962	**25 IR 530**
675 IAC 12-3-2	A	01-250	25 IR 461	*ARR (25 IR 2523) **25 IR 2731**
675 IAC 12-3-3	A	01-250	25 IR 462	*ARR (25 IR 2523) **25 IR 2732**
675 IAC 12-3-4	A	01-250	25 IR 462	*ARR (25 IR 2523) **25 IR 2732**
675 IAC 12-3-5	A	01-250	25 IR 462	*ARR (25 IR 2523) **25 IR 2733**
675 IAC 12-3-6	A	01-250	25 IR 462	*ARR (25 IR 2523) **25 IR 2733**
675 IAC 12-3-7	A	01-250	25 IR 463	*ARR (25 IR 2523) **25 IR 2733**
675 IAC 12-3-8	A	01-250	25 IR 463	*ARR (25 IR 2523) **25 IR 2733**
675 IAC 12-3-10	A	01-250	25 IR 463	*ARR (25 IR 2523) **25 IR 2734**
675 IAC 12-3-12	A	01-250	25 IR 463	*ARR (25 IR 2523) **25 IR 2734**
675 IAC 12-3-13	N	02-90	25 IR 2573	
675 IAC 12-3-14	N	02-90	25 IR 2574	
675 IAC 13-1-8	A	00-261	24 IR 1925	**25 IR 1166**
	A	02-51	25 IR 2561	
675 IAC 13-1-9	A	00-261	24 IR 1929	**25 IR 1170**
675 IAC 13-1-10	A	00-261	24 IR 1932	**25 IR 1172**
	A	02-51	25 IR 2564	
675 IAC 13-1-21	RA	00-303	24 IR 1962	**25 IR 530**
675 IAC 13-1-22	RA	00-303	24 IR 1962	**25 IR 530**
675 IAC 13-1-23	R	00-290	24 IR 1936	*AWR (25 IR 107)
675 IAC 13-1-25	A	00-261	24 IR 1934	**25 IR 1174**
675 IAC 13-1-27	RA	00-303	24 IR 1962	**25 IR 530**
675 IAC 13-2.3	R	02-115	25 IR 3366	
675 IAC 13-2.3-102	A	00-261	24 IR 1935	**25 IR 1175**
675 IAC 13-2.3-103	A	00-261	24 IR 1935	**25 IR 1175**
675 IAC 13-2.4	N	02-115	25 IR 3291	
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 14-4.2-190.1	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**
675 IAC 14-4.2-191.5	N	01-376		**††26 IR 13**
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 15-1	RA	00-303	24 IR 1962	**25 IR 530**
675 IAC 15-1-22	A	01-250	25 IR 464	*ARR (25 IR 2523) **25 IR 2734**
675 IAC 15-2	RA	01-209	24 IR 3808	**25 IR 1306**
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 18-1.3	R	02-116	25 IR 3381	
675 IAC 18-1.4	N	02-116	25 IR 3366	
675 IAC 19-3	RA	00-303	24 IR 1962	**25 IR 530**
675 IAC 20	RA	00-303	24 IR 1962	**25 IR 530**
675 IAC 20-2-17	A	02-52	25 IR 2566	
675 IAC 20-2-20	A	02-52	25 IR 2566	
675 IAC 20-2-24	A	02-52	25 IR 2567	
675 IAC 20-2-26	A	02-52	25 IR 2567	
675 IAC 20-3-5	A	02-52	25 IR 2568	
675 IAC 20-3-6	A	02-52	25 IR 2568	
675 IAC 20-3-7	A	02-52	25 IR 2569	
675 IAC 21	RA	00-303	24 IR 1962	**25 IR 530**
675 IAC 21-1-1	A	01-430	25 IR 2031	*ARR (26 IR 38)
675 IAC 21-1-1.5	N	01-430	25 IR 2031	*ARR (26 IR 38)
675 IAC 21-1-2	R	01-430	25 IR 2042	*ARR (26 IR 38)
675 IAC 21-1-2.1	R	01-430	25 IR 2042	*ARR (26 IR 38)
675 IAC 21-1-3	R	01-430	25 IR 2042	*ARR (26 IR 38)
675 IAC 21-1-3.1	A	01-430	25 IR 2032	*ARR (26 IR 38)
675 IAC 21-1-4	R	01-430	25 IR 2042	*ARR (26 IR 38)
675 IAC 21-1-6	R	01-430	25 IR 2042	*ARR (26 IR 38)
675 IAC 21-1-7	A	01-430	25 IR 2033	*ARR (26 IR 38)
675 IAC 21-1-9	A	01-430	25 IR 2033	*ARR (26 IR 38)
675 IAC 21-1-10	N	01-430	25 IR 2034	*ARR (26 IR 38)
675 IAC 21-2	R	01-430	25 IR 2042	*ARR (26 IR 38)
675 IAC 21-3-1	A	01-430	25 IR 2034	*ARR (26 IR 38)
675 IAC 21-3-2	A	01-430	25 IR 2034	*ARR (26 IR 38)
675 IAC 21-4-1	A	01-430	25 IR 2037	*ARR (26 IR 38)
675 IAC 21-4-2	A	01-430	25 IR 2037	*ARR (26 IR 38)
675 IAC 21-5-1	A	01-430	25 IR 2039	*ARR (26 IR 38)
675 IAC 21-5-3	N	01-430	25 IR 2039	*ARR (26 IR 38)
675 IAC 21-6	R	01-430	25 IR 2042	*ARR (26 IR 38)
675 IAC 21-7	R	01-430	25 IR 2042	*ARR (26 IR 38)
675 IAC 21-8	N	01-430	25 IR 2040	*ARR (26 IR 38)
675 IAC 22-2.2	R	02-117	25 IR 3442	
675 IAC 22-2.2-14	A	02-53	25 IR 2569	
675 IAC 22-2.2-19	R	00-261	24 IR 1935	**25 IR 1176**
675 IAC 22-2.2-20	R	00-261	24 IR 1935	**25 IR 1176**
675 IAC 22-2.2-104	A	01-19	24 IR 2546	**25 IR 1176**
675 IAC 22-2.2-134.5	N	01-19	24 IR 2546	**25 IR 1177**
675 IAC 22-2.2-145	A	01-19	24 IR 2546	**25 IR 1177**

675 IAC 22-2.2-221.5	N	01-19	24 IR 2547	**25 IR 1177**
675 IAC 22-2.2-245.2	N	01-19	24 IR 2547	**25 IR 1177**
675 IAC 22-2.2-245.5	N	01-19	24 IR 2547	**25 IR 1177**
675 IAC 22-2.2-338	A	01-19	24 IR 2547	**25 IR 1177**
675 IAC 22-2.2-365	A	01-19	24 IR 2547	**25 IR 1178**
675 IAC 22-2.2-365.2	N	01-19	24 IR 2548	**25 IR 1178**
675 IAC 22-2.2-369.5	N	01-19	24 IR 2548	**25 IR 1178**
675 IAC 22-2.2-373	A	01-19	24 IR 2548	**25 IR 1178**
675 IAC 22-2.2-412.5	N	01-19	24 IR 2548	**25 IR 1179**
675 IAC 22-2.2-443.5	N	01-19	24 IR 2548	**25 IR 1179**
675 IAC 22-2.2-499	A	01-19	24 IR 2548	**25 IR 1179**
675 IAC 22-2.2-535	A	00-261	24 IR 1935	**25 IR 1176**
675 IAC 22-2.2-536	A	00-261	24 IR 1935	**25 IR 1176**
675 IAC 22-2.3	N	02-117	25 IR 3382	
675 IAC 23	RA	00-303	24 IR 1962	**25 IR 530**
675 IAC 23-1-63	A	01-250	25 IR 464	*ARR (25 IR 2523)
				25 IR 2735
675 IAC 24	RA	00-303	24 IR 1962	**25 IR 530**
675 IAC 25	N	02-118	25 IR 3444	

TITLE 710 SECURITIES DIVISION

710 IAC 1-8	RA	01-107	24 IR 3223	**25 IR 203**
710 IAC 1-9	RA	01-107	24 IR 3223	**25 IR 203**
710 IAC 1-10	RA	01-107	24 IR 3223	**25 IR 203**
710 IAC 1-11	RA	01-107	24 IR 3223	**25 IR 204**
710 IAC 1-12	RA	01-107	24 IR 3223	**25 IR 204**
710 IAC 1-13	RA	01-107	24 IR 3223	**25 IR 204**
710 IAC 1-14	RA	01-107	24 IR 3223	**25 IR 204**
710 IAC 1-15	RA	01-107	24 IR 3223	**25 IR 204**
710 IAC 1-16	RA	01-107	24 IR 3223	**25 IR 204**
710 IAC 1-17	RA	01-107	24 IR 3223	**25 IR 204**
710 IAC 1-18	RA	01-107	24 IR 3223	**25 IR 204**
710 IAC 1-19	RA	01-107	24 IR 3223	**25 IR 204**
710 IAC 1-20	RA	01-107	24 IR 3223	**25 IR 204**
710 IAC 1-21	RA	01-107	24 IR 3223	**25 IR 204**
710 IAC 2	RA	02-4	25 IR 2314	**25 IR 3462**
710 IAC 3	RA	02-4	25 IR 2314	**25 IR 3462**

TITLE 750 DEPARTMENT OF FINANCIAL INSTITUTIONS

750 IAC 1-1-1	A	02-94		*ER (25 IR 2540)
750 IAC 3	RA	01-343		**25 IR 939**
750 IAC 6	RA	01-343		**25 IR 939**
750 IAC 7	RA	01-343		**25 IR 939**

TITLE 760 DEPARTMENT OF INSURANCE

760 IAC 1-1	RA	01-130	24 IR 3224	**25 IR 530**
760 IAC 1-3	RA	01-130	24 IR 3224	**25 IR 530**
760 IAC 1-5	RA	01-130	24 IR 3224	**25 IR 530**
	R	01-181	25 IR 472	*AWR (25 IR 815)
	R	01-399	25 IR 2582	*AROC (26 IR 183)
				*ARR (26 IR 38)
				26 IR 26
760 IAC 1-5.1	N	01-181	25 IR 465	*AWR (25 IR 815)
	N	01-399	25 IR 2575	*AROC (26 IR 183)
				*ARR (26 IR 38)
				26 IR 19
760 IAC 1-6.2	RA	01-130	24 IR 3224	**25 IR 530**
760 IAC 1-7	RA	01-130	24 IR 3224	**25 IR 530**
760 IAC 1-8	RA	01-130	24 IR 3224	**25 IR 530**
760 IAC 1-9	RA	01-130	24 IR 3224	**25 IR 531**
760 IAC 1-10	RA	01-130	24 IR 3224	**25 IR 531**
760 IAC 1-11	RA	01-130	24 IR 3224	**25 IR 531**
760 IAC 1-12	RA	01-130	24 IR 3224	**25 IR 531**
760 IAC 1-13	RA	01-130	24 IR 3224	**25 IR 531**
760 IAC 1-14	RA	01-130	24 IR 3224	**25 IR 531**
	R	01-181	25 IR 472	*AWR (25 IR 815)
	R	01-399	25 IR 2582	*AROC (26 IR 183)
				*ARR (26 IR 38)
				26 IR 26
760 IAC 1-15.1	RA	01-130	24 IR 3224	**25 IR 531**
760 IAC 1-16.1	RA	01-130	24 IR 3224	**25 IR 531**
760 IAC 1-18	RA	01-130	24 IR 3224	**25 IR 531**
760 IAC 1-19	RA	01-130	24 IR 3224	**25 IR 531**
760 IAC 1-20	RA	01-130	24 IR 3224	**25 IR 531**
760 IAC 1-21	RA	01-130	24 IR 3224	**25 IR 531**
760 IAC 1-23	RA	01-130	24 IR 3224	**25 IR 531**
760 IAC 1-24	RA	01-130	24 IR 3224	**25 IR 531**
760 IAC 1-27	RA	01-130	24 IR 3224	**25 IR 531**
760 IAC 1-31	RA	01-130	24 IR 3224	**25 IR 531**
760 IAC 1-32	RA	01-130	24 IR 3224	**25 IR 531**
760 IAC 1-33	RA	01-130	24 IR 3224	**25 IR 531**
760 IAC 1-34	RA	01-130	24 IR 3224	**25 IR 531**
760 IAC 1-35	RA	01-130	24 IR 3224	**25 IR 531**
760 IAC 1-36	RA	01-130	24 IR 3224	**25 IR 531**
760 IAC 1-37	RA	01-130	24 IR 3224	**25 IR 531**
760 IAC 1-38.1	RA	01-130	24 IR 3224	**25 IR 531**
760 IAC 1-39	RA	01-130	24 IR 3224	**25 IR 531**
760 IAC 1-40	RA	01-130	24 IR 3224	**25 IR 531**
760 IAC 1-41	RA	01-130	24 IR 3224	**25 IR 531**
760 IAC 1-46	RA	01-130	24 IR 3224	**25 IR 531**
760 IAC 1-48	RA	01-130	24 IR 3224	**25 IR 531**
760 IAC 1-49	RA	01-130	24 IR 3224	**25 IR 531**
760 IAC 1-50-2	A	02-23	25 IR 2582	
760 IAC 1-50-3	A	02-23	25 IR 2582	
760 IAC 1-50-4	A	02-23	25 IR 2583	
760 IAC 1-50-5	A	02-23	25 IR 2583	
760 IAC 1-50-7	A	02-23	25 IR 2584	
760 IAC 1-50-13	A	02-23	25 IR 2584	
760 IAC 1-50-13.5	A	02-23	25 IR 2585	
760 IAC 1-51	RA	01-130	24 IR 3224	**25 IR 531**
760 IAC 1-52	RA	01-130	24 IR 3224	**25 IR 531**
760 IAC 1-53	RA	01-130	24 IR 3224	**25 IR 531**
760 IAC 1-54	RA	01-130	24 IR 3224	**25 IR 531**
760 IAC 1-55	RA	01-130	24 IR 3224	**25 IR 531**
760 IAC 1-56	RA	01-130	24 IR 3224	**25 IR 531**
760 IAC 1-59-1	A	02-124	26 IR 170	
760 IAC 1-59-2	A	02-124	26 IR 170	
760 IAC 1-59-3	A	02-124	26 IR 171	
760 IAC 1-59-4	A	02-124	26 IR 171	
760 IAC 1-59-5	A	02-124	26 IR 171	
760 IAC 1-59-6	A	02-124	26 IR 172	
760 IAC 1-59-7	A	02-124	26 IR 172	
760 IAC 1-59-8	A	02-124	26 IR 173	
760 IAC 1-59-9	A	02-124	26 IR 174	
760 IAC 1-59-10	A	02-124	26 IR 174	
760 IAC 1-59-11	A	02-124	26 IR 174	
760 IAC 1-59-12	A	02-124	26 IR 175	
760 IAC 1-59-13	R	02-124	26 IR 177	
760 IAC 1-59-14	A	02-124	26 IR 175	
760 IAC 1-67	N	01-94	24 IR 2832	**25 IR 85**
760 IAC 1-68	N	02-137	26 IR 531	
760 IAC 2-1	RA	01-130	24 IR 3224	**25 IR 531**
760 IAC 2-2	RA	01-130	24 IR 3224	**25 IR 531**
760 IAC 2-3	RA	01-130	24 IR 3224	**25 IR 531**
760 IAC 2-4	RA	01-130	24 IR 3224	**25 IR 531**
760 IAC 2-5	RA	01-130	24 IR 3224	**25 IR 531**
760 IAC 2-6	RA	01-130	24 IR 3224	**25 IR 531**
760 IAC 2-7	RA	01-130	24 IR 3224	**25 IR 531**
760 IAC 2-8	RA	01-130	24 IR 3224	**25 IR 531**
760 IAC 2-9	RA	01-130	24 IR 3224	**25 IR 531**
760 IAC 2-10	RA	01-130	24 IR 3224	**25 IR 531**
760 IAC 2-10-1	A	01-93	24 IR 2832	**25 IR 382**
760 IAC 2-11	RA	01-130	24 IR 3224	**25 IR 531**
760 IAC 2-12	RA	01-130	24 IR 3224	**25 IR 531**
760 IAC 2-13	RA	01-130	24 IR 3224	**25 IR 531**
760 IAC 2-14	RA	01-130	24 IR 3224	**25 IR 531**
760 IAC 2-15	RA	01-130	24 IR 3224	**25 IR 531**
760 IAC 2-16	RA	01-130	24 IR 3224	**25 IR 531**

760 IAC 2-17	RA	01-130	24 IR 3224	**25 IR 531**
760 IAC 2-18	RA	01-130	24 IR 3224	**25 IR 531**
760 IAC 2-19	RA	01-130	24 IR 3224	**25 IR 531**
760 IAC 2-20	RA	01-130	24 IR 3224	**25 IR 531**
760 IAC 3-1	RA	01-130	24 IR 3224	**25 IR 531**
760 IAC 3-2	RA	01-130	24 IR 3224	**25 IR 531**
760 IAC 3-3	RA	01-130	24 IR 3224	**25 IR 531**
760 IAC 3-4	RA	01-130	24 IR 3224	**25 IR 531**
760 IAC 3-5	RA	01-130	24 IR 3224	**25 IR 531**
760 IAC 3-6	RA	01-130	24 IR 3224	**25 IR 531**
760 IAC 3-7	RA	01-130	24 IR 3224	**25 IR 531**
760 IAC 3-8	RA	01-130	24 IR 3224	**25 IR 531**
760 IAC 3-9	RA	01-130	24 IR 3224	**25 IR 531**
760 IAC 3-10	RA	01-130	24 IR 3224	**25 IR 531**
760 IAC 3-11	RA	01-130	24 IR 3224	**25 IR 531**
760 IAC 3-12	RA	01-130	24 IR 3224	**25 IR 531**
760 IAC 3-13	RA	01-130	24 IR 3224	**25 IR 531**
760 IAC 3-14	RA	01-130	24 IR 3224	**25 IR 531**
760 IAC 3-15	RA	01-130	24 IR 3224	**25 IR 531**
760 IAC 3-16	RA	01-130	24 IR 3224	**25 IR 531**
760 IAC 3-17	RA	01-130	24 IR 3224	**25 IR 531**
760 IAC 3-18	RA	01-130	24 IR 3224	**25 IR 531**
760 IAC 3-19	RA	01-130	24 IR 3224	**25 IR 531**
760 IAC 3-20	RA	01-130	24 IR 3224	**25 IR 531**

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	01-57	24 IR 4182	*CPH (25 IR 404) **25 IR 1903**
804 IAC 1.1-2-2	A	01-57	24 IR 4183	*CPH (25 IR 404) **25 IR 1904**
804 IAC 1.1-2-4.1	R	01-103	24 IR 4184	*CPH (25 IR 404) **25 IR 1905**
804 IAC 1.1-3-1	A	02-20	25 IR 3446	**26 IR 370**

TITLE 808 STATE BOXING COMMISSION

808 IAC 1-4-8	A	00-256	24 IR 3200	**25 IR 382**
808 IAC 2-1-9	A	00-256	24 IR 3200	**25 IR 382**
808 IAC 2-5-1	A	00-256	24 IR 3200	**25 IR 383**
808 IAC 2-6-1	A	02-120	25 IR 4210	
808 IAC 2-33-2	N	00-256	24 IR 3200	**25 IR 383**
808 IAC 4	R	01-104	24 IR 3201	**25 IR 383**

TITLE 812 INDIANA AUCTIONEER COMMISSION

812 IAC 2	RA	02-84	25 IR 2853	**25 IR 4221**
812 IAC 3	RA	02-84	25 IR 2853	**25 IR 4221**

TITLE 820 STATE BOARD OF COSMETOLOGY EXAMINERS

820 IAC 4-4-5	A	01-345	25 IR 1720	**25 IR 3178**
820 IAC 4-4-14	A	01-345	25 IR 1721	**25 IR 3179**
820 IAC 6	RA	02-92	25 IR 2854	**25 IR 4221**
820 IAC 6-2-1	A	01-345	25 IR 1722	**25 IR 3180**

TITLE 825 INDIANA GRAIN INDEMNITY CORPORATION

825 IAC 1	RA	02-176	25 IR 4220	
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 0.5-2-1	R	01-197	24 IR 4185	**25 IR 1181**
828 IAC 0.5-2-2	R	01-197	24 IR 4185	**25 IR 1181**
828 IAC 0.5-2-3	N	01-197	24 IR 4185	**25 IR 1180**
	A	02-114	25 IR 3452	**26 IR 376**
828 IAC 0.5-2-4	N	01-197	24 IR 4185	**25 IR 1181**
	A	02-114	25 IR 3453	**26 IR 376**
828 IAC 0.5-2-5	N	01-307	25 IR 1723	**25 IR 2736**
828 IAC 0.5-2-6	N	02-112	25 IR 3447	**26 IR 371**
828 IAC 1-1-2	A	01-241	25 IR 171	*CPH (25 IR 831) **25 IR 2239**
828 IAC 1-1-3	A	01-241	25 IR 171	*CPH (25 IR 831) **25 IR 2239**
828 IAC 1-1-4	R	01-241	25 IR 177	*CPH (25 IR 831) **25 IR 2246**
828 IAC 1-1-6	A	01-241	25 IR 171	*CPH (25 IR 831) **25 IR 2240**
828 IAC 1-1-8	A	01-241	25 IR 172	*CPH (25 IR 831) **25 IR 2240**
828 IAC 1-1-9	A	01-241	25 IR 172	*CPH (25 IR 831) **25 IR 2240**
828 IAC 1-1-10	A	01-241	25 IR 172	*CPH (25 IR 831) **25 IR 2240**
828 IAC 1-1-11	R	01-241	25 IR 177	*CPH (25 IR 831) **25 IR 2246**
828 IAC 1-1-12	A	01-241	25 IR 172	*CPH (25 IR 831) **25 IR 2240**
828 IAC 1-1-18	A	01-241	25 IR 172	*CPH (25 IR 831) **25 IR 2241**
828 IAC 1-1-21	A	01-241	25 IR 174	*CPH (25 IR 831) **25 IR 2242**
828 IAC 1-1-23	A	01-241	25 IR 174	*CPH (25 IR 831) **25 IR 2242**
828 IAC 1-2-1	A	01-241	25 IR 174	*CPH (25 IR 831) **25 IR 2243**
828 IAC 1-2-2	A	01-241	25 IR 175	*CPH (25 IR 831) **25 IR 2243**
828 IAC 1-2-3	A	01-241	25 IR 175	*CPH (25 IR 831) **25 IR 2244**
828 IAC 1-2-4	R	01-241	25 IR 177	*CPH (25 IR 831) **25 IR 2246**
828 IAC 1-2-6	A	01-241	25 IR 175	*CPH (25 IR 831) **25 IR 2244**
828 IAC 1-2-8	A	01-241	25 IR 176	*CPH (25 IR 831) **25 IR 2244**
828 IAC 1-2-9	A	01-241	25 IR 176	*CPH (25 IR 831) **25 IR 2244**
828 IAC 1-2-10	A	01-241	25 IR 176	*CPH (25 IR 831) **25 IR 2244**
828 IAC 1-2-11	R	01-241	25 IR 177	*CPH (25 IR 831) **25 IR 2246**
828 IAC 1-2-12	A	01-241	25 IR 176	*CPH (25 IR 831) **25 IR 2244**
828 IAC 1-2-14	A	01-241	25 IR 176	*CPH (25 IR 831) **25 IR 2245**
828 IAC 1-3-1	A	01-241	25 IR 176	*CPH (25 IR 831) **25 IR 2245**
	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**
828 IAC 1-3-3	A	02-113	25 IR 3452	**26 IR 375**
828 IAC 1-3-4	A	01-241	25 IR 177	*CPH (25 IR 831) **25 IR 2246**
828 IAC 1-3-5	A	01-241	25 IR 177	*CPH (25 IR 831) **25 IR 2246**
828 IAC 1-5-1	A	02-112	25 IR 3448	**26 IR 371**
828 IAC 1-5-1.5	N	02-112	25 IR 3448	**26 IR 371**
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 1-5-4	RA	01-193	24 IR 4207	**25 IR 1306**

828 IAC 1-5-5	RA	01-193	24 IR 4207	**25 IR 1307**
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**
828 IAC 4	N	01-307	25 IR 1723	**25 IR 2736**

TITLE 832 STATE BOARD OF FUNERAL AND CEMETERY SERVICE

832 IAC 3-2-2	RA	01-56	24 IR 3225	**25 IR 532**

TITLE 836 INDIANA EMERGENCY MEDICAL SERVICES COMMISSION

836 IAC 1	RA	01-40	24 IR 2580	
836 IAC 1-1-1	A	02-91	25 IR 2810	*CPH (25 IR 3807)
836 IAC 1-1-2	N	02-91	25 IR 2812	*CPH (25 IR 3807)
836 IAC 1-1-3	N	02-91	25 IR 2812	*CPH (25 IR 3807)
836 IAC 1-2-1	A	01-297	25 IR 488	**25 IR 2506**
	A	02-91	25 IR 2813	*CPH (25 IR 3807)
836 IAC 1-2-2	A	02-91	25 IR 2814	*CPH (25 IR 3807)
836 IAC 1-2-3	A	02-91	25 IR 2815	*CPH (25 IR 3807)
836 IAC 1-2-4	R	02-91	25 IR 2848	*CPH (25 IR 3807)
836 IAC 1-3-5	A	01-297	25 IR 489	**25 IR 2507**
	A	02-91	25 IR 2818	*CPH (25 IR 3807)
836 IAC 1-3-6	N	02-91	25 IR 2819	*CPH (25 IR 3807)
836 IAC 1-8-1	R	02-91	25 IR 2848	*CPH (25 IR 3807)
836 IAC 1-11-1	A	01-297	25 IR 490	**25 IR 2508**
	A	02-91	25 IR 2819	*CPH (25 IR 3807)
836 IAC 1-11-2	A	01-297	25 IR 491	**25 IR 2509**
	A	02-91	25 IR 2820	*CPH (25 IR 3807)
836 IAC 1-11-3	A	01-297	25 IR 492	**25 IR 2510**
836 IAC 1-11-4	A	02-91	25 IR 2821	*CPH (25 IR 3807)
836 IAC 1-11-5	R	02-91	25 IR 2848	*CPH (25 IR 3807)
836 IAC 2	RA	01-40	24 IR 2580	
836 IAC 2-1-1	A	02-91	25 IR 2821	*CPH (25 IR 3807)
836 IAC 2-2-1	A	01-297	25 IR 494	**25 IR 2512**
	A	02-91	25 IR 2824	*CPH (25 IR 3807)
836 IAC 2-4.1-2	A	01-297	25 IR 496	**25 IR 2514**
836 IAC 2-7.1-1	A	01-297	25 IR 497	**25 IR 2515**
	A	02-91	25 IR 2826	*CPH (25 IR 3807)
836 IAC 2-7.2	N	02-91	25 IR 2828	*CPH (25 IR 3807)
836 IAC 2-12-1	R	02-91	25 IR 2848	*CPH (25 IR 3807)
836 IAC 2-13-1	R	02-91	25 IR 2848	*CPH (25 IR 3807)
836 IAC 2-14-5	A	02-91	25 IR 2833	*CPH (25 IR 3807)
836 IAC 3	RA	01-40	24 IR 2580	
836 IAC 3-1-1	A	01-296	25 IR 472	**25 IR 2490**
836 IAC 3-2-1	A	01-296	25 IR 473	**25 IR 2491**
836 IAC 3-2-2	A	01-296	25 IR 475	**25 IR 2492**
836 IAC 3-2-3	A	01-296	25 IR 475	**25 IR 2493**
836 IAC 3-2-4	A	01-296	25 IR 476	**25 IR 2494**
	A	02-91	25 IR 2834	*CPH (25 IR 3807)
836 IAC 3-2-5	A	01-296	25 IR 478	**25 IR 2496**
	A	02-91	25 IR 2835	*CPH (25 IR 3807)
836 IAC 3-2-6	A	01-296	25 IR 479	**25 IR 2497**
836 IAC 3-2-7	A	01-296	25 IR 480	**25 IR 2498**
836 IAC 3-2-8	N	01-296	25 IR 480	**25 IR 2498**
	R	02-91	25 IR 2848	*CPH (25 IR 3807)
836 IAC 3-3-1	A	01-296	25 IR 480	**25 IR 2498**
836 IAC 3-3-2	A	01-296	25 IR 482	**25 IR 2499**
836 IAC 3-3-3	A	01-296	25 IR 482	**25 IR 2500**
836 IAC 3-3-4	A	01-296	25 IR 483	**25 IR 2501**
	A	02-91	25 IR 2836	*CPH (25 IR 3807)
836 IAC 3-3-5	A	01-296	25 IR 485	**25 IR 2503**
	A	02-91	25 IR 2837	*CPH (25 IR 3807)
836 IAC 3-3-6	A	01-296	25 IR 485	**25 IR 2503**
836 IAC 3-3-7	A	01-296	25 IR 486	**25 IR 2504**
836 IAC 3-3-8	N	01-296	25 IR 487	**25 IR 2505**
	R	02-91	25 IR 2848	*CPH (25 IR 3807)
836 IAC 3-4-1	R	02-91	25 IR 2848	*CPH (25 IR 3807)
836 IAC 3-5-1	A	01-296	25 IR 487	**25 IR 2505**
836 IAC 3-6-1	R	01-296	25 IR 487	**25 IR 2505**
836 IAC 4	RA	01-40	24 IR 2580	
836 IAC 4-1-1	A	02-91	25 IR 2838	*CPH (25 IR 3807)
836 IAC 4-2-1	A	02-91	25 IR 2840	*CPH (25 IR 3807)
836 IAC 4-2-2	A	02-91	25 IR 2841	*CPH (25 IR 3807)
836 IAC 4-2-5	R	02-91	25 IR 2848	*CPH (25 IR 3807)
836 IAC 4-3-2	A	02-91	25 IR 2841	*CPH (25 IR 3807)
836 IAC 4-4-1	A	02-91	25 IR 2842	*CPH (25 IR 3807)
836 IAC 4-5-2	A	02-91	25 IR 2843	*CPH (25 IR 3807)
836 IAC 4-6.1	N	02-91	25 IR 2843	*CPH (25 IR 3807)
836 IAC 4-7-2	A	02-91	25 IR 2844	*CPH (25 IR 3807)
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)
836 IAC 4-9-2.5	N	01-297	25 IR 499	**25 IR 2517**
836 IAC 4-9-3	A	02-91	25 IR 2847	*CPH (25 IR 3807)
836 IAC 4-10	N	01-297	25 IR 499	**25 IR 2517**
836 IAC 4-10-1	R	02-91	25 IR 2848	*CPH (25 IR 3807)

TITLE 839 SOCIAL WORKER, MARRIAGE AND FAMILY THERAPIST, AND MENTAL HEALTH COUNSELOR BOARD

839 IAC 1-1-1	RA	01-156	24 IR 4207	**25 IR 939**
839 IAC 1-1-3.2	N	01-160	24 IR 4186	**25 IR 1633**
839 IAC 1-1-3.3	N	01-160	24 IR 4186	**25 IR 1633**
839 IAC 1-1-3.5	RA	01-158	25 IR 189	**25 IR 1308**
839 IAC 1-1-3.6	RA	01-156	24 IR 4207	**25 IR 939**
839 IAC 1-1-3.7	RA	01-156	24 IR 4207	**25 IR 939**
839 IAC 1-1-3.8	RA	01-156	24 IR 4207	**25 IR 939**
839 IAC 1-1-4	RA	01-158	25 IR 189	**25 IR 1308**
839 IAC 1-2-1	RA	01-158	25 IR 190	**25 IR 1308**
839 IAC 1-2-2	RA	01-158	25 IR 190	**25 IR 1308**
839 IAC 1-2-2.1	N	01-160	24 IR 4186	**25 IR 1633**
839 IAC 1-2-3	RA	01-156	24 IR 4207	**25 IR 939**
839 IAC 1-2-4	R	01-160	24 IR 4186	**25 IR 1634**
839 IAC 1-2-5	RA	01-157	24 IR 4208	**25 IR 1307**
839 IAC 1-3-1	RA	01-158	25 IR 190	**25 IR 1309**
839 IAC 1-3-2	RA	01-158	25 IR 191	
839 IAC 1-3-2.5	RA	01-158	25 IR 191	**25 IR 1309**
839 IAC 1-3-3.5	RA	01-158	25 IR 192	**25 IR 1309**
839 IAC 1-3-4	RA	01-158	25 IR 192	**25 IR 1310**
839 IAC 1-3-4.5	RA	01-158	25 IR 193	**25 IR 1310**
839 IAC 1-3-5	N	01-160	24 IR 4186	**25 IR 1634**
839 IAC 1-4-4	RA	01-156	24 IR 4207	**25 IR 939**
839 IAC 1-4-5	RA	01-158	25 IR 193	
839 IAC 1-4-6	RA	01-158	25 IR 193	**25 IR 1310**
839 IAC 1-4-7	RA	01-156	24 IR 4207	**25 IR 939**
839 IAC 1-5-1	RA	01-158	25 IR 193	**25 IR 1311**
839 IAC 1-5-2	RA	01-158	25 IR 195	**25 IR 1313**
839 IAC 1-5-3	RA	01-158	25 IR 196	**25 IR 1313**
839 IAC 1-5-4	RA	01-156	24 IR 4207	**25 IR 939**
839 IAC 1-5-5	RA	01-156	24 IR 4207	**25 IR 939**
839 IAC 1-5-6	R	01-160	24 IR 4186	**25 IR 1634**
839 IAC 1-6-1	RA	01-158	25 IR 196	**25 IR 1313**
839 IAC 1-6-2	RA	01-158	25 IR 197	**25 IR 1314**
839 IAC 1-6-3	RA	01-158	25 IR 198	**25 IR 1316**
839 IAC 1-6-4	RA	01-156	24 IR 4207	**25 IR 939**
839 IAC 1-6-5	RA	01-158	25 IR 199	**25 IR 1316**
839 IAC 1-6-6	R	01-160	24 IR 4186	**25 IR 1634**

TITLE 840 INDIANA STATE BOARD OF HEALTH FACILITY ADMINISTRATORS

840 IAC 1-1-1	R	01-242	25 IR 526	**25 IR 2861**
840 IAC 1-1-2	RA	01-242	25 IR 520	**25 IR 2855**
840 IAC 1-1-3	RA	01-242	25 IR 520	**25 IR 2855**
840 IAC 1-1-4	RA	01-242	25 IR 521	**25 IR 2856**
	A	02-219	26 IR 540	
840 IAC 1-1-5	RA	01-242	25 IR 521	**25 IR 2856**
840 IAC 1-1-6	RA	01-242	25 IR 522	**25 IR 2857**
840 IAC 1-1-11	RA	01-242	25 IR 522	**25 IR 2857**
840 IAC 1-1-12	RA	01-242	25 IR 522	**25 IR 2857**
840 IAC 1-1-13	RA	01-242	25 IR 522	**25 IR 2857**

840 IAC 1-1-14	RA	01-242	25 IR 523	**25 IR 2858**
840 IAC 1-1-15	RA	01-242	25 IR 523	**25 IR 2858**
840 IAC 1-1-16	RA	01-242	25 IR 523	**25 IR 2858**
840 IAC 1-1-17	RA	01-242	25 IR 524	**25 IR 2859**
840 IAC 1-1-18	RA	01-242	25 IR 524	**25 IR 2859**
840 IAC 1-2-1	RA	01-242	25 IR 524	**25 IR 2859**
840 IAC 1-2-2	RA	01-242	25 IR 525	**25 IR 2860**
840 IAC 1-2-4	RA	01-242	25 IR 525	**25 IR 2860**
840 IAC 1-2-5	RA	01-242	25 IR 525	**25 IR 2861**
840 IAC 1-2-6	RA	01-242	25 IR 526	**25 IR 2861**
840 IAC 1-2-7	RA	01-242	25 IR 526	**25 IR 2861**
840 IAC 1-3-1	R	01-244	25 IR 500	**25 IR 1634**
840 IAC 1-3-2	N	01-244	25 IR 500	**25 IR 1634**

TITLE 844 MEDICAL LICENSING BOARD OF INDIANA

844 IAC 2.2-2-1	A	02-180	26 IR 177	
844 IAC 2.2-2-2	A	02-180	26 IR 178	
844 IAC 2.2-2-5	A	02-180	26 IR 179	
844 IAC 2.2-2-8	A	02-180	26 IR 179	
844 IAC 4-1-1	R	01-228	24 IR 4192	*CPH (25 IR 405) *SPE
	R	02-12	25 IR 2308	*CPH (25 IR 2746) **26 IR 34**
844 IAC 4-2-1	R	01-183	24 IR 3778	*CPH (25 IR 405) **25 IR 2246**
844 IAC 4-2-2	N	01-183	24 IR 3778	*CPH (25 IR 405) **25 IR 2246**
844 IAC 4-3	RA	01-220	25 IR 526	**25 IR 1731**
844 IAC 4-4.1-1	R	01-228	24 IR 4192	*CPH (25 IR 405) *SPE
	R	02-12	25 IR 2308	*CPH (25 IR 2746) **26 IR 34**
844 IAC 4-4.1-2	R	01-228	24 IR 4192	*CPH (25 IR 405) *SPE
	R	02-12	25 IR 2308	*CPH (25 IR 2746) **26 IR 34**
844 IAC 4-4.1-3.1	R	01-228	24 IR 4192	*CPH (25 IR 405) *SPE
	R	02-12	25 IR 2308	*CPH (25 IR 2746) **26 IR 34**
844 IAC 4-4.1-4.1	R	01-228	24 IR 4192	*CPH (25 IR 405) *SPE
	R	02-12	25 IR 2308	*CPH (25 IR 2746) **26 IR 34**
844 IAC 4-4.1-5	R	01-228	24 IR 4192	*CPH (25 IR 405) *SPE
	R	02-12	25 IR 2308	*CPH (25 IR 2746) **26 IR 34**
844 IAC 4-4.1-6	R	01-228	24 IR 4192	*CPH (25 IR 405) *SPE
	R	02-12	25 IR 2308	*CPH (25 IR 2746) **26 IR 34**
844 IAC 4-4.1-7	R	01-228	24 IR 4192	*CPH (25 IR 405) *SPE
	R	02-12	25 IR 2308	*CPH (25 IR 2746) **26 IR 34**
844 IAC 4-4.1-8	R	01-228	24 IR 4192	*CPH (25 IR 405) *SPE
	R	02-12	25 IR 2308	*CPH (25 IR 2746) **26 IR 34**
844 IAC 4-4.1-9	R	01-228	24 IR 4192	*CPH (25 IR 405) *SPE
	R	02-12	25 IR 2308	*CPH (25 IR 2746) **26 IR 34**
844 IAC 4-4.1-10	R	01-228	24 IR 4192	*CPH (25 IR 405) *SPE
	R	02-12	25 IR 2308	*CPH (25 IR 2746) **26 IR 34**
844 IAC 4-4.1-11	R	01-228	24 IR 4192	*CPH (25 IR 405) *SPE
	R	02-12	25 IR 2308	*CPH (25 IR 2746) **26 IR 34**
844 IAC 4-4.5	N	01-228	24 IR 4187	*CPH (25 IR 405) *SPE
	N	02-12	25 IR 2302	*CPH (25 IR 2746) **26 IR 28**
844 IAC 4-5-1	R	01-228	24 IR 4192	*CPH (25 IR 405) *SPE
	R	02-12	25 IR 2308	*CPH (25 IR 2746) **26 IR 34**
844 IAC 4-6-1	RA	01-312	25 IR 527	**25 IR 1732**
844 IAC 4-6-2	R	01-228	24 IR 4192	*CPH (25 IR 405) *SPE
	R	02-12	25 IR 2308	*CPH (25 IR 2746) **26 IR 34**
844 IAC 4-6-2.1	N	01-228	24 IR 4192	*CPH (25 IR 405) *SPE
	N	02-12	25 IR 2308	*CPH (25 IR 2746) **26 IR 34**
844 IAC 4-6-3	RA	01-312	25 IR 527	**25 IR 1732**
844 IAC 4-6-4	RA	01-312	25 IR 527	**25 IR 1732**
844 IAC 4-6-5	R	01-228	24 IR 4192	*CPH (25 IR 405) *SPE
	R	02-12	25 IR 2308	*CPH (25 IR 2746) **26 IR 34**
844 IAC 4-6-6	RA	01-312	25 IR 527	**25 IR 1732**
844 IAC 4-6-7	RA	01-312	25 IR 527	**25 IR 1732**
844 IAC 4-6-8	R	01-228	24 IR 4192	*CPH (25 IR 405) *SPE
	R	02-12	25 IR 2308	*CPH (25 IR 2746) **26 IR 34**
844 IAC 4-6-9	RA	01-312	25 IR 527	**25 IR 1732**
844 IAC 4-6-10	RA	01-312	25 IR 527	**25 IR 1732**
844 IAC 4-7-1	RA	01-220	25 IR 526	**25 IR 1731**
844 IAC 4-7-2	RA	01-220	25 IR 526	**25 IR 1731**
844 IAC 4-7-3	RA	01-220	25 IR 526	**25 IR 1731**
844 IAC 4-7-4	RA	01-220	25 IR 526	**25 IR 1731**
844 IAC 4-7-5	R	01-228	24 IR 4192	*CPH (25 IR 405) *SPE
	R	02-12	25 IR 2308	*CPH (25 IR 2746) **26 IR 34**
844 IAC 5	RA	01-170	24 IR 4209	**25 IR 1325**
844 IAC 6-1	RA	01-170	24 IR 4209	**25 IR 1325**
844 IAC 6-1-4	A	01-431	25 IR 3454	**26 IR 377**
844 IAC 6-2-1	R	01-245	25 IR 501	**25 IR 2247**
844 IAC 6-2-2	N	01-245	25 IR 501	**25 IR 2247**
844 IAC 6-3	RA	01-170	24 IR 4209	**25 IR 1325**
844 IAC 6-3-5	A	01-432	25 IR 3455	**26 IR 378**
844 IAC 6-4	RA	01-170	24 IR 4209	**25 IR 1325**
844 IAC 6-4-1	A	02-181	26 IR 541	
844 IAC 6-5	RA	01-170	24 IR 4209	**25 IR 1325**
844 IAC 6-6	RA	01-170	24 IR 4209	**25 IR 1325**
844 IAC 6-7	RA	01-170	24 IR 4209	**25 IR 1325**
844 IAC 7	RA	01-170	24 IR 4209	**25 IR 1325**
844 IAC 9-1-1	RA	01-120	24 IR 3809	**25 IR 1317**
844 IAC 9-2-1	RA	01-120	24 IR 3809	**25 IR 1317**
844 IAC 9-2-2	RA	01-120	24 IR 3809	**25 IR 1317**
844 IAC 9-2-3	RA	01-120	24 IR 3809	**25 IR 1317**
844 IAC 9-2-4	RA	01-120	24 IR 3809	**25 IR 1317**
844 IAC 9-2-5	RA	01-120	24 IR 3809	**25 IR 1318**
844 IAC 9-2-6	RA	01-120	24 IR 3809	**25 IR 1317**
844 IAC 9-3-1	RA	01-120	24 IR 3809	**25 IR 1318**
844 IAC 9-3-2	RA	01-120	24 IR 3809	**25 IR 1317**
844 IAC 9-3-3	RA	01-120	24 IR 3809	**25 IR 1317**
844 IAC 9-4-1	RA	01-120	24 IR 3810	**25 IR 1318**
844 IAC 9-4-2	RA	01-120	24 IR 3810	**25 IR 1319**
844 IAC 9-4-3	RA	01-120	24 IR 3809	**25 IR 1317**

844 IAC 9-4-4	RA	01-120	24 IR 3809	**25 IR 1317**
844 IAC 9-4-5	RA	01-120	24 IR 3809	**25 IR 1317**
844 IAC 9-5-1	RA	01-120	24 IR 3810	**25 IR 1319**
844 IAC 9-5-2	R	01-120	24 IR 3811	**25 IR 1320**
844 IAC 9-6-1	RA	01-120	24 IR 3811	**25 IR 1319**
844 IAC 9-6-2	RA	01-120	24 IR 3809	**25 IR 1317**
844 IAC 9-6-3	RA	01-120	24 IR 3811	**25 IR 1319**
844 IAC 9-6-4	RA	01-120	24 IR 3809	**25 IR 1317**
844 IAC 10-1	RA	01-170	24 IR 4209	**25 IR 1325**
844 IAC 10-2-1	R	01-246	25 IR 501	**25 IR 2247**
844 IAC 10-2-2	N	01-246	25 IR 501	**25 IR 2247**
844 IAC 10-3	RA	01-170	24 IR 4209	**25 IR 1325**
844 IAC 10-4	RA	01-170	24 IR 4209	**25 IR 1325**
844 IAC 10-5	RA	01-170	24 IR 4209	**25 IR 1325**
844 IAC 11-1-1	RA	01-41	24 IR 2892	**25 IR 532**
844 IAC 11-1-2	RA	01-131	24 IR 3226	**25 IR 1320**
844 IAC 11-1-3	RA	01-41	24 IR 2892	**25 IR 532**
844 IAC 11-1-4	RA	01-41	24 IR 2892	**25 IR 532**
844 IAC 11-1-5	RA	01-41	24 IR 2892	**25 IR 532**
844 IAC 11-1-6	RA	01-41	24 IR 2892	**25 IR 532**
844 IAC 11-2-1	R	01-248	25 IR 179	**25 IR 1636**
844 IAC 11-2-1.1	N	01-248	25 IR 179	**25 IR 1635**
844 IAC 11-3-2	RA	01-131	24 IR 3226	**25 IR 1321**
844 IAC 11-3-3	RA	01-131	24 IR 3226	**25 IR 1321**
844 IAC 11-3-3.1	N	01-235	25 IR 178	**25 IR 1635**
844 IAC 11-3-4	RA	01-131	24 IR 3227	**25 IR 1321**
844 IAC 11-3-4.1	N	01-235	25 IR 178	**25 IR 1635**
844 IAC 11-4-1	RA	01-41	24 IR 2892	**25 IR 532**
844 IAC 11-4-2	RA	01-41	24 IR 2892	**25 IR 532**
844 IAC 11-4-3	RA	01-41	24 IR 2892	**25 IR 532**
844 IAC 11-4-4	RA	01-41	24 IR 2892	**25 IR 532**
844 IAC 11-4-5	RA	01-131	24 IR 3227	**25 IR 1322**
844 IAC 11-4-6	RA	01-131	24 IR 3228	**25 IR 1322**
844 IAC 11-4-7	RA	01-41	24 IR 2892	**25 IR 532**
844 IAC 11-4-8	RA	01-131	24 IR 3228	**25 IR 1323**
844 IAC 11-4-9	RA	01-41	24 IR 2892	**25 IR 532**
844 IAC 11-5-1	RA	01-131	24 IR 3228	**25 IR 1323**
844 IAC 11-5-3	RA	01-131	24 IR 3228	**25 IR 1323**
844 IAC 11-5-4	RA	01-131	24 IR 3229	**25 IR 1323**
844 IAC 11-5-5	RA	01-131	24 IR 3229	**25 IR 1324**
844 IAC 12-2-1	R	01-247	25 IR 502	**25 IR 2248**
844 IAC 12-2-2	N	01-247	25 IR 502	**25 IR 2248**
844 IAC 13	N	01-47	24 IR 2554	**25 IR 803**

TITLE 845 BOARD OF PODIATRIC MEDICINE

845 IAC 1-5-2	R	01-363	25 IR 3456	
845 IAC 1-5-2.1	N	01-363	25 IR 3455	
845 IAC 1-6-8	R	01-229	24 IR 4193	*ARR (25 IR 1185)
845 IAC 1-6-9	N	01-229	24 IR 4193	*ARR (25 IR 1185)

TITLE 846 BOARD OF CHIROPRACTIC EXAMINERS

846 IAC 1-4-7	RA	01-221	24 IR 4209	**25 IR 1325**

TITLE 848 INDIANA STATE BOARD OF NURSING

848 IAC 1-1-2.1	RA	01-127	24 IR 3231	**25 IR 939**
848 IAC 1-1-5	RA	01-127	24 IR 3231	**25 IR 1326**
848 IAC 1-1-6	RA	01-127	24 IR 3231	**25 IR 1326**
848 IAC 1-1-7	RA	01-127	24 IR 3232	**25 IR 1327**
848 IAC 1-1-8	RA	01-127	24 IR 3231	**25 IR 939**
848 IAC 1-1-10	RA	01-127	24 IR 3233	**25 IR 1328**
848 IAC 1-1-11	RA	01-127	24 IR 3231	**25 IR 939**
848 IAC 1-1-13	RA	01-127	24 IR 3233	**25 IR 1328**
848 IAC 1-1-14	RA	01-105	24 IR 2893	
848 IAC 1-1-15	RA	01-127	24 IR 3231	**25 IR 939**
848 IAC 1-2	RA	01-127	24 IR 3231	**25 IR 939**
848 IAC 2-1	RA	01-127	24 IR 3231	**25 IR 939**
848 IAC 2-2	RA	01-127	24 IR 3231	**25 IR 939**
848 IAC 2-3	RA	01-127	24 IR 3231	**25 IR 939**
848 IAC 3-1	RA	01-127	24 IR 3231	**25 IR 939**
848 IAC 3-2-1	RA	01-127	24 IR 3231	**25 IR 939**
848 IAC 3-2-2	RA	01-127	24 IR 3233	**25 IR 1328**
848 IAC 3-2-3	RA	01-127	24 IR 3231	**25 IR 940**
848 IAC 3-2-4	RA	01-127	24 IR 3231	**25 IR 940**
848 IAC 3-2-5	RA	01-127	24 IR 3233	**25 IR 1329**
848 IAC 3-2-6	RA	01-127	24 IR 3231	**25 IR 940**
848 IAC 3-2-7	RA	01-127	24 IR 3231	**25 IR 940**
848 IAC 3-2-8	RA	01-127	24 IR 3231	**25 IR 940**
848 IAC 3-3	RA	01-127	24 IR 3231	**25 IR 940**
848 IAC 3-4-1	R	01-127	24 IR 3234	**25 IR 1329**
848 IAC 4-1-1	RA	01-127	24 IR 3231	**25 IR 940**
848 IAC 4-1-2	RA	01-127	24 IR 3231	**25 IR 940**
848 IAC 4-1-3	RA	01-127	24 IR 3234	**25 IR 1329**
848 IAC 4-1-4	RA	01-127	24 IR 3231	**25 IR 940**
848 IAC 4-1-5	RA	01-127	24 IR 3231	**25 IR 940**
848 IAC 4-1-6	RA	01-127	24 IR 3234	**25 IR 1329**
848 IAC 4-2	RA	01-127	24 IR 3231	**25 IR 940**
848 IAC 4-3	RA	01-127	24 IR 3231	**25 IR 940**
848 IAC 4-4-1	R	01-127	24 IR 3234	**25 IR 1329**
848 IAC 5-1	RA	01-127	24 IR 3231	**25 IR 940**
848 IAC 5-2-1	RA	01-127	24 IR 3234	**25 IR 1329**

TITLE 852 INDIANA OPTOMETRY BOARD

852 IAC 1-1.1-4	A	02-131	25 IR 3869	
852 IAC 1-10-1	RA	01-253	25 IR 200	**25 IR 1732**
852 IAC 1-10-2	RA	01-253	25 IR 200	**25 IR 1732**
852 IAC 1-13-1	A	02-132	25 IR 3869	
852 IAC 1-13-2	A	02-132	25 IR 3870	
852 IAC 1-17	N	02-133	25 IR 3870	

TITLE 856 INDIANA BOARD OF PHARMACY

856 IAC 1-1	RA	01-150	24 IR 4210	**25 IR 1330**
				*ERR (25 IR 1645)
856 IAC 1-2-1	RA	01-150	24 IR 4211	**25 IR 1331**
856 IAC 1-2-2	RA	01-150	24 IR 4211	**25 IR 1331**
856 IAC 1-2-3	RA	01-150	24 IR 4211	**25 IR 1331**
856 IAC 1-2-4	RA	01-150	24 IR 4210	**25 IR 1330**
856 IAC 1-3.1-1	RA	01-150	24 IR 4210	**25 IR 1330**
856 IAC 1-3.1-2	RA	01-150	24 IR 4210	**25 IR 1330**
856 IAC 1-3.1-3	RA	01-150	24 IR 4211	**25 IR 1331**
856 IAC 1-3.1-4	RA	01-150	24 IR 4211	**25 IR 1331**
856 IAC 1-3.1-5	RA	01-150	24 IR 4210	**25 IR 1330**
856 IAC 1-3.1-6	RA	01-150	24 IR 4211	**25 IR 1331**
856 IAC 1-3.1-7	RA	01-150	24 IR 4212	**25 IR 1332**
856 IAC 1-3.1-9	RA	01-150	24 IR 4210	**25 IR 1330**
856 IAC 1-3.1-10	R	01-150	24 IR 4220	**25 IR 1340**
856 IAC 1-3.1-11	RA	01-150	24 IR 4210	**25 IR 1330**
856 IAC 1-3.1-12	RA	01-150	24 IR 4212	**25 IR 1332**
856 IAC 1-3.1-13	RA	01-150	24 IR 4210	**25 IR 1330**
856 IAC 1-4-1	RA	01-150	24 IR 4213	**25 IR 1333**
856 IAC 1-4-2	RA	01-150	24 IR 4213	**25 IR 1333**
856 IAC 1-4-4	RA	01-150	24 IR 4213	**25 IR 1333**
856 IAC 1-5-1	R	01-150	24 IR 4220	**25 IR 1340**
856 IAC 1-7-1	RA	00-323	24 IR 1965	*ARR (24 IR 3992)
			24 IR 2581	**25 IR 532**
	RA	01-150	24 IR 4210	**25 IR 1330**
856 IAC 1-7-2	RA	00-323	24 IR 1965	*ARR (24 IR 3992)
			24 IR 2581	**25 IR 532**
	RA	01-150	24 IR 4210	**25 IR 1330**
856 IAC 1-7-3	RA	00-323	24 IR 1965	*ARR (24 IR 3992)
			24 IR 2581	**25 IR 532**
	RA	01-150	24 IR 4210	**25 IR 1330**
856 IAC 1-7-4	RA	00-323	24 IR 1965	*ARR (24 IR 3992)
			24 IR 2581	**25 IR 532**
	RA	01-150	24 IR 4210	**25 IR 1330**
856 IAC 1-7-5	RA	00-323	24 IR 1965	*ARR (24 IR 3992)
			24 IR 2581	
856 IAC 1-7-6	RA	00-323	24 IR 1965	*ARR (24 IR 3992)
			24 IR 2581	

856 IAC 1-7-7	RA	00-323	24 IR 1965	*ARR (24 IR 3992)
			24 IR 2581	
856 IAC 1-12	R	01-150	24 IR 4220	**25 IR 1340**
856 IAC 1-13-3	RA	01-150	24 IR 4210	**25 IR 1330**
856 IAC 1-13-4	RA	01-150	24 IR 4210	**25 IR 1330**
856 IAC 1-15-1	RA	01-150	24 IR 4213	**25 IR 1333**
856 IAC 1-20-1	RA	01-150	24 IR 4213	**25 IR 1333**
856 IAC 1-21-1	RA	01-150	24 IR 4214	**25 IR 1334**
856 IAC 1-23-1	RA	01-150	24 IR 4215	**25 IR 1335**
856 IAC 1-26-1	RA	01-150	24 IR 4215	**25 IR 1335**
856 IAC 1-27-1	RA	01-148	24 IR 3812	*AWR (25 IR 1186)
	A	01-434	25 IR 2042	**25 IR 2739**
856 IAC 1-28	RA	00-323	24 IR 1965	*ARR (24 IR 3992)
			24 IR 2581	
	R	01-298	25 IR 509	*AROC (25 IR 1734)
				25 IR 1643
856 IAC 1-28.1	RA	00-323	24 IR 1965	*ARR (24 IR 3992)
			24 IR 2581	
	N	01-298	25 IR 502	*AROC (25 IR 1734)
				25 IR 1636
856 IAC 1-29-1	RA	01-150	24 IR 4216	**25 IR 1337**
856 IAC 1-29-2	RA	01-150	24 IR 4210	**25 IR 1330**
856 IAC 1-29-3	RA	01-150	24 IR 4210	**25 IR 1330**
856 IAC 1-29-4	RA	01-150	24 IR 4210	**25 IR 1330**
856 IAC 1-29-5	RA	01-150	24 IR 4210	**25 IR 1330**
856 IAC 1-29-6	RA	01-150	24 IR 4210	**25 IR 1330**
856 IAC 1-29-7	R	01-150	24 IR 4220	**25 IR 1340**
856 IAC 1-29-9	RA	01-150	24 IR 4210	**25 IR 1330**
856 IAC 1-30-1	RA	01-150	24 IR 4210	**25 IR 1330**
856 IAC 1-30-2	RA	01-150	24 IR 4210	**25 IR 1330**
856 IAC 1-30-3	RA	01-150	24 IR 4210	**25 IR 1330**
856 IAC 1-30-4	RA	01-150	24 IR 4210	**25 IR 1330**
856 IAC 1-30-5	RA	01-150	24 IR 4217	**25 IR 1337**
856 IAC 1-30-6	RA	01-150	24 IR 4210	**25 IR 1330**
856 IAC 1-30-7	RA	01-150	24 IR 4210	**25 IR 1330**
856 IAC 1-30-8	RA	01-150	24 IR 4210	**25 IR 1330**
856 IAC 1-30-9	RA	01-150	24 IR 4217	**25 IR 1337**
856 IAC 1-30-10	RA	01-150	24 IR 4210	**25 IR 1330**
856 IAC 1-30-11	RA	01-150	24 IR 4210	**25 IR 1330**
856 IAC 1-30-12	RA	01-150	24 IR 4210	**25 IR 1330**
856 IAC 1-30-13	RA	01-150	24 IR 4217	**25 IR 1337**
856 IAC 1-30-14	RA	01-150	24 IR 4217	**25 IR 1338**
856 IAC 1-30-15	RA	01-150	24 IR 4218	**25 IR 1338**
856 IAC 1-30-16	RA	01-150	24 IR 4210	**25 IR 1330**
856 IAC 1-30-17	RA	01-150	24 IR 4210	**25 IR 1330**
856 IAC 1-30-18	RA	01-150	24 IR 4218	**25 IR 1338**
856 IAC 1-31	RA	01-150	24 IR 4210	**25 IR 1330**
856 IAC 1-32-1	RA	01-150	24 IR 4218	**25 IR 1339**
856 IAC 1-32-2	RA	01-150	24 IR 4219	**25 IR 1339**
856 IAC 1-32-3	RA	01-150	24 IR 4219	**25 IR 1339**
856 IAC 1-32-4	RA	01-150	24 IR 4219	**25 IR 1339**
856 IAC 1-33	RA	01-150	24 IR 4211	**25 IR 1330**
856 IAC 1-34-1	RA	01-150	24 IR 4211	**25 IR 1330**
856 IAC 1-34-2	RA	01-150	24 IR 4219	**25 IR 1340**
856 IAC 1-34-3	RA	01-150	24 IR 4211	**25 IR 1330**
856 IAC 1-34-4	RA	01-150	24 IR 4211	**25 IR 1330**
856 IAC 1-34-5	RA	01-150	24 IR 4211	**25 IR 1330**
856 IAC 1-35	RA	01-150	24 IR 4211	**25 IR 1330**
856 IAC 1-35-1	A	02-172	25 IR 4211	
856 IAC 1-35-4	A	02-172	25 IR 4212	
856 IAC 1-35-6	R	02-172	25 IR 4212	
856 IAC 1-36-1	RA	01-150	24 IR 4211	**25 IR 1330**
856 IAC 1-36-2	RA	01-150	24 IR 4211	**25 IR 1330**
856 IAC 1-36-3	RA	01-150	24 IR 4211	**25 IR 1330**
856 IAC 1-36-4	RA	01-150	24 IR 4211	**25 IR 1330**
856 IAC 1-36-5	RA	01-150	24 IR 4220	**25 IR 1340**
856 IAC 1-36-6	RA	01-150	24 IR 4211	**25 IR 1330**
856 IAC 1-36-7	RA	01-150	24 IR 4211	**25 IR 1330**
856 IAC 1-36-8	RA	01-150	24 IR 4211	**25 IR 1330**
856 IAC 1-36-9	RA	01-150	24 IR 4211	**25 IR 1330**
856 IAC 2-1	RA	01-151	24 IR 4221	**25 IR 1341**
856 IAC 2-2	RA	01-151	24 IR 4221	**25 IR 1341**
856 IAC 2-3-1	RA	01-151	24 IR 4221	**25 IR 1341**
856 IAC 2-3-2	RA	01-151	24 IR 4221	**25 IR 1341**
856 IAC 2-3-3	RA	01-151	24 IR 4221	**25 IR 1341**
856 IAC 2-3-4	RA	01-151	24 IR 4221	**25 IR 1341**
856 IAC 2-3-5	RA	01-151	24 IR 4221	**25 IR 1341**
856 IAC 2-3-6	RA	01-151	24 IR 4221	**25 IR 1341**
856 IAC 2-3-7	RA	01-151	24 IR 4221	**25 IR 1341**
856 IAC 2-3-8	RA	01-151	24 IR 4221	**25 IR 1341**
856 IAC 2-3-9	RA	01-149	24 IR 3813	**25 IR 940**
856 IAC 2-3-10	R	01-151	24 IR 4223	**25 IR 1344**
856 IAC 2-3-11	RA	01-151	24 IR 4221	**25 IR 1341**
856 IAC 2-3-12	RA	01-151	24 IR 4221	**25 IR 1341**
856 IAC 2-3-13	RA	01-151	24 IR 4222	**25 IR 1342**
856 IAC 2-3-14	R	01-151	24 IR 4223	**25 IR 1344**
856 IAC 2-3-15	R	01-151	24 IR 4223	**25 IR 1344**
856 IAC 2-3-16	RA	01-151	24 IR 4221	**25 IR 1341**
856 IAC 2-3-17	RA	01-151	24 IR 4221	**25 IR 1341**
856 IAC 2-3-18	RA	01-151	24 IR 4221	**25 IR 1341**
856 IAC 2-3-19	RA	01-151	24 IR 4221	**25 IR 1341**
856 IAC 2-3-20	RA	01-151	24 IR 4221	**25 IR 1341**
856 IAC 2-3-21	RA	01-151	24 IR 4221	**25 IR 1341**
856 IAC 2-3-22	RA	01-151	24 IR 4221	**25 IR 1341**
856 IAC 2-3-23	RA	01-151	24 IR 4221	**25 IR 1341**
856 IAC 2-3-24	RA	01-151	24 IR 4222	**25 IR 1343**
856 IAC 2-3-25	RA	01-151	24 IR 4221	**25 IR 1341**
856 IAC 2-3-26	RA	01-151	24 IR 4221	**25 IR 1341**
856 IAC 2-3-27	RA	01-151	24 IR 4221	**25 IR 1341**
856 IAC 2-3-28	RA	01-151	24 IR 4221	**25 IR 1341**
856 IAC 2-3-29	RA	01-151	24 IR 4221	**25 IR 1341**
856 IAC 2-3-30	RA	01-151	24 IR 4221	**25 IR 1341**
856 IAC 2-3-31	RA	01-151	24 IR 4221	**25 IR 1341**
856 IAC 2-3-32	RA	01-151	24 IR 4221	**25 IR 1341**
856 IAC 2-3-33	RA	01-151	24 IR 4221	**25 IR 1341**
856 IAC 2-3-34	RA	01-151	24 IR 4221	**25 IR 1341**
856 IAC 2-3-35	RA	01-151	24 IR 4221	**25 IR 1341**
856 IAC 2-4	RA	01-151	24 IR 4221	**25 IR 1341**
856 IAC 2-5	RA	01-151	24 IR 4221	**25 IR 1341**
856 IAC 2-6-1	RA	01-151	24 IR 4221	**25 IR 1341**
856 IAC 2-6-2	RA	01-151	24 IR 4223	**25 IR 1343**
856 IAC 2-6-3	RA	01-151	24 IR 4221	**25 IR 1341**
856 IAC 2-6-4	RA	01-151	24 IR 4221	**25 IR 1341**
856 IAC 2-6-5	RA	01-151	24 IR 4221	**25 IR 1341**
856 IAC 2-6-6	RA	01-151	24 IR 4221	**25 IR 1341**
856 IAC 2-6-7	RA	01-151	24 IR 4221	**25 IR 1341**
856 IAC 2-6-8	RA	01-151	24 IR 4221	**25 IR 1341**
856 IAC 2-6-9	RA	01-151	24 IR 4221	**25 IR 1341**
856 IAC 2-6-10	RA	01-151	24 IR 4221	**25 IR 1341**
856 IAC 2-6-11	R	01-151	24 IR 4223	**25 IR 1344**
856 IAC 2-6-12	RA	01-151	24 IR 4223	**25 IR 1343**
856 IAC 2-6-13	RA	01-151	24 IR 4221	**25 IR 1341**
856 IAC 2-6-14	RA	01-151	24 IR 4221	**25 IR 1341**
856 IAC 2-6-15	RA	01-151	24 IR 4221	**25 IR 1341**
856 IAC 2-6-16	RA	01-151	24 IR 4221	**25 IR 1341**
856 IAC 2-6-17	RA	01-151	24 IR 4221	**25 IR 1341**
856 IAC 2-6-18	RA	01-151	24 IR 4221	**25 IR 1341**
856 IAC 2-7	N	01-306	25 IR 3871	
856 IAC 3-2-2	RA	01-153	24 IR 3813	**25 IR 941**

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	

TITLE 858 CONTROLLED SUBSTANCES ADVISORY COMMITTEE

858 IAC 2	RA	01-63	24 IR 4224	**25 IR 1344**

TITLE 860 INDIANA PLUMBING COMMISSION

860 IAC 1-1-2.1	A	01-425	25 IR 2309	*ARR (25 IR 2523)
			25 IR 2585	**25 IR 4109**
860 IAC 1-1-8	A	01-425	25 IR 2586	**25 IR 4110**

TITLE 864 STATE BOARD OF REGISTRATION FOR PROFESSIONAL ENGINEERS

864 IAC 1.1-2-2	A	01-405	25 IR 2848	**26 IR 379**
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**

TITLE 865 STATE BOARD OF REGISTRATION FOR LAND SURVEYORS

865 IAC 1-4-8	A	02-56	25 IR 3456	
865 IAC 1-11-1	A	01-426	25 IR 2043	*CPH (25 IR 2543)
				25 IR 4110
865 IAC 1-12-28	A	02-56	25 IR 3456	
865 IAC 1-13-5	A	01-426	25 IR 2044	*CPH (25 IR 2543)
				25 IR 4111

TITLE 868 STATE PSYCHOLOGY BOARD

868 IAC 1.1-3-1	RA	01-154	24 IR 3814	*CPH (25 IR 124)
				25 IR 1344
868 IAC 1.1-5-4	RA	01-154	24 IR 3814	*CPH (25 IR 124)
				25 IR 1344
868 IAC 1.1-5-7	RA	01-154	24 IR 3814	*CPH (25 IR 124)
				25 IR 1344
868 IAC 1.1-12-1	R	01-210	24 IR 4194	**25 IR 1181**
868 IAC 1.1-12-1.5	N	01-210	24 IR 4193	**25 IR 1181**
868 IAC 1.1-15-11	A	01-179	24 IR 3779	**25 IR 812**

TITLE 872 INDIANA BOARD OF ACCOUNTANCY

872 IAC 1-1-8	A	01-310	25 IR 891	*ARR (25 IR 2256)
				25 IR 2518
872 IAC 1-1-8.1	R	01-310	25 IR 893	*ARR (25 IR 2256)
				25 IR 2520
872 IAC 1-1-8.3	A	01-310	25 IR 892	*ARR (25 IR 2256)
				25 IR 2519
872 IAC 1-1-8.4	A	01-310	25 IR 892	*ARR (25 IR 2256)
				25 IR 2519
872 IAC 1-1-10	A	01-310	25 IR 893	*ARR (25 IR 2256)
				25 IR 2520

TITLE 876 INDIANA REAL ESTATE COMMISSION

876 IAC 1-1-3	A	00-260	24 IR 2848	**25 IR 101**
876 IAC 1-1-23	A	00-260	24 IR 2849	**25 IR 102**
	A	01-427	25 IR 3874	
876 IAC 1-1-24	A	00-260	24 IR 2849	**25 IR 102**
876 IAC 1-1-26	A	00-260	24 IR 2849	**25 IR 102**
876 IAC 1-4-2	A	01-427	25 IR 3874	
876 IAC 2-17-3	A	00-260	24 IR 2849	**25 IR 102**
876 IAC 3-2-4	A	02-148	25 IR 4213	
876 IAC 3-2-5	A	02-148	25 IR 4213	
876 IAC 3-2-7	A	02-148	25 IR 4213	
876 IAC 3-3-21	A	01-346	25 IR 2310	**25 IR 4111**
876 IAC 3-3-22	A	02-148	25 IR 4214	
876 IAC 3-6-2	A	01-403	25 IR 1726	**25 IR 3181**
876 IAC 3-6-3	A	01-403	25 IR 1727	**25 IR 3181**
876 IAC 3-6-9	A	02-148	25 IR 4214	
876 IAC 4-1-3	A	00-260	24 IR 2850	**25 IR 103**
	A	01-427	25 IR 3876	
876 IAC 4-2-1	A	00-260	24 IR 2850	**25 IR 103**
876 IAC 4-2-2	A	01-369	26 IR 180	
876 IAC 4-2-3	A	01-369	26 IR 180	
876 IAC 4-2-4	A	00-260	24 IR 2851	**25 IR 104**
876 IAC 4-2-5	A	00-260	24 IR 2851	**25 IR 104**
876 IAC 4-2-9	A	00-260	24 IR 2851	**25 IR 104**
	A	01-369	26 IR 180	

TITLE 880 SPEECH-LANGUAGE PATHOLOGY AND AUDIOLOGY BOARD

880 IAC 1-1-1	RA	00-326	24 IR 2210	*CPH (24 IR 3658)
				25 IR 1345
880 IAC 1-1-2	RA	00-326	24 IR 2210	*CPH (24 IR 3658)
				25 IR 1345
880 IAC 1-1-3.1	RA	00-326	24 IR 2210	*CPH (24 IR 3658)
				25 IR 1345
880 IAC 1-1-5	RA	01-222	24 IR 4224	*CPH (24 IR 3658)
				25 IR 1345
880 IAC 1-1-6	RA	00-326	24 IR 2210	*CPH (24 IR 3658)
				25 IR 1345
880 IAC 1-1-7	RA	00-326	24 IR 2210	*CPH (24 IR 3658)
				25 IR 1345
880 IAC 1-2	RA	00-326	24 IR 2210	*CPH (24 IR 3658)
				25 IR 1345
880 IAC 1-3.1	RA	00-326	24 IR 2210	*CPH (24 IR 3658)
				25 IR 1345

TITLE 888 INDIANA BOARD OF VETERINARY MEDICAL EXAMINERS

888 IAC 1.1-3-2	RA	01-223	24 IR 4225	**25 IR 1346**
888 IAC 1.1-3-3	RA	01-321	25 IR 201	**25 IR 1733**
888 IAC 1.1-6-1	A	02-134	25 IR 3877	
888 IAC 1.1-6-3	A	02-135	25 IR 3878	
888 IAC 1.1-11	N	02-136	25 IR 3879	

TITLE 896 BOARD OF ENVIRONMENTAL HEALTH SPECIALISTS

896 IAC 1-3-2	RA	01-224	24 IR 4226	**25 IR 1346**

TITLE 898 INDIANA ATHLETIC TRAINERS BOARD

898 IAC 1-1-1.5	N	01-46	24 IR 2562	*CPH (24 IR 2724)
				25 IR 104
898 IAC 1-1-2.5	RA	01-44	24 IR 2588	*CPH (24 IR 2724)
				25 IR 204
898 IAC 1-1-3.5	RA	01-44	24 IR 2589	*CPH (24 IR 2724)
				25 IR 204
898 IAC 1-2-6	N	01-198	24 IR 4194	**25 IR 1643**
898 IAC 1-2-7	N	01-198	24 IR 4194	**25 IR 1643**
898 IAC 1-3-1	A	01-199	24 IR 4195	**25 IR 1347**
898 IAC 1-5-5	R	01-46	24 IR 2562	*CPH (24 IR 2724)
				25 IR 105

TITLE 905 ALCOHOL AND TOBACCO COMMISSION

905 IAC 1-1	RA	01-225	24 IR 3815	**25 IR 941**
905 IAC 1-5.1	RA	01-225	24 IR 3815	**25 IR 941**
905 IAC 1-5.2-1	RA	01-225	24 IR 3815	**25 IR 941**
905 IAC 1-5.2-2	RA	01-225	24 IR 3815	**25 IR 941**
905 IAC 1-5.2-3	RA	01-230	24 IR 3816	**25 IR 1347**
905 IAC 1-5.2-4	RA	01-225	24 IR 3815	**25 IR 941**
905 IAC 1-5.2-5	RA	01-225	24 IR 3815	**25 IR 941**
905 IAC 1-5.2-6	RA	01-225	24 IR 3815	**25 IR 941**
905 IAC 1-5.2-7	RA	01-225	24 IR 3815	**25 IR 941**
905 IAC 1-5.2-8	RA	01-225	24 IR 3815	**25 IR 941**
905 IAC 1-5.2-9	RA	01-230	24 IR 3816	**25 IR 1348**
905 IAC 1-5.2-10	RA	01-225	24 IR 3815	**25 IR 941**
905 IAC 1-5.2-11	RA	01-225	24 IR 3815	**25 IR 941**
905 IAC 1-5.2-12	RA	01-225	24 IR 3815	**25 IR 941**
905 IAC 1-5.2-13	RA	01-225	24 IR 3815	**25 IR 941**
905 IAC 1-5.2-14	RA	01-225	24 IR 3815	**25 IR 941**
905 IAC 1-5.2-15	RA	01-225	24 IR 3815	**25 IR 941**
905 IAC 1-5.2-16	RA	01-225	24 IR 3815	**25 IR 941**
905 IAC 1-5.2-17	RA	01-225	24 IR 3815	**25 IR 941**
905 IAC 1-7.1	RA	01-225	24 IR 3815	**25 IR 941**
905 IAC 1-8-1	RA	01-230	24 IR 3817	**25 IR 1349**
905 IAC 1-8-2	RA	01-230	24 IR 3818	**25 IR 1349**
905 IAC 1-8-3	RA	01-230	24 IR 3818	**25 IR 1349**
905 IAC 1-8-4	RA	01-230	24 IR 3818	**25 IR 1350**
905 IAC 1-8-5	RA	01-230	24 IR 3818	**25 IR 1350**

905 IAC 1-8-6	RA	01-230	24 IR 3819	**25 IR 1350**
905 IAC 1-8-7	RA	01-230		*ERR (25 IR 1906)
905 IAC 1-9-5	RA	01-225	24 IR 3815	**25 IR 941**
905 IAC 1-10	RA	01-225	24 IR 3815	**25 IR 941**
905 IAC 1-11.1-1	RA	01-230	24 IR 3819	**25 IR 1350**
905 IAC 1-11.1-2	RA	01-225	24 IR 3815	**25 IR 941**
905 IAC 1-12.1-2	RA	01-225	24 IR 3815	**25 IR 941**
905 IAC 1-12.1-3	RA	01-225	24 IR 3815	**25 IR 941**
905 IAC 1-13	RA	01-225	24 IR 3815	**25 IR 941**
905 IAC 1-14	RA	01-225	24 IR 3815	**25 IR 941**
905 IAC 1-15.2	RA	01-225	24 IR 3815	**25 IR 941**
905 IAC 1-15.3	RA	01-225	24 IR 3815	**25 IR 941**
905 IAC 1-16.1-1	RA	01-230	24 IR 3819	**25 IR 1350**
905 IAC 1-16.1-3	RA	01-230	24 IR 3816	**25 IR 1347**
905 IAC 1-17-2	RA	01-225	24 IR 3815	**25 IR 941**
905 IAC 1-17-3	RA	01-225	24 IR 3815	**25 IR 941**
905 IAC 1-17-4	RA	01-225	24 IR 3815	**25 IR 941**
905 IAC 1-18	RA	01-225	24 IR 3815	**25 IR 941**
905 IAC 1-20	RA	01-225	24 IR 3815	**25 IR 941**
905 IAC 1-21	RA	01-225	24 IR 3815	**25 IR 941**
905 IAC 1-23-1	RA	01-230	24 IR 3819	**25 IR 1351**
905 IAC 1-25	RA	01-225	24 IR 3815	**25 IR 941**
905 IAC 1-26	RA	01-225	24 IR 3815	**25 IR 941**
905 IAC 1-27-1	RA	01-225	24 IR 3815	**25 IR 941**
905 IAC 1-27-2	RA	01-230	24 IR 3819	**25 IR 1351**
905 IAC 1-27-3	RA	01-225	24 IR 3815	**25 IR 941**
905 IAC 1-27-4	RA	01-225	24 IR 3815	**25 IR 941**
905 IAC 1-27-5	RA	01-225	24 IR 3815	**25 IR 941**
905 IAC 1-29-1	RA	01-230	24 IR 3820	**25 IR 1351**
905 IAC 1-29-2	RA	01-230	24 IR 3820	**25 IR 1351**
905 IAC 1-29-3	RA	01-230	24 IR 3820	**25 IR 1351**
905 IAC 1-29-4	RA	01-230	24 IR 3820	**25 IR 1352**
905 IAC 1-29-5	RA	01-230	24 IR 3816	**25 IR 1347**
905 IAC 1-29-6	RA	01-230	24 IR 3820	**25 IR 1352**
905 IAC 1-29-7	RA	01-230	24 IR 3820	**25 IR 1352**
905 IAC 1-29-8	RA	01-230	24 IR 3816	**25 IR 1347**
905 IAC 1-29.5	N	01-13	25 IR 509	
905 IAC 1-30	RA	01-225	24 IR 3815	**25 IR 941**
905 IAC 1-31	RA	01-225	24 IR 3815	**25 IR 941**
905 IAC 1-32.1	RA	01-225	24 IR 3815	**25 IR 941**
905 IAC 1-33.1	RA	01-225	24 IR 3815	**25 IR 941**
905 IAC 1-34-1	RA	01-225	24 IR 3815	**25 IR 941**
905 IAC 1-34-2	RA	01-225	24 IR 3815	**25 IR 941**
905 IAC 1-35	RA	01-225	24 IR 3815	**25 IR 941**
905 IAC 1-36	RA	01-225	24 IR 3815	**25 IR 941**
905 IAC 1-37	RA	01-225	24 IR 3816	**25 IR 941**
905 IAC 1-38	RA	01-225	24 IR 3816	**25 IR 941**
905 IAC 1-39	RA	02-272	26 IR 545	
905 IAC 1-40	RA	02-272	26 IR 545	
905 IAC 1-41	RA	02-272	26 IR 545	
905 IAC 1-45	N	01-255	25 IR 511	
905 IAC 1-46	N	01-256	25 IR 511	
905 IAC 1-48	N	01-258	25 IR 512	
905 IAC 1-49	N	01-259	25 IR 513	
905 IAC 1-50	N	01-260	25 IR 513	
905 IAC 1-51	N	01-261	25 IR 514	
905 IAC 1-52	N	01-262	25 IR 514	**25 IR 4112**
TITLE 910 CIVIL RIGHTS COMMISSION				
910 IAC 1	RA	01-138	24 IR 3821	**25 IR 942**
910 IAC 2	RA	01-138	24 IR 3821	**25 IR 942**
TITLE 920 INDIANA WAR MEMORIALS COMMISSION				
920 IAC 1	RA	01-316	25 IR 201	**25 IR 1352**
TITLE 925 MERIDIAN STREET PRESERVATION COMMISSION				
925 IAC 1	R	01-70	24 IR 3784	*ARR (25 IR 1185)
			25 IR 1261	
925 IAC 2	N	01-70	24 IR 3779	*ARR (25 IR 1185)
			25 IR 1256	**25 IR 2248**

NONCODE RULES

Animal Heath, Indiana State Board of			
	N	02-34	*ETR (25 IR 1919)
	N	02-125	*ETR (25 IR 2743)
	N	02-216	*ETR (25 IR 4126)
Budget Agency			
	N	02-192	*ETR (25 IR 3772)
Education Savings Authority, Indiana			
	N	02-256	*ETR (26 IR 59)
Family and Social Services, Office of the Secretary of			
	N	01-351	*ETR (25 IR 389)
	N	01-352	*ETR (25 IR 398)
	N	01-353	*ETR (25 IR 399)
	N	01-354	*ETR (25 IR 399)
	N	01-355	*ETR (25 IR 400)
	N	01-378	*ETR (25 IR 828)
	N	01-396	*ETR (25 IR 829)
	N	01-440	*ETR (25 IR 1653)
	N	01-441	*ETR (25 IR 1654)
	N	01-442	*ETR (25 IR 1654)
	N	01-443	*ETR (25 IR 1663)
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N	02-293	*ETR (26 IR 395)

Water Pollution Control Board

N	02-193	*ETR (25 IR 3778)

*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
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

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*The index is cumulative for all proposed and final rulemaking actions published after September 1, 2001. Final rules published before that date have been incorporated into the 2001 edition of the Indiana Administrative Code and the 2002 Supplement. Indiana Register citations in roman type are to the volume and page on which the proposed version of the rule appears. Entries in **bold** type indicate the page on which a final rule filed with the Secretary of State appears.

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Statement of Ownership, Management, and Circulation

(Required by 39 U.S.C. 3685)

1. Publication Title	*2. Publication No.*	*3. Filing Date*
INDIANA REGISTER	0193-1520	9/13/02
4. Issue Frequency	*5. No. of Issues Published Annually*	*6. Annual Subscription Price*
monthly	12	$116.00

7. Complete Mailing Address of Known Office of Publication (Street, City, County, State and ZIP+4)(Not Printer)
Legislative Services Agency, 200 W Washington, Suite 301, Marion, Indianapolis, IN 46204-2789

8. Complete Mailing Address of Headquarters or General Business Office of Publisher (Not Printer)
Legislative Services Agency, 200 W Washington, Suite 301, Indianapolis, IN 46204-2789

9. Full Names and Complete Mailing Addresses of Publisher, Editor, and Managing Editor (Do Not Leave Blank)

Publisher (Name and Complete Mailing Address)
Legislative Services Agency, 200 W Washington, Suite 301, Indianapolis, IN 46204-2789

Editor (Name and Complete Mailing Address)
Linda Miller, Legislative Services Agency, 200 W Washington, Suite 301, Indianapolis, IN 46204-2789

Managing Editor (Name and Complete Mailing Address)
Linda Miller, Legislative Services Agency, 200 W Washington, Suite 301, Indianapolis, IN 46204-2789

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12. For completion by nonprofit organizations authorized to mail at special rates. The purpose, function, and nonprofit status of this organization and the exempt status for federal income tax purposed: Has Not Changed During Preceding 12 Months

13. Publication Name	*14. Issue Date for Circulation Data Below*	
INDIANA REGISTER	August 1, 2002, Vol. 25, #11	
15. Extent and Nature of Circulation	*Average No. Copies Each Issue During Preceding 12 Months*	*Actual No. Copies of Single Issue Published Nearest to Filing Date*
Total No. Copies (Net Press Run)	612	566
Paid In-County	469	431
Total Paid and/or Requested Circulation	469	431
Free Distribution Outside Mail	131	128
Total Free Distribution	131	128
Total Distribution	600	559
Copies Not Distributed	12	7
Total (Sum of 15g, 15h(1), and 15h(2))	612	566
Percent Paid and/or Requested Circulation (15c/15g x 100)	78%	77%

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